



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 20, 2018

TIME: 9:57 AM

WSR 18-05-075

Agency: Department of Social and Health Services, Economic Services Administration

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 388-449-0010 and WAC 388-447-0005 in order to ensure that the eligibility standards adopted by the Department for the Aged, Blind, or Disabled (ABD) and the Housing and Essential Needs (HEN) Referral programs are consistent with, and not more restrictive than, standards adopted by the Social Security Administration (SSA).

Citation of rules affected by this order:

New: None

Repealed: None

Amended: WAC 388-449-0010, WAC 388-447-0005

Suspended: None

Statutory authority for adoption: RCW 74.04.005, RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.08.090, RCW 74.08A.100, RCW 74.04.770, RCW 74.62.030, RCW 41.05.021, RCW 74.09.035, RCW 74.09.530

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-02-061 on December 29, 2017 (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:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	Repealed	___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New	___	Amended	___	Repealed	___
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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New	___	Amended	___	Repealed	___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	___	Amended	<u>2</u>	Repealed	___

Date Adopted: February 20, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-447-0005 What evidence ~~((does the department))~~ do we consider to determine incapacity? (1) To determine whether a medical-ly determinable impairment exists, we ~~((accept))~~ consider medical evidence from ~~((the following sources when considering incapacity))~~ "acceptable medical sources." "Acceptable medical sources" include the following:

~~((1))~~ (a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

~~((a) A physician, which includes:)~~

(i) Medical doctor ~~((M.D.))~~ (MD); ~~((and))~~

(ii) Doctor of osteopathy ~~((D.O.))~~ (DO);

~~((b) An advanced registered nurse practitioner (ARNP) for physical impairments that are within their area of certification to treat;~~

~~(c) A Physician's assistant (P.A.);~~

~~(d) A) (iii) Doctor of optometry ~~((O.D.))~~ (OD) for visual ~~((acuity impairments))~~ disorders;~~

~~((e)) (iv) Doctor of podiatry ~~((D.P.))~~ (DP) for foot and ankle disorders;~~

(v) Physician assistant (PA) for impairments within their licensed scope of practice;

(vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice;

(viii) Qualified speech-language pathologist, for purposes of establishing speech or language impairments;

~~((f)) (ix) Doctor of dental surgery ~~((D.D.S.))~~ (DDS) or doctor of medical dentistry ~~((D.M.D.))~~ (DMD) for tooth abscesses or temporomandibular joint (TMJ) disorders; ~~((or))~~ and~~

~~((g) The) (x) Chief of ~~((medical administration))~~ staff of ~~((the Veterans' Administration))~~ a U.S. Department of Veterans Affairs medical center, or their designee, as authorized in federal law.~~

~~((2)) (b) For a mental impairment, a health professional licensed in Washington state or where the examination was performed:~~

~~((a) A) (i) Psychiatrist;~~

~~((b) A) (ii) Psychologist;~~

~~((c) An ARNP certified in psychiatric nursing; or~~

~~(d) At the department's discretion;~~

~~(i) A person identified as a mental health professional within the regional support network mental health treatment system provided the person's training and qualifications at a minimum include having a master's degree and two years of mental health treatment experience; or~~

~~(ii) A physician who is currently treating you for a mental impairment.~~

(3) We do not accept medical evidence from the medical professionals listed in (1) and (2) above, unless they are licensed in Washington state or the state where the examination was performed) (iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(iv) Physician assistant (PA) for impairments within their licensed scope of practice;

(v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning;

(vi) Clinical social worker;

(vii) Mental health professional (MHP); and

(viii) Physician treating you for a mental impairment.

~~((4))~~ (2) "Supplemental medical evidence" means information from a licensed health professional (not listed in (1) or (2) above) who can provide supporting documentation for impairments established by (a medical professional) an "acceptable medical source" listed in subsection (1) (or (2) above) of this section. "Supplemental medical evidence" sources include, but are not limited to:

~~(a) (Health professionals who have conducted tests or provided ongoing treatment to you, such as a physical therapist, chiropractor, nurse, naturopath, audiologist, or licensed social worker;~~

~~(b) Workers at state institutions and agencies who are not health professionals and are providing or have provided medical or health related services to you; or~~

~~(c) Chemical dependency professionals (CDPs) when requesting information on the effects of alcohol or drug abuse) Naturopath;~~

(b) Chiropractor;

(c) Physical therapist; and

(d) Chemical dependency professional (CDP) when requesting information on the effects of substance use disorders.

~~((5))~~ (3) "Other evidence" means information from (either) sources not listed (above) in subsections (1) and (2) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical (sources) source" in ((subsections)) subsection (1) (or (2)) of this section. Sources of "other evidence" may include public and private agencies, schools, ((parents)) family members, friends, caregivers, and employers(, and practitioners such as social workers)).

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0010 What evidence do we consider to determine disability? (1) To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include the following:

~~((1))~~ (a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

~~((a) A physician, which includes:)~~

~~(i) Medical doctor ((M.D.))~~ (MD);

~~(ii) Doctor of osteopathy ((D.O.))~~ (DO);

~~(iii) Doctor of optometry ((O.D.))~~ (OD) for visual disorders;

~~(iv) Doctor of podiatry ((D.P.))~~ (DP) for foot and ankle disorders;

(v) Physician assistant (PA) for impairments within their licensed scope of practice;

(vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice; and

~~((v))~~ (viii) Qualified speech-language pathologist(s), for purposes of establishing speech or language impairments (only).

~~((2))~~ (b) For a mental impairment, (professionals) a health professional licensed in Washington state or where the examination was performed:

~~((a)A)~~ (i) Psychiatrist; (or

~~(b)A)~~ (ii) Psychologist;

(iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(iv) Physician assistant (PA) for impairments within their licensed scope of practice; and

(v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning.

~~((3))~~ (2) We accept medical evidence of how your impairment(s) affect your ability to function from "treating medical sources" once a diagnosis of a medically determinable impairment has been established by an "acceptable medical source" listed in subsection (1) (and (2) above, "treating)) of this section. "Treating medical sources" must be licensed to provide healthcare and include, but are not limited to:

~~((All medical professionals listed in (1) and (2) above;~~

~~(b)A)~~ Physician treating you for a mental impairment;

~~((c) A physician's assistant for physical impairments; and~~

~~(d) An advanced nurse practitioner for conditions within their certification))~~ (b) Clinical social worker;

(c) Mental health professional (MHP);

(d) Naturopath;

(e) Chiropractor;

(f) Physical therapist; and

(g) Chemical dependency professional (CDP) when requesting information on the effects of substance use disorders.

~~((4))~~ (3) "Other evidence" means information from (other) sources not listed in (subsection) subsections (1)(7) and (2)(7 or (3)) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical (sources) source" in (subsections) subsection (1) (or (2)) of this section. Sources of "other evidence" may include public and private agencies, schools, (parents) family members, friends, caregivers, and employers(, and practitioners such as social workers, mental health professionals, naturopaths, chiropractors, physical therapists, and audiologists)).