



RULE-MAKING ORDER

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

Agency: Department of Social and Health Services, Aging and Long-Term Support 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:

The department is amending WAC 388-106-0270 "What services are available under community first choice (CFC)?" and WAC 388-106-0274 "Are there limits to the assistive technology I may receive?" to clarify language related to service descriptions and limits.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-106-0270, WAC 388-106-0274
 Suspended: None

Statutory authority for adoption: RCW 74.08.090

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-23-169 on November 23, 2016 (date).
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:

January 17, 2017

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: January 18, 2017
TIME: 11:36 AM
WSR 17-03-127

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

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

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>2</u>	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>2</u>	Repealed	_____

WAC 388-106-0270 What services are available under community first choice (CFC)? The services you may receive under the community first choice program include:

- (1) Personal care services((~~τ~~)) as defined in WAC 388-106-0010.
- (2) Relief care, which is personal care services by a second individual or agency provider as a back-up to your primary paid personal care provider.
- (3) Skills acquisition training, which is training that allows you to acquire, maintain, and enhance skills necessary to accomplish ADLs, IADLs, or health related tasks more independently. Health related tasks are specific tasks related to the needs of an individual(~~(τ~~ ~~which~~)) that under state law licensed health professionals can delegate or assign to a qualified health care practitioner.
- (4) Personal emergency response systems (PERS), which (~~is a~~) are basic electronic (~~device~~) devices that (~~enables~~) enable you to secure help in an emergency when:
 - (a) You live alone in your own home; (~~or~~)
 - (b) You are alone in your own home for significant parts of the day and have no provider for extended periods of time; or
 - (c) No one in your home, including you, is able to secure help in an emergency.
- (5) Assistive technology, including assistive equipment, which are items that increase your independence or substitute for human assistance specifically with ADL, IADL, or health related tasks, including but not limited to:
 - (a) Additions to the standard PERS unit, such as fall detection, GPS, or medication delivery with or without reminder systems(~~(. For cost allocation purposes, the cost of additions to the standard PERS unit will be considered assistive technology; or)~~);
 - (b) Department approved devices, (~~which include~~) including but (~~are~~) not limited to(~~(+)~~) visual alert systems, voice activated systems, switches and eyegazes, and timers or electronic devices that monitor or sense movement and react in a prescribed manner such as turning on or off an appliance;
 - (c) Repair or replacing items as limited by WAC 388-106-0274; and
 - (d) Training of participants and caregivers on the maintenance or upkeep of equipment purchased under assistive technology.
- (6) Nurse delegation services((~~τ~~)) as defined in WAC 246-840-910 through 246-840-970.
- (7) Nursing services((~~τ~~)) when you are not already receiving (~~this type of service~~) nursing services from another source. A registered nurse may visit you and perform any of the following activities:
 - (a) Nursing assessment/reassessment;
 - (b) Instruction to you and your providers;
 - (c) Care coordination and referral to other health care providers;
 - (d) Skilled treatment, which is care that (~~would require~~) requires authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, including but not limited to(~~(τ)~~) medication administration or wound care such as debridement(~~(-)~~); nursing services will only provide skilled treatment in the event of an emergency(~~(-)~~) and in nonemergency situations, the

nurse will refer the need for any skilled medical or nursing treatments to a health care provider, home health agency, or other appropriate resource((-));

(e) File review; and

(f) Evaluation of health-related care needs (~~((affecting))~~) that affect service plan and delivery.

(8) Community transition services, which are (~~((non-recurring))~~) nonrecurring, (~~((set-up))~~) setup items or services to assist you with (~~((being-discharged))~~) discharge from a nursing facility, institution for mental diseases, or intermediate care facility for individuals with intellectual disabilities, when these items or services are necessary for you to set up your own home(~~-. Community transition services may include~~), including but not limited to:

(a) Security deposits that are required to lease an apartment or home, including first month's rent;

(b) Essential household furnishings required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bath and linen supplies;

(c) (~~((Set-up))~~) Setup fees or deposits for utilities, including telephone, electricity, heating, water, and garbage;

(d) Services necessary for your health and safety such as pest eradication and one-time cleaning prior to occupancy;

(e) Moving expenses; and

(f) Activities to assess need, arrange for, and procure necessary resources.

(9) Caregiver management training on how to select, manage and dismiss personal care providers(~~-. Training is provided in written, DVD, and web based formats~~)).

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

WAC 388-106-0274 Are there limits to the assistive technology I may receive? (1) There are limits to the assistive technology you may receive. Assistive technology excludes:

(a) Any purchase (~~((that-is))~~) solely for recreational purposes;

(b) (~~((Applications for devices that are sold separately from the device,))~~) Subscriptions((-)) and data plan charges, (~~((or items that require a))~~) and monthly recurring (~~((fee))~~) fees;

(c) Medical supplies and medical equipment;

(d) Home modifications; and

(e) Any item that would otherwise be covered under any other payment source, including but not limited to((-)) medicare, medicaid, and private insurance.

(2) In combination with skills acquisition training, assistive technology purchases are limited to a yearly amount determined by the department per fiscal year.

(3) To help decide whether to authorize (~~((this-service,))~~) assistive technology the department may require a treating professional's written recommendation regarding the need for (~~((the))~~) an assistive technology evaluation. The treating professional (~~((making))~~) who makes this recommendation must:

(a) Have personal knowledge of or experience with the requested assistive technology; and

(b) Have examined you, reviewed your medical records, and have knowledge of your level of functioning, and ability to use the technology.

(4) Your choice of (~~services~~) assistive technology is limited to the most cost effective option that meets your health and welfare needs.

(5) Replacement of an assistive technology item or piece of equipment is limited to once every two years.