



RULE-MAKING ORDER EMERGENCY RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: June 04, 2025

TIME: 9:07 AM

WSR 25-12-102

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

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:

DDCS is enacting these changes on an emergency basis to implement home and community-based services (HCBS) waivers as approved by the Centers for Medicare and Medicaid Services (CMS).

Primary waiver amendments:

- These amendments add: waiver eligibility for children and youth age 20 and younger who are subject to a court dependency or a similar proceeding in a tribal court or are receiving extended foster care services from the Department of Children, Youth, and Families (DCYF) or from a Tribe in Washington state, technical information about service plan collaboration, and teleservice delivery as a service delivery method for some services.
- These amendments adjust: waiver enrollment limits, language about cross-agency collaboration, the service definition for transportation, provider qualifications for music therapists, level-of-care and inter-rate reliability level of care evaluation processes.
- These amendments clarify: teleservice language in all services where teleservice delivery is now available, waiver service definitions and service limit language across all five waivers.

To read all other CMS-approved waiver amendments effective September 1, 2024, open a waiver under "Current Approved Waivers" on DDSCS's [Home and Community-Based Waivers](#) website.

This is a subsequent emergency filing on these sections and is necessary to keep the rules in effect until DDSCS completes the permanent rulemaking process. DDSCS is preparing the rules for external review. We have filed a CR-101 preproposal under WSR 24-18-103. This filing supersedes the emergency filed as WSR 25-05-019.

Citation of rules affected by this order:

New: WAC 388-842-0001, 388-842-0005, 388-842-0010, 388-842-0015, 388-842-0020, 388-842-0025, 388-842-0030, 388-842-0035, 388-842-0040, 388-842-0045, 388-842-0060, 388-842-0065, 388-842-0070, 388-842-0075, 388-842-0080, 388-842-0085, 388-842-0090, 388-842-0095, 388-842-0110, 388-842-0115, 388-842-0120, 388-842-0125, 388-842-0140, 388-842-0145, 388-842-0150, 388-842-0165, 388-842-0170, 388-842-0175, 388-842-0180, 388-842-0185, 388-842-0190, 388-842-0195, 388-842-0205, 388-842-0210, 388-842-0215, 388-842-0220, 388-842-0230, 388-842-0235, 388-842-0250

Repealed: WAC 388-825-0571, 388-845-2019

Amended: WAC 388-825-020, 388-825-096, 388-825-120, 388-828-1020, 388-828-1340, 388-828-1540, 388-828-5120, 388-828-5140, 388-828-5160, 388-828-5180, 388-828-5920, 388-828-5940, 388-828-5980, 388-845-0001, 388-845-0030, 388-845-0045, 388-845-0055, 388-845-0060, 388-845-0100, 388-845-0110, 388-845-0111, 388-845-0760, 388-845-0955, 388-845-1162, 388-845-1515, 388-845-1607, 388-845-1620, 388-845-2000, 388-845-2010, 388-845-2200, 388-845-3015, 388-845-3095

Suspended:

Statutory authority for adoption: RCW 34.05.350, RCW 71A.12.030, 71A.12.380

Other authority: RCW 71A.12.380(1); 42 CFR 441.301

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: Enacting these rules on an emergency basis is necessary in order to implement home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services (CMS). Aligning rules with approved waiver amendments provides assurances required under 42 CFR 441.301. This fourth filing is necessary to allow for rules to stay effective while DDCS completes the permanent rulemaking for these rules. A public rulemaking hearing was held on Tuesday, May 27, 2025.

**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	<u>39</u>	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>39</u>	Amended	<u>32</u>	Repealed	<u>2</u>

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

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

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

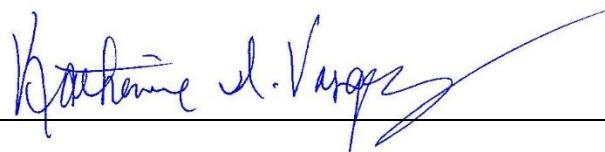
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>39</u>	Amended	<u>32</u>	Repealed	<u>2</u>

Date Adopted: June 3, 2025

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-825-020 Definitions. "Adult day care" is a service administered by DDA-contracted counties that provides a structured social program for adults.

"Authorization" means DDA approval of funding for a service as identified in the person-centered service plan or evidence of payment for a service.

"Assistant secretary" means the assistant secretary of the developmental disabilities administration.

"Background check system" or "BCS" means an online system for processing background checks.

"Consumer-directed employer" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 ((+3+)) who also has been determined eligible to receive services by the administration under chapter 71A.16 RCW. "Client" may also refer to a child with a functional need for personal care services who does not have a developmental disability.

"Community first choice" or "CFC" is a medicaid state plan program defined in chapter 388-106 WAC.

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

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

"Enhanced respite services" means respite care for DDA enrolled children and youth, who meet specific criteria, in a DDA contracted and licensed staffed residential setting.

"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.

"Individual provider" means an employee of a consumer-directed employer who provides personal care or respite care services.

((+")) "Intermediate care facility for individuals with intellectual disabilities" or "ICF/IID" means a facility certified under federal law to provide active treatment and rehabilitation services.

"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.

"Medicaid" means the federal medical aid program under title XIX of the Social Security Act that provides health care to eligible people.

"Person-centered service plan" or "PCSP" is a document that identifies a client's goals and assessed health and welfare needs. The PCSP also indicates the paid services and natural supports that will help a client achieve their goals and address their assessed needs.

"Residential habilitation center" or "RHC" means a state-operated facility under RCW 71A.20.020.

"Respite care" means short-term intermittent care for DDA clients to provide relief for people who normally provide that care.

"State-only funded services" means those services paid entirely with state funds.

"State supplementary payment" or "SSP" is the state paid cash assistance program for certain DDA-eligible clients.

"You" or "your" means the client.

AMENDATORY SECTION (Amending WSR 12-22-037, filed 11/1/12, effective 12/2/12)

WAC 388-825-096 Will I have to pay for the services ((DDD)) DDA authorizes for me? (1) If you live in your own home, you do not pay toward the cost of your services except chore services. You must pay toward the cost of chore services as described in WAC 388-106-0625.

(2) If ((DDD)) DDA authorizes you to live in a licensed community residential facility you must pay your room and board costs from your earned and unearned income. You may also be responsible for a portion of the cost of your care.

(a) If you are eligible for and receiving SSI or have SSI related eligibility per chapter 182-512 WAC ((388-475-0100-(2)-(a)-or-(b))), you are not required to pay toward the cost of your care if you are living at home or in a community setting.

(b) If you are enrolled in a ((DDD)) DDA HCBS waiver you must pay toward the cost of your services as described in WAC ((388-515-1510)) 182-515-1510.

(c) If you are not enrolled in a ((DDD)) DDA HCBS waiver you must pay toward the cost of your services as described in WAC 388-106-0225.

(3) If you live in a medical institution you must pay toward the cost of your care as described in WAC ((388-513-1380)) 182-513-1380. See WAC ((182-500-0005)) 182-500-0050 for the definition of a medical institution.

AMENDATORY SECTION (Amending WSR 23-07-130, filed 3/22/23, effective 4/22/23)

WAC 388-825-120 When may I appeal a decision made by the developmental disabilities administration? (1) You, your legal representative, or your authorized representative may appeal a decision made by DDA if you are an applicant, a client, or a former client.

(2) You have the right to an administrative hearing to dispute the following DDA actions:

(a) Approval, denial, reduction, or termination of services;

(b) Approval, denial, or termination of eligibility;

(c) Approval, denial, reduction, or termination of payment of SSP authorized by DDA set forth in chapter 388-827 WAC;

(d) Admission or readmission to, or discharge from, a residential habilitation center set forth in WAC 388-825-155;

(e) Refusal to abide by your request that we not send notices to any other person;

(f) Refusal to comply with your request to consult only with you;

(g) Denial of payment to your provider for any reason under WAC 388-825-375;

(h) Termination of your provider's contract for any reason under WAC 388-825-385 or 388-825-390;

(i) An unreasonable delay to act on an application for eligibility or service;

(j) A claim that you owe an overpayment debt;

(k) Action related to the community protection program under WAC 388-831-0300;

(l) An exception to rule decision if:

(i) The total number of service hours you are currently receiving includes hours approved as an exception to rule in addition to the number of hours available to you under program rule or DDA assessment; and

(ii) The total number of service hours you are currently receiving is reduced because of a reduction or termination in the number of hours approved as an exception to rule.

(3) Except as allowed under subsection (2)(~~(m)~~) (1) of this section, you do not have a right to appeal the department's denial of an exception to rule request.

(4) If you appeal a decision made by the developmental disabilities administration, your appeal is governed by this chapter and:

(a) Chapter 34.05 RCW;

(b) Chapter 71A.10 RCW; and

(c) Chapters 388-02 or 182-526 WAC, as applicable.

(5) If any provision in this chapter conflicts with chapters 388-02 or 182-526 WAC or WAC 388-440-0001(3), the provision in this chapter prevails.

(6) If you receive personal care services under chapter 388-106 WAC that are authorized by DDA, the appeal provision in WAC 388-106-1315 applies.

(7) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited under WAC 388-845-4005.

(8) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited under WAC 388-845-4005.

Chapter 388-828 WAC

THE ((DIVISION OF)) DEVELOPMENTAL DISABILITIES ((-DDD-)) ADMINISTRATION (DDA) ASSESSMENT

AMENDATORY SECTION (Amending WSR 23-12-061, filed 6/2/23, effective 7/3/23)

WAC 388-828-1020 What definitions apply to this chapter? The following definitions apply to this chapter:

"AAIDD" means the American Association on Intellectual and Developmental Disabilities.

"Acuity Scale" refers to an assessment tool that is intended to provide a framework for documenting important assessment elements and for standardizing the key questions that should be asked as part of a professional assessment. The design helps provide consistency from

client to client by minimizing subjective bias and assists in promoting objective assessment of a person's support needs.

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

"Adult family home" or "AFH" means a residential home in which a person or entity is licensed to provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood, adoption, or marriage to a provider, entity representative, resident manager, or caregiver who resides in the home. An adult family home may be licensed to provide care to up to eight adults if the home receives approval under chapter 388-76 WAC.

"Agency provider" means a business that is licensed, certified, or both, and that is contracted with the department or a county to provide DDA services.

"Algorithm" means a numerical formula used by the DDA assessment for one or more of the following:

(1) Calculation of assessed information to identify a client's relative level of need; and

(2) Assignment of a service level to support a client's assessed need.

"Authorization" means DDA approval of funding for a service as identified in the person-centered service plan or evidence of payment for a service.

"CARE" refers to the comprehensive assessment reporting evaluation assessment per chapter 388-106 WAC.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 who also has been determined eligible to receive services by the administration under chapter 71A.16 RCW.

"Collateral contact" means a person or agency that is involved in the client's life such as legal guardian, family member, care provider, or friend.

"Companion home" is a DDA contracted residential service that provides 24-hour training, support, and supervision, to one adult living with a paid provider.

"Contracted provider" means an individual provider contracted with the department, individual provider employed by the consumer directed employer, or an individual or agency who is one or more of the following: Licensed, certified, or contracted by the department to provide services to DDA clients.

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

"Department" means the department of social and health services (DSHS).

"DCYF" means the department of children, youth, and families.

"Group home" or "GH" means a licensed adult family home or assisted living facility contracted and certified to provide residential services and support to adults with developmental disabilities.

"Home visit" means viewing a client's living quarters with the client present.

"ICF/IID" means a medicaid-certified facility operating under Title XIX of the Social Security Act in 42 C.F.R. 440-150 to furnish health or rehabilitation services.

"ICF/IID level of care" is a standardized assessment of a client's need for ICF/IID level of care per 42 C.F.R. Sec. 440 and 42 C.F.R. Sec. 483. In addition, ICF/IID level of care refers to one of the standards used by DDA to determine whether a client meets minimum

eligibility criteria for one of the DDA HCBS waivers or the community first choice program.

"Legal guardian" means a person/agency, appointed by a court, who is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardians for their child until the child reaches the age of 18.

"Legal representative" means a parent of a client if the client is under age 18 and 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.

"Living quarters" means the client's bedroom and main living area(s).

"LOC score" means a level of care score for answers to questions in the support needs assessment for children that are used in determining if a client meets eligibility requirements for ICF/IID level of care.

"Panel" refers to the visual user-interface in the DDA assessment computer application where assessment questions are typically organized by topic and you and your respondents' answers are recorded.

"Person-centered service plan (PCSP)" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Raw score" means the numerical value when adding a person's "frequency of support," "daily support time," and "type of support" scores for each activity in the support needs and supplemental protection and advocacy scales of the supports intensity scale (SIS) assessment.

"Residential habilitation center" or "RHC" is a state-operated facility under RCW 71A.20.020.

"Respondent" means the adult client or another person familiar with the client who participates in the client's DDA assessment by answering questions and providing information. Respondents may include DDA contracted providers.

"Service provider" refers to a department contracted agency or person who provides services to DDA clients. Also refers to state operated living alternative programs (SOLA).

"Significant change assessment" means a DDA assessment completed any time a change is reported in a client's support needs, such as an increased need for medical or behavioral supports.

"SIS" means the supports intensity scale developed by the American Association of Intellectual and Developmental Disabilities (AAIDD).

"SOLA" means a state operated living alternative program for adults that is operated by DDA.

"State supplementary payment" or "SSP" is the state paid cash assistance program for certain DDA eligible Social Security income clients per chapter 388-827 WAC.

"Supported living" or "SL" refers to residential services provided by DDA certified residential agencies to clients living in homes that are owned, rented, or leased by the clients or their legal representatives.

"Waiver respite care" means short-term intermittent relief for persons normally providing care to individuals who are authorized to

receive services available in the individual and family services (IFS), children's intensive in-home behavioral support (CIIBS), basic plus, and core waivers per chapter 388-845 WAC.

"You" and "your" means the client.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-1340 After administering the DDA assessment, when will DDA inform me of the services I am eligible to receive? DDA will inform you of the services you are eligible to receive no more than ~~((thirty))~~ 30 days after DDA administers your assessment.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-1540 Who participates in your DDA assessment? (1) You choose the people who participate in your assessment and person-centered service plan meeting.

(2) DDA requires that at a minimum: You, one of your respondents, and a DDA employee participate in your DDA assessment interview. In addition:

(a) If you are under the age of ~~((eighteen))~~ 18, your parent(s) ~~((or legal guardian(s)))~~ or legal representative must participate in your DDA assessment interview.

(b) If you are age ~~((eighteen))~~ 18 or older, DDA must consult with your court-appointed legal representative ~~((/guardian must be consulted if he/she))~~ if the representative does not attend your DDA assessment interview.

(c) If you are age ~~((eighteen))~~ 18 ~~((and))~~ or older and have no legal representative ~~((/guardian))~~, DDA will assist you to identify a respondent.

(d) DDA may consult with other people who were not present at your DDA assessment interview, if needed, to obtain complete and accurate information.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-5120 What is the ~~((DDD))~~ DDA caregiver status acuity scale? The ~~((DDD))~~ DDA caregiver status acuity scale is an assessment of risks associated with your caregiver's ability to provide care.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

WAC 388-828-5140 How is information in the ((DD)) DDA caregiver status acuity scale used by ((DD)) DDA? (1) Information obtained in the ((DD)) DDA caregiver status acuity scale is one of the factors used by ((DD)) DDA to determine:

(a) The amount of waiver respite, if any, that you are authorized to receive; and

(b) Your individual and family services level, if you are authorized to receive individual and family services.

(2) The ((DD)) DDA caregiver status acuity scale does not affect service determination for the medicaid personal care or waiver personal care assessment; and

(3) The information is used for reporting purposes to the legislature and the department.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-5160 When is a collateral contact an informal caregiver? A collateral contact is an informal caregiver when the person provides you supports without payment from ((DD)) DDA for a service.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-5180 When is a collateral contact a formal caregiver? A collateral contact is a formal caregiver when the person receives payment from ((DD)) DDA or DCYF to provide you a service.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-5920 What is the respite assessment? The respite assessment is an algorithm in the ((DD)) DDA assessment that determines the number of hours of respite care, if any, that your provider may receive per year if ((DD)) DDA has authorized you to receive ((Basic,)) basic plus((,)) or ((Core)) core waiver services per chapter 388-845 WAC.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

WAC 388-828-5940 Are there any exceptions when the respite assessment is not used to determine the number of hours for waiver respite services? The respite assessment is not used to determine waiver respite when you are receiving any of the following:

- (1) (~~Voluntary placement program~~) Children's residential habilitative services per chapter 388-826 and 388-842 WAC; or
- (2) (~~Companion home~~) Residential habilitation services from a companion home provider per chapter 388-829C WAC.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-5980 How does ((DD)) DDA determine your respite assessment level? (1) ((DD)) DDA determines your respite assessment level using the following table:

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
0	None	1	None	1
0	None	1	Low	1
0	None	1	Medium	1
0	None	1	High	2
0	None	2 or 3	None	1
0	None	2 or 3	Low	1
0	None	2 or 3	Medium	2
0	None	2 or 3	High	2
0	Low	1	None	1
0	Low	1	Low	1
0	Low	1	Medium	1
0	Low	1	High	2
0	Low	2 or 3	None	1
0	Low	2 or 3	Low	1
0	Low	2 or 3	Medium	2
0	Low	2 or 3	High	2
0	Medium	1	None	1
0	Medium	1	Low	1
0	Medium	1	Medium	1
0	Medium	1	High	2
0	Medium	2 or 3	None	1
0	Medium	2 or 3	Low	1
0	Medium	2 or 3	Medium	2
0	Medium	2 or 3	High	2
0	High	1	None	1
0	High	1	Low	1

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
0	High	1	Medium	2
0	High	1	High	2
0	High	2 or 3	None	2
0	High	2 or 3	Low	2
0	High	2 or 3	Medium	2
0	High	2 or 3	High	3
0	Immediate	1	None	1
0	Immediate	1	Low	1
0	Immediate	1	Medium	2
0	Immediate	1	High	2
0	Immediate	2 or 3	None	2
0	Immediate	2 or 3	Low	2
0	Immediate	2 or 3	Medium	2
0	Immediate	2 or 3	High	3
1	None	1	None	1
1	None	1	Low	1
1	None	1	Medium	1
1	None	1	High	2
1	None	2 or 3	None	1
1	None	2 or 3	Low	1
1	None	2 or 3	Medium	2
1	None	2 or 3	High	3
1	Low	1	None	1
1	Low	1	Low	1
1	Low	1	Medium	1
1	Low	1	High	2
1	Low	2 or 3	None	1
1	Low	2 or 3	Low	1
1	Low	2 or 3	Medium	2
1	Low	2 or 3	High	3
1	Medium	1	None	1
1	Medium	1	Low	1
1	Medium	1	Medium	2
1	Medium	1	High	3
1	Medium	2 or 3	None	1
1	Medium	2 or 3	Low	2
1	Medium	2 or 3	Medium	2
1	Medium	2 or 3	High	3
1	High	1	None	2
1	High	1	Low	2
1	High	1	Medium	2
1	High	1	High	3
1	High	2 or 3	None	2
1	High	2 or 3	Low	2

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
1	High	2 or 3	Medium	3
1	High	2 or 3	High	4
1	Immediate	1	None	2
1	Immediate	1	Low	2
1	Immediate	1	Medium	2
1	Immediate	1	High	3
1	Immediate	2 or 3	None	2
1	Immediate	2 or 3	Low	2
1	Immediate	2 or 3	Medium	3
1	Immediate	2 or 3	High	4
2 or 3	None	1	None	1
2 or 3	None	1	Low	1
2 or 3	None	1	Medium	2
2 or 3	None	1	High	3
2 or 3	None	2 or 3	None	2
2 or 3	None	2 or 3	Low	2
2 or 3	None	2 or 3	Medium	2
2 or 3	None	2 or 3	High	4
2 or 3	Low	1	None	1
2 or 3	Low	1	Low	1
2 or 3	Low	1	Medium	2
2 or 3	Low	1	High	3
2 or 3	Low	2 or 3	None	2
2 or 3	Low	2 or 3	Low	2
2 or 3	Low	2 or 3	Medium	2
2 or 3	Low	2 or 3	High	4
2 or 3	Medium	1	None	2
2 or 3	Medium	1	Low	2
2 or 3	Medium	1	Medium	2
2 or 3	Medium	1	High	3
2 or 3	Medium	2 or 3	None	2
2 or 3	Medium	2 or 3	Low	2
2 or 3	Medium	2 or 3	Medium	3
2 or 3	Medium	2 or 3	High	4
2 or 3	High	1	None	2
2 or 3	High	1	Low	2
2 or 3	High	1	Medium	2
2 or 3	High	1	High	3
2 or 3	High	2 or 3	None	2
2 or 3	High	2 or 3	Low	2
2 or 3	High	2 or 3	Medium	3
2 or 3	High	2 or 3	High	4
2 or 3	Immediate	1	None	2
2 or 3	Immediate	1	Low	2

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
2 or 3	Immediate	1	Medium	2
2 or 3	Immediate	1	High	3
2 or 3	Immediate	2 or 3	None	2
2 or 3	Immediate	2 or 3	Low	2
2 or 3	Immediate	2 or 3	Medium	3
2 or 3	Immediate	2 or 3	High	4
4	None	1	None	2
4	None	1	Low	2
4	None	1	Medium	2
4	None	1	High	3
4	None	2 or 3	None	2
4	None	2 or 3	Low	2
4	None	2 or 3	Medium	3
4	None	2 or 3	High	4
4	Low	1	None	2
4	Low	1	Low	2
4	Low	1	Medium	2
4	Low	1	High	3
4	Low	2 or 3	None	2
4	Low	2 or 3	Low	2
4	Low	2 or 3	Medium	3
4	Low	2 or 3	High	4
4	Medium	1	None	2
4	Medium	1	Low	2
4	Medium	1	Medium	3
4	Medium	1	High	3
4	Medium	2 or 3	None	2
4	Medium	2 or 3	Low	3
4	Medium	2 or 3	Medium	3
4	Medium	2 or 3	High	4
4	High	1	None	2
4	High	1	Low	2
4	High	1	Medium	3
4	High	1	High	3
4	High	2 or 3	None	2
4	High	2 or 3	Low	3
4	High	2 or 3	Medium	4
4	High	2 or 3	High	4
4	Immediate	1	None	2
4	Immediate	1	Low	2
4	Immediate	1	Medium	3
4	Immediate	1	High	3
4	Immediate	2 or 3	None	2
4	Immediate	2 or 3	Low	3

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
4	Immediate	2 or 3	Medium	4
4	Immediate	2 or 3	High	4
5	None	1	None	2
5	None	1	Low	2
5	None	1	Medium	3
5	None	1	High	4
5	None	2 or 3	None	3
5	None	2 or 3	Low	3
5	None	2 or 3	Medium	4
5	None	2 or 3	High	5
5	Low	1	None	2
5	Low	1	Low	2
5	Low	1	Medium	3
5	Low	1	High	4
5	Low	2 or 3	None	3
5	Low	2 or 3	Low	3
5	Low	2 or 3	Medium	4
5	Low	2 or 3	High	5
5	Medium	1	None	2
5	Medium	1	Low	2
5	Medium	1	Medium	3
5	Medium	1	High	4
5	Medium	2 or 3	None	3
5	Medium	2 or 3	Low	3
5	Medium	2 or 3	Medium	4
5	Medium	2 or 3	High	5
5	High	1	None	2
5	High	1	Low	2
5	High	1	Medium	3
5	High	1	High	4
5	High	2 or 3	None	3
5	High	2 or 3	Low	3
5	High	2 or 3	Medium	4
5	High	2 or 3	High	5
5	Immediate	1	None	2
5	Immediate	1	Low	2
5	Immediate	1	Medium	3
5	Immediate	1	High	4
5	Immediate	2 or 3	None	3
5	Immediate	2 or 3	Low	3
5	Immediate	2 or 3	Medium	4
5	Immediate	2 or 3	High	5
6	None	1	None	2
6	None	1	Low	3

If your Protective Supervision Support Level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your respite assessment level is:
6	None	1	Medium	3
6	None	1	High	4
6	None	2 or 3	None	3
6	None	2 or 3	Low	3
6	None	2 or 3	Medium	4
6	None	2 or 3	High	5
6	Low	1	None	2
6	Low	1	Low	3
6	Low	1	Medium	3
6	Low	1	High	4
6	Low	2 or 3	None	3
6	Low	2 or 3	Low	3
6	Low	2 or 3	Medium	4
6	Low	2 or 3	High	5
6	Medium	1	None	3
6	Medium	1	Low	3
6	Medium	1	Medium	3
6	Medium	1	High	4
6	Medium	2 or 3	None	3
6	Medium	2 or 3	Low	4
6	Medium	2 or 3	Medium	4
6	Medium	2 or 3	High	5
6	High	1	None	3
6	High	1	Low	3
6	High	1	Medium	4
6	High	1	High	4
6	High	2 or 3	None	4
6	High	2 or 3	Low	4
6	High	2 or 3	Medium	5
6	High	2 or 3	High	5
6	Immediate	1	None	3
6	Immediate	1	Low	3
6	Immediate	1	Medium	4
6	Immediate	1	High	4
6	Immediate	2 or 3	None	4
6	Immediate	2 or 3	Low	4
6	Immediate	2 or 3	Medium	5
6	Immediate	2 or 3	High	5

(2) ((~~DD~~)) DDA adds one level to your respite assessment level when your respite assessment level is determined to be a one, two, three, or four and you have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the ((~~DD~~)) DDA caregiver status acuity scale. See WAC 388-828-5260.

(3) If you are a child or youth subject to a dependency action through DCYF or a tribal court, DDA will reduce your respite allocation amount by the number of hours you or your caregiver are eligible to receive through DCYF or a tribal child welfare agency.

Chapter 388-842 WAC
RESIDENTIAL HABILITATION FOR DEPENDENT YOUTH (RHDY) PROGRAM

PURPOSE

NEW SECTION

WAC 388-842-0001 What is the residential habilitation for dependent youth program? (1) The residential habilitation for dependent youth (RHDY) program is administered by the developmental disabilities administration (DDA) through a person-centered service plan. The program provides residential habilitation services to a dependent child or youth in a qualified setting outside of the family home that is agreed to by the parent, guardian, or legal representative.

(2) The RHDY program does not include:

(a) Behavioral health services;

(b) Care provided by other paid supports or the client's family;
or

(c) Education and related services provided under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), which are the responsibility of state and local education agencies.

DEFINITIONS

NEW SECTION

WAC 388-842-0005 What definitions apply to this chapter? **Client** means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined DDA-eligible under chapter 388-823 WAC.

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

Court order means a direction ordered by a court or judge. Court orders may be redacted.

CRM means DDA case resource manager, social worker, or social service specialist.

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.

DCYF means the **department of children, youth, and families**. DCYF has authority through a dependency action to make certain decisions for children and youth (dependents) placed in out-of-home care by the court through DCYF. DCYF licensing division is the licensing entity for contracted children's residential habilitation providers.

Dependency action means a court action taken under the authority of RCW 13.34.030 or a similar tribal court action. The court process begins with filing a dependency petition and can result in a court determining a child or youth to be dependent. The dependency action process assigns legal authority to the court and delegated entities to support children and youth. The child or youth remains dependent until the dependency action is dismissed by the court when permanency is achieved.

Dependent means a child or youth for whom the court has entered an order of dependency determining that the child or youth is dependent as defined in RCW 13.34.030 or a similar tribal court action.

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.

Habilitation means support provided by a DDA-contacted or DDA-certified provider that assists people with developmental disabilities to acquire, retain, or improve upon the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

HCBS waiver means the home and community-based services waiver program under section 1915(c) of the social security act.

Individual instruction and support plan 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 RHDY provider.

Individualized team meeting means a strengths-based process to review the client's individual support needs and ensure coordination with the client's team. The process is driven by the perspectives of 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. DCYF is the legal decision maker for all children and youth (dependents) placed in out-of-home care by the court.

Maintenance means the cost of rental or purchase of real estate and home furnishings, utilities, maintenance of the building and associated administrative services, including a full nutritional regimen of three meals a day.

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.

Out-of-home placement means a living arrangement for a child outside of the family home that is court ordered through a juvenile court.

Out-of-home services (OHS) means a program administered by the developmental disabilities administration (DDA) through a person-centered service plan to provide residential habilitation services for a client in a qualified setting outside of the family home that is agreed to by the client's parent or legal representative.

Parent or legal guardian means a biological or adoptive parent, title 11 or title 13 guardian, or legal custodian with legal authority to make decisions on behalf of the child regarding healthcare and public benefits.

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

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

Person-centered service plan (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. 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.

RHDY acknowledgment means a document that outlines the rights and responsibilities of DCYF, the legal representative, and the provider while a client is receiving services through the RHDY program.

RHDY engagement plan means a written agreement between the client's legal representative and the RHDY program provider.

RHDY program means a children's residential habilitation program available to waiver-eligible DDA clients who are a DCYF or tribal court dependent.

Shelter care means court hearings that occur when a child or youth is taken into custody pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child or youth is taken into custody pursuant to RCW 26.44.050 or 26.44.056. Shelter care can lead to a child or youth becoming dependent.

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 110-145-1305, means a licensed group care facility that provides 24-hour care to six or fewer children who require more supervision than can be provided in a foster home.

Supervision means the oversight of a client when habilitation activities or personal care are not occurring (e.g., monitoring a client while watching tv, sleeping, sitting in a classroom setting or work-site; or other day-to-day, line-of-eyesight or earshot monitoring).

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

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

ELIGIBILITY

NEW SECTION

WAC 388-842-0010 Who is eligible for the residential habilitation for dependent youth program? A person is eligible for the RHDY program if the person's legal representative requests residential habilitation services and the person:

- (1) Is DDA-eligible under chapter 388-823 WAC;
- (2) Is eligible for the core waiver under chapter 388-845 WAC;
- (3) Is age 8-17 at the time they enter service;
- (4) Has completed the DDA assessment process under chapter 388-828 WAC;
- (5) Has received medically necessary inpatient treatment, when recommended by the client's treating professional;
- (6) Does not have a treatment recommendation for a locked or secure facility;
- (7) Is placed out of home:
 - (a) By a dependency action and is in the custody of the department of children, youth, and families under chapter 13.34 RCW and is:
 - (i) In shelter care under RCW 13.34.060; or
 - (ii) A dependent under RCW 13.34.130;
 - (b) In the custody of a federally recognized Indian tribe as defined in RCW 43.376.010 or the tribe's placing agency.

NEW SECTION

WAC 388-842-0015 How does the provider determine if they can safely meet a client's needs? (1) To determine whether they can safely meet a client's needs, the RHDY provider must review available client information, such as:

- (a) The client's referral packet;
 - (b) Information gathered from the client, collateral contacts, or case manager;
 - (c) Client placement and legal history;
 - (d) Child health and education tracking (CHET) report; and
 - (e) Copy of behavior rehabilitation services (BRS) packet and all attachments, if applicable.
- (2) Information provided as part of the client referral to the RHDY program may be redacted as necessary.

NEW SECTION

WAC 388-842-0020 May a client age 18 or older continue to access the RHDY program? (1) A client age 18 or older may continue in the RHDY program if the client is:

- (a) Under the age of 21;
 - (b) Accessing the RHDY program the day before their 18th birthday;
 - (c) Enrolled in extended foster care; and
 - (d) Pursuing a high school or equivalency course of study (GED/HSEC) or vocational program.
- (2) If a client over 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.

PROVIDER QUALIFICATIONS

NEW SECTION

WAC 388-842-0025 Who can be a RHDY program provider? To be a RHDY program provider, an entity must be one of the following:

- (1) A children's state-operated living alternative; or
- (2) A staffed residential home contracted with the developmental disabilities administration and licensed under chapter 74.15 RCW.

NEW SECTION

WAC 388-842-0030 Must a RHDY provider be certified? A RHDY provider must be certified by DDA.

NEW SECTION

WAC 388-842-0035 Is a site visit required and what does DDA review during a site visit? (1) To be a certified provider, a RHDY provider must participate in site visits.

- (2) During a site visit, DDA verifies 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.

NEW SECTION

WAC 388-842-0040 What training must a children's state-operated living alternative provider complete? (1) To provide direct support to a client in the RHDY program, a direct support professional at a children's state-operated living alternative must complete:

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

(b) Training according to the timelines in chapter 388-101D WAC; and

(c) Nurse delegation training 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.

NEW SECTION

WAC 388-842-0045 What training must a staffed residential home provider complete? To support a client in the RHDY program, a direct 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 if the client needs delegation and criteria are met under WAC 246-840-930.

HEALTH AND SAFETY

NEW SECTION

WAC 388-842-0060 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 388-842-0065 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 388-842-0070 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 non-ambulatory client, the provider must consult with and follow the Washington state patrol/fire protection bureau (WSP/FPB) protocol for simulated fire drills.

NEW SECTION

WAC 388-842-0075 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 educate and familiarize clients with the emergency evacuation plan.

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

(5) 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 388-842-0080 What are the requirements for storing chemicals and other substances? (1) The provider must safely store cleaning supplies, flammables, and other combustible materials, toxic or poisonous substances, and aerosols in a locked container.

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

NEW SECTION

WAC 388-842-0085 How must the provider store medication? (1) The provider must store a client's medication:

(a) So they are not readily available to other clients;

(b) In a locked container, such as a lockbox;

(c) Separate from food and toxic chemicals;

(d) Under proper conditions for sanitation, temperature, and ventilation; and

(e) In the original medication container with the pharmacist-prepared or manufacturer's label, or in a medication organizer clearly labeled with the:

- (i) Name of the client for whom the medication is prescribed;
- (ii) Name of the medication;
- (iii) Dosage and frequency; and
- (iv) Route each medication is to be administered.

(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 388-842-0090 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 388-842-0095 What must the provider do if a client declines a prescribed medication? If a client declines a prescribed medication, the provider must:

(1) Document the decline, including the time, date, and medication declined;

(2) Inform the client of the benefit of the medication;

(3) Consult a pharmacist or licensed medical provider with prescription authority to determine if declining the medication 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 declined medication and any reasons for declining if shared by the client.

FACILITY REQUIREMENTS

NEW SECTION

WAC 388-842-0110 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 388-842-0115 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.

SERVICE DELIVERY

NEW SECTION

WAC 388-842-0120 When must an individual instruction and support plan be developed or revised? (1) 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 RHDY 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 semi-annually; and

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

NEW SECTION

WAC 388-842-0125 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;

(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 and internet literacy.

RECORDKEEPING

NEW SECTION

WAC 388-842-0140 What are the quarterly report requirements? A staffed residential provider or a children's SOLA provider must complete a quarterly report. The quarterly report must:

- (1) 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
- (2) Include:
 - (a) A copy of the client's current positive behavior support plan and individual instruction and support plan, including progress charts or graphs;
 - (b) A document that tracks community inclusion activities and a running balance of funds;
 - (c) A brief summary of progress toward habilitation goals listed in the individual instruction and support plan;
 - (d) A summary of target behaviors and any notable observations;
 - (e) Description of significant incidents;
 - (f) Total number and type of physical interventions implemented;
 - (g) Integrated settings modifications being requested, if any;
 - (h) Any significant changes in the client's condition or prescribed medications;
 - (i) Summary of school participation; and
 - (j) Additional resources needed to support the client.

NEW SECTION

WAC 388-842-0145 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 388-842-0150 What records must the provider keep and how long must the records 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 RHDY acknowledgment;
- (f) RHDY 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.

RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 388-842-0165 What is the RHDY acknowledgment? (1) The RHDY acknowledgment is a document that outlines the rights and responsibilities of the client, DCYF, and the provider while a client is receiving services from a RHDY provider. The RHDY acknowledgment is signed by the client's legal representative, client if over 18, and the provider designee at the time of mutual acceptance and yearly at the annual assessment.

(2) The RHDY acknowledgment must state:

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

(b) The responsibilities of the legal representative;

(c) DSHS and DDA are offering services through medicaid;

(d) That the client's receipt of services is voluntary;

(e) Termination requirements for the provider under RCW 71A.26.030;

(f) The provider will assist in accessing non-DDA related services including but not limited to education and medically necessary treatments. This includes participation in IEP and individualized team meetings; and

(g) The provider will participate in the creation and implementation of a RHDY engagement plan.

NEW SECTION

WAC 388-842-0170 What is a RHDY engagement plan? (1) A RHDY engagement plan is a written agreement between DCYF and the provider.

(2) A RHDY engagement plan must include:

(a) A schedule of court-ordered family time or a copy of the family time plan.

(b) A safety plan for any documented safety issues.

(c) Identification of any legal documents that place restrictions on the child or family members.

(d) Identification of a DCYF representative who is able to make decisions on behalf of the youth, to provide consents, and to attend medical and dental appointments as required, unless the parent is serving in that capacity.

(e) Identification of a court-ordered educational liaison who will sign documents for school and participate in meetings, including

individual education plan meetings, unless the parent is serving in that capacity.

(f) A plan for after-hours emergencies.

(3) A RHDY engagement plan must:

(a) 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 or families cultural or religious practices; and

(iii) Celebrating holidays and special occasions;

(b) Be developed before the start date of the client's RHDY services;

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

(d) Be updated when:

(i) Changes to the family time plan occur; or

(ii) The client turns age 18 to reflect the client's individualized transition goals, and legal guardianship if applicable.

NEW SECTION

WAC 388-842-0175 What are DDA's responsibilities for a client in the RHDY program? When a client is in the RHDY program, DDA must:

(1) Facilitate the development of the RHDY engagement plan under WAC 388-842-0170 before the start of service and at each annual assessment;

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

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

(4) Assist with accessing 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) Monitor the client's services by:

(a) Facilitating individualized team meetings 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;

(e) Authorizing payment for services;

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

(7) Complete an individual rate assessment;

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

(9) Refer a client for a nurse delegation assessment by a registered nurse delegator, if required under chapter 246-945 WAC.

NEW SECTION

WAC 388-842-0180 What are the provider's responsibilities for a client in the RHDY program? (1) When a client is in the RHDY program, the licensed or certified provider must:

(a) Ensure the health and safety of the client, which includes access to routine medical care;

(b) Provide adequate staff to meet the needs of the client as identified in the rate assessment;

(c) Develop and implement the client's individual instruction and support plan;

(d) Complete quarterly reports as outlined under WAC 388-842-0140;

(e) Participate in the development of the RHDY engagement plan with the client, the client's legal representative, and DDA social service specialist;

(f) Implement the RHDY engagement plan;

(g) 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;

(h) With the legal representative and educational liaison or parent's consent, maintain regular communication with school representatives and attend school-related meetings;

(i) Participate in the client's individualized education program and collaborate with the school, legal representative, and parent or educational liaison to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;

(j) Maintain regular communication with the client's legal representative;

(k) Develop and practice evacuation plans in case of fire, natural disaster, or other emergencies in accordance with WAC 388-842-0075;

(l) Maintain a client rights policy in accordance with chapter 71A.26 RCW;

(m) Request an assessment for nurse delegation if the client needs medication administration;

(n) Monitor community inclusion funds in the following ways:

(i) Discuss and schedule community inclusion activity options with the client; and

(ii) Track, and make available to DDA upon request, the client's participation in community inclusion activities, including:

(A) Date of each activity;

(B) Cost of each activity; and

(C) A running balance of the client's community inclusion activities funds;

(o) Support and assist client with requested or needed DCYF case-specific communications.

(2) If DCYF provides a copy of the family time plan, the provider must support DCYF with implementation by having the client available at scheduled times.

(a) Providers must not provide transportation, supervision, or documentation regarding family time.

(b) If a child chooses to not participate in family time, the provider will not enforce the plan.

(c) DCYF must provide DDA and the provider with updated copies of the family time plan as changes occur.

NEW SECTION

WAC 388-842-0185 What are DCYF's responsibilities for a client in the RHDY program? When a client is in the RHDY program, DCYF must:

(1) Provide DDA with a court order authorizing DCYF to pursue and consent to residential habilitation services. This is not required if DDA obtains consent directly from the parent or guardian.

(2) Ensure that youth under age 16 have access to their:

(a) Insurance card;

(b) Birth certificate (certified is preferred); and

(c) Social security number verification letter or social security card.

(3) Ensure that youth age 16 and older have access to their:

(a) Insurance card;

(b) Certified birth certificate;

(c) Social security card; and

(d) State identification card.

(4) Enroll the client in the local school district where the RHDY program is located.

(5) Identify the court-ordered educational liaison who will sign documents for school and participate in meetings, including individual education plan meetings, unless the parent is serving in that capacity.

(6) Identify a DCYF representative who is able to make medical and dental decisions and provide consents on behalf of the youth as required per WAC 110-145-1845. Attend and participate in:

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

(b) Individualized team meetings; and

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

(7) Ensure management of the client's finances and benefits, by:

(a) Maintaining client financial eligibility;

(b) Managing, or appointing a representative payee to manage, the client's social security or supplemental security income in accordance with federal social security rules, including ensuring that the client is not over federal resource limits; and

(c) Ensuring payment of DCYF's responsibility for the DCYF portion of client's daily rate in the RHDY program.

(8) Coordinate family time visits, in person or remote, by:

(a) Identifying a provider for any supervision or monitoring needs; and

(b) Securing transportation to and from family time visits.

(9) Arrange for non-routine transportation, including transportation:

(a) To the RHDY program;

(b) To and from family time visits; and

(c) To court hearings and other DCYF case related appointments or meetings.

(10) Partner with DDA before any potential change to the client's court-ordered placement or dependency status.

(11) Notify DDA no more than one business day after a change to a client's dependency status or placement.

(12) Provide updated copies of court orders to DDA at the time of each annual assessment showing that the client continues to meet eligibility for the RHDY program.

NEW SECTION

WAC 388-842-0190 How must the provider obtain medical care for a client? (1) The provider is responsible for partnering with a client's legal representative to obtain medical care for the client.

(2) The legal representative must provide a copy of the court order authorizing the recommended medical care, or signed parent consent, to the RHDY provider before care occurs if the client requires:

- (a) General anesthesia or surgery and is under age 18;
- (b) Gender-affirming medical care and is under age 18; or
- (c) A prescribed psychotropic medication, and is:
 - (i) Under age 13; or
 - (ii) Age 13-17 and their treating healthcare professional has determined they are not capable of giving consent.

(3) The RHDY provider must notify DCYF and DDA of emergency care provided.

NEW SECTION

WAC 388-842-0195 What is a provider's responsibility to engage in dependency court proceedings? (1) The provider is not required to:

- (a) Participate in dependency court proceedings;
- (b) Provide court reports and other documentation; or
- (c) Provide testimony.

(2) The provider must ensure that a client is available for scheduled dependency court hearings and court-related appointments.

RATES

NEW SECTION

WAC 388-842-0205 What must a client pay toward the cost of the RHDY program? DDA determines the amount of client responsibility and room and board a client must pay under WAC 182-515-1510.

NEW SECTION

WAC 388-842-0210 How does DDA determine the rate to support a client in the RHDY program and when may it be updated? (1) DDA determines the rate to support a client in a staffed residential home by assessing the client's identified needs.

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

(a) Administrative and non-staff costs, including transportation and damage reimbursement, if applicable;

(b) Funds for community inclusion activities as outlined in WAC 388-842-0180;

(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) Support and supervision.

(3) DDA must conduct a rate assessment before a client starts services with a RHDY provider, if a significant change occurs, or if the household composition changes.

NEW SECTION

WAC 388-842-0215 What must DCYF pay when a client is in the RHDY program? When a client is in the RHDY program, DCYF must pay for the client's:

(1) Basic expenses (including maintenance) and supervision.

(2) Essential daily living expenses, which includes hygiene products, clothing, school-related expenses, and other personal care items. These items are categorized as essential because they are critical for the daily care, health, and wellbeing of the youth, and reflect expenses that would ordinarily be covered by a parent or guardian in a home environment.

NEW SECTION

WAC 388-842-0220 What costs does the HCBS waiver cover when a client is in the RHDY program? For a client in the RHDY program, the HCBS waiver covers the cost of the RHDY program services minus maintenance, supervision, and client responsibility.

TERMINATION AND CHANGE IN PROVIDER

NEW SECTION

WAC 388-842-0230 What happens if a provider decides to stop providing services to a client? (1) If a provider decides to stop providing services to a client, the provider must:

(a) Notify DDA and DCYF at least 30 days before the effective date;

(b) Provide one of the following reasons:

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

(ii) The client's safety or the safety of other people in the facility is endangered;

(iii) The client's health or the health of other people in the facility would otherwise be endangered;

(iv) The provider ceases to operate; or

(c) Participate in the development of a transition plan.

(2) DDA will work with the legal representative to complete an updated referral packet which will be sent to all providers with current capacity with agreement from the legal representative.

(3) If the client does not transition to a new provider by the end of 30 days, DCYF must resume care and custody of the client pending admission of the client by a RHDY provider.

(4) If the client is in a temporary setting, (e.g., medical or criminal justice facility) and the provider determines they are unable to have the client safely return to their program, DCYF must resume care and custody of the client upon discharge from the temporary setting.

NEW SECTION

WAC 388-842-0235 What happens if a client's dependency is closed, or the placement is changed to in-home while the client is in the RHDY program? (1) A client is no longer eligible for the RHDY program if the client's dependency status changes and the dependency is closed, or the placement is changed to in-home.

(2) DDA will meet with the parent or legal representative (or client if over 18) and the DCYF caseworker to determine if they wish to continue residential habilitation services or explore other waiver services.

(a) If the client requests services through the out-of-home services (OHS) program, and the client meets eligibility under WAC 388-826-0010, DDA will follow the OHS admission process.

(b) If the client does not pursue services through the OHS program, the client must not remain in the RHDY home or facility more than 15 days after the date of the court-ordered change.

(3) Transportation and moving expenses from the RHDY program are the responsibility of DCYF, the parent, or legal representative.

ADMINISTRATIVE HEARING RIGHTS

NEW SECTION

WAC 388-842-0250 Who may appeal a DDA action? A client, the client's parent, or the client's legal representative may appeal DDA decisions under WAC 388-825-120.

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

WAC 388-845-0001 Definitions. "Aggregate services" means a combination of services subject to the dollar limits in the basic plus waiver and CIIBS waiver.

"Allocation" means the amount of individual and family services (IFS) waiver funding available to a client for a maximum of 12 months.

"Behavior support plan" means a plan written by a professionally trained behavioral health or similar provider to address behavioral health intervention needs.

"CARE" (~~means~~) stands for comprehensive assessment and reporting evaluation.

"Client" means a person who has a developmental disability under RCW 71A.10.020(~~(+5+)~~) and has been determined eligible to receive services from (~~the administration~~) DDA under chapter (~~71A.16 RCW~~) 388-823 WAC.

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

"DDA assessment" refers to the standardized assessment tool under chapter 388-828 WAC, used by DDA to measure the support needs of people with developmental disabilities.

"Department" means the department of social and health services (DSHS).

"DCYF" means the department of children, youth, and families.

"DCYF out-of-home caregiver" means a caregiver approved by DCYF, who may also be licensed by DCYF, for children and youth placed out-of-home by a court and in the care and custody of DCYF.

"DCYF placement provider" means a provider contracted with DCYF to provide placement for children and youth placed out-of-home by the court and in the care and custody of DCYF.

"Dependency action" means the court process that starts with the filing of a dependency petition and can result in a court determining a child or youth to be dependent.

"Dependent" refers to a child or youth for whom the court has entered an order of dependency determining that the child or youth is dependent within the meaning of RCW 13.34.030 or a similar tribal court action.

"Evidence-based treatment" means the use of physical, mental, and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"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.

"Family home" means the residence where you and your family live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"General utility" describes something used by people in the absence of illness, injury, or disability.

"HCBS waiver" is a home and community based services waiver program under section 1915(c) of the Social Security Act.

"Home" means present place of long-term residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated setting" means a home and community-based setting in ~~((the community that supports a client's full access to the greater community, including opportunities to seek employment and work in competitive settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as people not receiving home and community-based services))~~ compliance with 42 C.F.R. 441.301(c)(4) and (5).

"Legal representative" means a parent of a ~~((person who))~~ client if the client is under age 18 ((years of age)) and parental rights have not been terminated or relinquished, a ((person's legal)) court-appointed guardian((, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney-at-law, a person's attorney-in-fact,)) if a decision is within the scope of the guardianship order, or any other person who is authorized by law to act for ((another person)) the client.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his or her living expenses.

"Maintenance" means the cost of rental or purchase of real estate and home furnishings, utilities, maintenance of the building and associated administrative services, including a full nutritional regimen of three meals a day.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community-based services waiver program.

"Person-centered service plan" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan also indicates the paid services and natural supports

that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State-funded services" means services that are funded entirely with state dollars.

"Supervision" means the oversight of a client when habilitation activities or personal care are not occurring, such as monitoring a client while watching tv, sleeping, sitting in a classroom setting or worksite, or other day-to-day line-of-eyesight or earshot monitoring.

"You" means the client or participant.

"Waiver year" means the 12-month period starting from the initial or annual plan effective date in the client's person-centered service plan.

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

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? (1) You meet criteria for DDA HCBS waiver-funded services if you meet all of the following:

(a) You have been determined eligible for DDA services per RCW 71A.10.020.

(b) You have been determined to meet ICF/IID level of care per WAC 388-845-0070, 388-828-3060, and 388-828-3080.

(c) You meet disability criteria established in the Social Security Act.

(d) You meet financial eligibility requirements as defined in WAC 182-515-1510.

(e) You choose to receive services in the community rather than in an ICF/IID facility.

(f) You have a need for monthly waiver services or monthly monitoring as identified in your person-centered service plan.

(g) You are not residing in hospital, jail, prison, nursing facility, ICF/IID, or other institution.

(h) Additionally, for the children's intensive in-home behavioral support (CIIBS) waiver-funded services:

(i) You are age eight or older and under the age of 18 for initial enrollment and under age 21 for continued enrollment;

(ii) You meet CIIBS program eligibility under chapter 388-828 WAC;

(iii) You live at home with family; and

(iv) DDA receives a signed participation agreement from your:
(A) Parent, guardian, and primary caregiver if other than your parent or guardian; and

(B) Legal representative if that person is not your parent or guardian and you are subject to a state or tribal court dependency action.

(2) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and also live ~~((in your))~~ at home with family ~~((home))~~.

~~((3) For the children's intensive in-home behavioral supports (CIIBS) waiver, in addition to meeting criteria in subsection (1) of this section:~~

~~(a) You must:~~

~~(i) Be age eight or older and under the age of 18 for initial enrollment and under age 21 for continued enrollment;~~

~~(ii) Be determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only; and~~

~~(iii) Live with your family.~~

~~(b) Your parent or guardian, and primary caregiver if other than your parent or guardian, must sign the participation agreement.))~~

AMENDATORY SECTION (Amending WSR 24-01-116, filed 12/19/23, effective 1/19/24)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver, DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).

(g) Persons exiting the Washington department of children, youth, and families foster care or aging out of dependency.

(h) Persons age 20 and younger who are subject to a state court dependency proceeding pursuant to chapter 13.34 RCW or a similar proceeding in tribal court, are receiving extended foster care services, or exited a dependency or discontinued extended foster care services from the department of children, youth, and families or from a tribe in Washington state and desire waiver services.

(3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0055 How do I remain eligible for the waiver? (1)

Once you are enrolled in a DDA HCBS waiver, you can remain eligible if you continue to meet eligibility criteria in WAC 388-845-0030, and:

(a) You complete a reassessment with DDA at least once every ~~((twelve))~~ 12 months to determine if you continue to meet all of these eligibility requirements;

(b) You must either receive a waiver service at least once in every ~~((thirty))~~ 30 consecutive days, as specified in WAC 182-513-1320(3), or your health and welfare needs require monthly monitoring, which will be documented in your client record;

(c) You complete an in-person DDA assessment/reassessment interview per WAC 388-828-1520.

(2) For the children's intensive in-home behavioral supports waiver, you must meet the criteria in subsection (1) of this section and you must:

(a) Be under age ~~((twenty-one))~~ 21;

(b) Live ~~((with your))~~ at home with family;

(c) Have an annual participation agreement signed by your:

(i) Parent(~~((/))~~) , guardian(~~((+s))~~) , and primary caregiver(~~((+s))~~) if other than your parent or guardian; and

(ii) Legal representative if ~~((other than parent/guardian(s)))~~ that person is not your parent or guardian and you are subject to a state or tribal court dependency action; and

(d) Continue to participate in the program as outlined in the annual participation agreement.

(3) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and live ~~((in your))~~ at home with family ~~((home))~~.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0060 Can your waiver enrollment be terminated? DDA may terminate your waiver enrollment if DDA determines that:

(1) Your health and welfare needs cannot be met in your current waiver or for one of the following reasons:

(a) You no longer meet one or more of the requirements listed in WAC 388-845-0030;

(b) You do not have an identified need for a waiver service at the time of your annual person-centered service plan;

(c) You do not use a waiver service at least once in every ~~((thirty))~~ 30 consecutive days and your health and welfare do not require monthly monitoring to avoid institutionalization;

(d) You are on the community protection waiver and:

(i) You choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(ii) You engage in any behaviors identified in WAC 388-831-0240 (1) through (4); and

(iii) DDA determines that your health and safety needs or the health and safety needs of the community cannot be met in the community protection program;

(e) You choose to unenroll from the waiver;

(f) You reside out-of-state;

(g) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(h) Your needs exceed the maximum funding level or scope of services under the basic plus waiver as specified in WAC 388-845-3080;

(i) Your needs exceed what can be provided under WAC 388-845-3085;

(j) You refuse to participate with DDA in:

(i) Service planning;

(ii) Required quality assurance and program monitoring activities; or

(iii) Accepting services agreed to in your person-centered service plan as necessary to meet your health and welfare needs; or

(k) You are in a hospital, jail, prison, nursing facility, ICF/IID, or other institution for at least one full calendar month, ~~((and))~~ are under the care of that institution or entity, and:

(i) At the end of that full calendar month and there is no immediate plan for you to return to the community;

(ii) At the end of the ~~((twelfth))~~ 12th month following the effective date of your current person-centered service plan, as described in WAC 388-845-3060; or

(iii) At the end of the waiver fiscal year, whichever date occurs first.

(2) Services offered on a different waiver can meet your health and welfare needs and DDA enrolls you on a different waiver.

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

WAC 388-845-0100 What determines which waiver I am assigned to?

DDA will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDA assessment as described in chapter 388-828 WAC and the following criteria:

(1) For the individual and family services waiver, you:

(a) Live ~~((in your))~~ at home with family ~~((home))~~; and

(b) Are assessed to need a waiver service to remain ~~((in the))~~ at home with family ~~((home))~~.

(2) For the basic plus waiver your health and welfare needs require a waiver service to remain in the community.

(3) For the core waiver:

(a) You are at immediate risk of out-of-home placement due to your disability and not related to chapter 13.34 RCW; or

(b) You have an identified health and welfare need for residential services that cannot be met by the basic plus waiver.

(4) For the community protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.

(5) For the children's intensive in-home behavioral support waiver, you:

(a) Are age eight or older but under age 18;

(b) Live at home with ~~((your))~~ family;

(c) Are assessed at high or severe risk of out-of-home placement due to challenging behavior per chapter 388-828 WAC; and

(d) Have a signed family participation agreement from your:

(i) Parent ~~, ((or))~~ guardian ~~,~~ and primary caregiver(~~r~~) if other than your parent or guardian; and

(ii) Legal representative if ~~((other than))~~ that person is not your parent or guardian and you are subject to a state or tribal court dependency action.

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

WAC 388-845-0110 What are the limits to the waiver services you may receive? The following limits apply to the waiver services you may receive:

(1) A service must be available in your waiver and address an unmet need identified in your DDA assessment and person-centered service plan.

(2) Stabilization services may be added to your person-centered service plan after the services have been provided.

(3) Waiver services are limited to services required to prevent placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(4) The daily cost of your waiver services must not exceed the average daily cost of care in an ICF/IID.

(5) Waiver services must not replace or duplicate other available paid or unpaid supports or services. Before DDA will cover a service through waiver services, you must first request and be denied all applicable covered benefits through private insurance, medicare, the medicaid state plan, and other resources.

(6) Waiver services must supplement, and not supplant, the child welfare services and supports a child or youth is entitled to from the department of children, youth, and families (DCYF), from Title IV-E of the Social Security Act, or from other sources.

~~((+6))~~ (7) Waiver funding must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0050.

~~((+7))~~ (8) For the individual and family services (IFS) waiver, basic plus waiver, and children's intensive in-home behavioral support waiver, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

~~((+8))~~ (9) Your choice of qualified providers and services is limited to the most cost-effective option that meets your unmet need identified in your DDA assessment and person-centered service plan.

~~((+9))~~ (10) Services, with the exception of respite care, must be provided in integrated settings.

~~((10))~~ (11) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care during vacations of not more than 30 consecutive days.

~~((11))~~ (12) You may receive services in a recognized out-of-state bordering city under WAC 182-501-0175.

~~((12))~~ (13) Other out-of-state waiver services require an approved exception to rule before DDA will authorize payment.

~~((13))~~ (14) Waiver services do not cover:

- (a) Copays;
- (b) Deductibles;
- (c) Dues;
- (d) Membership fees; or
- (e) Subscriptions.

~~((14))~~ (15) Waiver services do not cover a product unless the product is:

(a) The most basic model of the product available that can meet your health and safety need related to your intellectual or developmental disability;

(b) The least restrictive means for meeting that need; and

(c) Requested by you.

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

WAC 388-845-0111 Are there ~~((limitations regarding))~~ limits to who can provide waiver services? The following ~~((limitations))~~ limits apply to providers ~~((for))~~ of waiver services:

(1) Your spouse must not be your paid provider for any waiver service.

(2) If you are under age 18, your natural, step, ~~((or))~~ adoptive parent, legal representative, or DCYF out-of-home caregiver must not be your paid provider for any waiver service.

(3) If you are age 18 or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:

(a) Transportation ~~((to and from a waiver service))~~ per WAC 388-845-2200 through 388-845-2210;

(b) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or

(c) Respite care if you and the parent who provides the respite care live in separate homes.

(4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:

(a) Transportation ~~((to and from a waiver service))~~ per WAC 388-845-2200 through 388-845-2210; and

(b) Respite per WAC 388-845-1605 through 388-845-1620.

(5) A person must not be your provider of a DDA waiver service if the person is also:

(a) Providing a DCYF-paid or tribal-paid service to you; or

(b) Is your DCYF or tribal out-of-home caregiver.

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

WAC 388-845-0760 Are there limits to community transition services I can receive? Community transition services does not include:
((a) [(1)])) (1) Diversional or recreational items such as televisions, cable TV access, VCRs, MP3, CD, or DVD players;
(2) Computers, if primarily used as a diversion or for recreation; or
(3) Rent assistance.

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

WAC 388-845-0955 Are there limits to the remote support I may receive? The following limits apply to your receipt of remote support:

- (1) Remote support must never be used to restrict ((people)) a person from their home, community, or body autonomy.
- (2) Before DDA authorizes remote support, a ((safety)) remote support plan, including a safety plan and emergency contacts, must be established and documented in the waiver participant's person-centered service plan.
- (3) The need for remote support must be identified in the waiver participant's person-centered service plan.
- (4) Remote support cannot pay for internet, data plans, or wi-fi access.
- (5) Remote support requires prior approval by the regional administrator or designee.
- (6) For basic plus, remote support is limited to:
 - (a) The aggregate budget((-)) ; and
 - (b) Emergency assistance funding, if eligible per WAC 388-845-0810.
- (7) For IFS, remote support is limited to the annual allocation.
- (8) Remote support must not replace, duplicate, or be the delivery method for other available paid or unpaid supports or services.
- ~~((9) Remote support must not be authorized to waiver participants receiving residential habilitation.)~~

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1162 Who are qualified providers of music therapy?
(1) Qualified providers of music therapy are agencies or individuals who are or employ ((board-certified)) music therapists ~~((MT-BC) as defined by the certification board for music therapists))~~ licensed under chapter 18.233 RCW;
(2) Are contracted with DDA to provide this service; and
(3) Have one year of experience working with individuals with developmental disabilities.

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-845-1515 Are there limits to the residential habilitation services I may receive? (1) You may only receive one type of residential habilitation service at a time.

(2) None of the following may be paid for under the core or community protection waiver:

(a) Room and board;

(b) The cost of building maintenance, upkeep, improvement, modifications, or adaptations required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code;

(c) Activities or supervision already being paid for by another source;

(d) If you are a child or youth (up to age 21), and you are subject to a dependency action, and placed in out-of-home care by the court, DCYF is responsible for your maintenance and supervision costs;

~~((d))~~ (e) Services provided in your parent's home unless you are receiving alternative living services for a maximum of six months to transition you from your parent's home into your own home.

(3) Alternative living services in the core waiver cannot:

(a) Exceed ~~((forty))~~ 40 hours per month;

(b) Provide personal care or protective supervision.

(4) The following persons cannot be paid providers for your service:

(a) Your spouse;

(b) Your natural, step, or adoptive parents if you are a child age ~~((seventeen))~~ 17 or younger;

(c) Your natural, step, or adoptive parent unless your parent is certified as a residential agency per chapter 388-101 WAC or is employed by a certified or licensed agency qualified to provide residential habilitation services.

(5) The initial authorization of residential habilitation services requires prior approval by the DDA regional administrator or designee.

(6) If you are under age ~~((eighteen))~~ 18, the residential habilitation services you receive are subject to requirements under chapter 388-826 WAC.

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

WAC 388-845-1607 Can someone who lives with you be your respite provider? A person who lives with you may be your respite care provider if the person is not:

(1) Your primary care provider;

(2) Providing ~~((any other DSHS))~~ another DSHS-paid service, DCYF-paid service, or tribal-paid service to you in the month that person provides respite care to you; or

(3) Excluded from providing services based on the limits under WAC 388-845-0111.

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

WAC 388-845-1620 Are there limits to the respite care you may receive? The following limits apply to the respite care you may receive:

(1) For basic plus, core, and the children's intensive in-home behavioral support (CIIBS) waivers, the developmental disabilities administration (DDA) assessment will determine how much respite you may receive under chapter 388-828 WAC.

(2) If you are a child or youth subject to dependency action through DCYF or a tribal court, DDA will reduce your respite allocation amount by the number of hours you or your caregiver are eligible to receive through DCYF or a tribal child welfare agency.

~~((2))~~ (3) For the individual and family services (IFS) waiver, the dollar amount for your annual allocation in your IFS waiver limits the amount of respite care you may receive.

~~((3))~~ (4) Respite must not replace:

(a) Day care while your parent or guardian is at work; or

(b) Personal care hours available to you.

~~((4))~~ (5) If you receive respite in a private home, the home must be licensed to provide respite care unless the home is:

(a) Your private home; or

(b) The home of a relative under WAC 388-825-345.

~~((5))~~ (6) If you receive respite from a provider who requires licensure, the respite services are limited to activities and age-specific criteria contained in the provider's license.

~~((6))~~ (7) Your individual respite provider must not provide:

(a) Other DDA services for you during your respite care hours; or

(b) DDA paid services to other persons during your respite care hours.

~~((7))~~ (8) Your primary caregivers must not provide other DDA services for you during your respite care hours.

~~((8))~~ (9) If your personal care provider is your parent and you live in your parent's adult family home you must not receive respite.

(10) If you are a dependent child or youth, your DCYF out-of-home caregiver or provider must not provide respite to you.

~~((9))~~ (11) DDA must not pay for fees - such as a membership or insurance fee - associated with your respite care.

~~((10))~~ (12) If you require respite care from a licensed practical nurse (LPN) or a registered nurse (RN), respite services may be authorized using an LPN or RN. Respite services are limited to the assessed respite care hours identified in your person-centered service plan. Respite provided by an LPN or RN requires a prior approval by the regional administrator or designee.

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

WAC 388-845-2000 What is staff and family consultation? (1) Staff and family consultation is assistance, not covered by the Medicaid state plan, to families or direct service providers to help them meet the individualized and specific needs of a participant as out-

lined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation is available in all DDA HCBS waivers.

(3) Staff and family consultation is ~~((consultation and))~~ guidance ~~((to))~~ for ((a staff member)) the following when working with a participant:

(a) Direct service provider paid by DDA;

(b) DCYF out-of-home placement provider;

(c) Tribal child welfare out-of-home placement provider;

(d) Informal caregiver; or

(e) Family member ~~((about))~~.

(4) Staff and family consultation includes one or more of the following:

(a) Health and medication monitoring to track and report to healthcare provider;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;

(d) Consultation with potential referral resources;

(e) Augmentative communication systems;

(f) Diet and nutritional guidance;

(g) Disability information and education;

(h) Strategies for effectively and therapeutically interacting with the participant;

(i) Environmental consultation;

(j) Assistive technology safety;

(k) Parenting skills; and

(l) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

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

WAC 388-845-2010 Are there limits to the staff and family consultation you may receive? (1) Staff and family consultation are limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation.

(3) The dollar amounts for aggregate service in your basic plus or CIIBS waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of staff and family consultation you may receive.

(4) Individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's ~~((DDA assessment and))~~ person-centered service plan; and

(ii) Addressed in the participant's ~~((positive))~~ DDA assessment and behavior support plan or therapeutic plan.

(5) For a child or youth currently subject to a dependency action, parenting skills for parents, foster care parents, or other staff must only be authorized after confirmation that parenting support has been accessed through the supports available through DCYF.

~~((+5))~~ (6) Staff and family consultation does not provide training or consultation necessary to meet a contracted provider's or staff's contractual licensing or certification requirements or to complete the necessary functions of their job.

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

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the person-centered service plan. This service is available in all DDA HCBS waivers if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to waiver services ~~((specified by))~~ and other community services, activities, and resources, as specified in your person-centered service plan.

(2) Whenever possible, you must use family, neighbors, friends, or community agencies that can provide this service without charge.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-3015 How is the waiver respite assessment administered? The waiver respite assessment is administered by department staff during an in-person interview with you if you choose to be present, and at least one other person with knowledge of you, such as your primary caregiver or legal representative.

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

WAC 388-845-3095 Will I have to pay toward the cost of waiver services? (1) You are required to pay toward ~~((board and))~~ room and board costs if you live in a licensed facility or in a companion home as room and board is not considered to be a waiver service.

(2) You will not be required to pay towards the cost of your waiver services if you receive SSI.

(3) You may be required to pay towards the cost of your waiver services if you do not receive SSI. DDA determines what amount, if any, you pay in accordance with WAC 182-515-1510.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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| WAC 388-825-0571 | What services am I eligible to receive from DDA if I am under the age of eighteen, have been determined to meet DDA eligibility requirements, and I am in a dependency guardianship or foster care with children's administration? |
| WAC 388-845-2019 | What modifications to waiver services apply during the COVID-19 outbreak? |