



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

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

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes
  - No
- If Yes, explain:

**Purpose:**

Federal regulation 42 C.F.R. §431.232(d) does not allow Medicaid benefits to continue at their previous level following an evidentiary hearing decision to reduce or terminate those benefits. Therefore, this amended rule is proposed to ensure the administration has language in rule that conforms to the CFR regarding continuing benefits.

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

Repealed: 0  
 Amended: WAC 388-825-145  
 Suspended: 0

**Statutory authority for adoption:** 42 CFR 431.232(d)

**Other authority :** RCW 71A.12.030

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 15-11-073 on 05/19/2015.  
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**Date adopted:**

July 13, 2015

**NAME (TYPE OR PRINT)**

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: July 15, 2015**

**TIME: 2:20 PM**

**WSR 15-15-101**

**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:**

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	New	_____	Amended	_____	Repealed	_____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	New	_____	Amended	_____	Repealed	_____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	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in 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:**

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	New	_____	Amended	_____	Repealed	_____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

**WAC 388-825-145 Will my benefits continue if I request an administrative hearing?** (1) If you request an administrative hearing regarding the department's decision to transfer you from a residential habilitation center to the community under RCW 71A.20.080, the rules in WAC 388-825-155 apply.

(2) If you request an administrative hearing (~~((within the ten-day notice period, as described in chapter 388-458 WAC, unless one or more of the conditions in WAC 388-825-150 applies, the department will take no action until there is a final decision on your appeal of the department's decision to:~~

~~(a) Terminate your eligibility for services;~~

~~(b) Reduce or terminate your services;~~

~~(c) Reduce or terminate the payment of SSP set forth in chapter 388-827 WAC; or~~

~~(d) Disenroll you from a DDD home and community based services waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver)) regarding the department's decision to reduce or terminate your services, and you request the hearing before the date specified on the notice of the action, and none of the conditions in WAC 388-825-150 applies, the department will not reduce or terminate those services unless and until an administrative law judge issues an initial order or a review judge issues a final order that reduces or terminates those services. This subsection also applies to the department's decision to disenroll you from a DDA home and community based services waiver under WAC 388-845-0060.~~

(3) The department will take no action until there is a final decision on your appeal of the department's decision to remove or transfer you to another residential service unless one or more of the conditions in WAC 388-825-150 applies.

(4) The department will take no action until there is a final decision on your appeal to terminate your provider of choice unless one or more of the circumstances described in WAC 388-825-150 applies.

(5) After the administrative hearing, you may have to pay back up to sixty days of the continued benefits you get(~~(, as described in chapter 388-410 WAC,))~~ if the administrative hearing decision (~~(is in favor of the department))~~ determines your benefits should be less than the continued benefits you have received.