



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: June 20, 2018

TIME: 2:48 PM

WSR 18-14-001

Agency: Department of Social and Health Services, Developmental Disabilities 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 chapter 388-845 WAC to align administrative rules with the waiver application approved by the Centers for Medicare and Medicaid Services (CMS). These rules are necessary in order for the Developmental Disabilities Administration (DDA) to provide services approved by CMS and receive federal financial participation. DDA must not authorize waiver services unless they are part of a waiver application approved by CMS; aligning the rules with the approved application maintains client access to waiver services.

Citation of rules affected by this order:

New: WAC 388-845-0515, WAC 388-845-0520, WAC 388-845-0525, WAC 388-845-1181, WAC 388-845-1182, WAC 388-845-1183, WAC 388-845-1315, WAC 388-845-1316, WAC 388-845-1317, WAC 388-845-1915, WAC 388-845-1916, WAC 388-845-1917

Repealed: WAC 388-845-1000, WAC 388-845-1010, WAC 388-845-1015, WAC 388-845-1200, WAC 388-845-1205, WAC 388-845-1210, WAC 388-845-1840, WAC 388-845-1845, WAC 388-845-1850

Amended: WAC 388-845-0001, WAC 388-845-0110, WAC 388-845-0210, WAC 388-845-0215, WAC 388-845-0220, WAC 388-845-0225, WAC 388-845-0230, WAC 388-845-0420, WAC 388-845-0425, WAC 388-845-0500, WAC 388-845-0501, WAC 388-845-0505, WAC 388-845-0506, WAC 388-845-0510, WAC 388-845-0603, WAC 388-845-0660, WAC 388-845-0700, WAC 388-845-0705, WAC 388-845-0710, WAC 388-845-0760, WAC 388-845-0800, WAC 388-845-0820, WAC 388-845-0900, WAC 388-845-0910, WAC 388-845-1150, WAC 388-845-1600, WAC 388-845-1615, WAC 388-845-1620, WAC 388-845-1650, WAC 388-845-1655, WAC 388-845-1660, WAC 388-845-1700, WAC 388-845-1710, WAC 388-845-1810, WAC 388-845-1865, WAC 388-845-1900, WAC 388-845-2000, WAC 388-845-2010, WAC 388-845-2170, WAC 388-845-3070

Suspended:

Statutory authority for adoption: RCW 71A.12.030

Other authority: RCW 71A.12.120, 42 C.F.R. 441 Subpart G

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-07-049 on March 14, 2018 (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: Chantelle Diaz

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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	___	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	<u>12</u>	Amended	<u>40</u>	Repealed	<u>9</u>
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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>12</u>	Amended	<u>40</u>	Repealed	<u>9</u>

Date Adopted: June 19, 2018

Name: Cheryl Strange

Title: DSHS Secretary

Signature:



WAC 388-845-0001 Definitions. "Aggregate services" means a combination of services subject to the dollar ~~((limitations))~~ limits in the basic plus waiver~~((s))~~.

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

"CARE" means comprehensive assessment and reporting evaluation.

~~(("CIIBS" means children's intensive in-home behavioral support waiver.))~~

"Client" ~~((or "person"))~~ means a person who has a developmental disability ~~((as defined in))~~ under RCW 71A.10.020(5) and has been determined eligible to receive services ~~((by))~~ from the administration under chapter 71A.16 RCW.

"Community crisis stabilization services" or "CCSS" means a state-operated program that provides short-term supports to ~~((participants who meet specific criteria and))~~ clients who are in crisis ~~((and/or)),~~ or who are at risk of hospitalization or institutional placement.

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

"DDA assessment" refers to the standardized assessment tool ~~((as defined in))~~ under chapter 388-828 WAC, used by DDA to measure the support needs of ~~((persons))~~ people with developmental disabilities.

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

~~(("EPSDT" means early and periodic screening, diagnosis, and treatment, medicaid's child health component providing a mandatory and comprehensive set of benefits and services for children up to age twenty one as defined in WAC 182-534-0100.))~~

~~(("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.))~~

"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 step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your family ~~((member(s)))~~ live.

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

~~(("HCBS waivers" means home and community based services waivers.))~~

"Home" means present or intended place of residence.

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

~~(("IFS waiver" means the individual and family services waiver.))~~

"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 settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under eighteen years of age, a person's legal 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, or any other person who is authorized by law to act for another person.

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

"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(~~/individual support plan~~ or ~~"ISP"~~)" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan(~~/individual support 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.

"You" (~~or "your"~~) means the client or participant.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0110 What are ((~~there limitations~~)) the limits to the waiver services you ((~~can~~)) may receive? ((~~There are limitations~~)) The following limits apply to the waiver services((~~. These are~~)) you may receive:

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

~~(2) (The need for a service must be identified and authorized in your person-centered service plan/individual support plan.~~

~~(3)) Behavioral health stabilization services may be added to your person-centered service ((plan/individual support)) plan after the services ((are)) have been provided.~~

~~((4)) (3) Waiver services are limited to services required to prevent ((ICF/IID)) placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).~~

~~((5)) (4) The daily cost of your waiver services ((cannot)) must not exceed the average daily cost of care in an ICF/IID.~~

~~((6)) (5) Waiver services ((cannot)) 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 ((pursue benefits available to you)) request and be denied all applicable services through private insurance, medicare, the medicaid state plan, ((or)) and other resources.~~

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

~~((8)) (7) For the individual and family services (IFS) and basic plus waivers, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.~~

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

~~((10)) (9) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care and personal care during vacations of not more than thirty consecutive days.~~

~~((a)) (10) You may receive services in a recognized out-of-state bordering city ((on the same basis as in-state services.~~

~~(b) The only recognized bordering cities per)) under WAC 182-501-0175 ((are:~~

~~(i) Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho; and~~

~~(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon)).~~

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

(12) Waiver services do not cover:

(a) Copays((τ));

(b) Deductibles((τ));

(c) Dues((τ));

(d) Membership fees((τ)); or

(e) Subscriptions.

(13) Waiver services do not cover a product unless the product is:

(a) Necessary to meet a basic health and safety need; and

(b) The least restrictive means for meeting that need.

WAC 388-845-0210 ~~What ((is the scope of)) services ((for)) are available under the basic plus waiver?~~ The following services are available under the basic plus waiver:

((BASIC PLUS WAIVER))	SERVICE((S))	YEARLY LIMIT
	AGGREGATE SERVICES: ((Behavior support and consultation)) <u>Chemical extermination of cimex lectularius (bedbugs)</u> Community guide Environmental adaptations Occupational therapy Physical therapy <u>Positive behavior support and consultation</u> Skilled nursing Specialized medical equipment((?)) <u>and</u> supplies Specialized psychiatric services Speech, hearing, and language services Staff((?)) <u>and</u> family consultation and training Transportation Wellness education	((May)) <u>Total costs must not exceed (((\$6192)) six thousand one hundred ninety-two dollars per year ((on any combination of these services)) per participant</u>
	EMPLOYMENT SERVICES: ((Prevocational services)) <u>Individual technical assistance</u> ((Supported employment)) <u>Prevocational services</u> ((Individual technical assistance)) <u>Supported employment</u>	Limits ((are)) determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	Community ((access)) <u>inclusion</u>	Limits ((are)) determined by DDA assessment

((BASIC PLUS WAIVER))	SERVICE(S)	YEARLY LIMIT
	BEHAVIORAL HEALTH STABILIZATION SERVICES: ((Behavior support and consultation)) Behavioral health crisis diversion bed services <u>Positive behavior support and consultation</u> Specialized psychiatric services	Limits determined by a behavioral health professional or DDA
	Personal care	Limits determined by the CARE tool used as part of the DDA assessment
	Respite care	Limits ((are)) determined by ((the)) DDA assessment
	((Sexual deviancy evaluation)) <u>Risk assessment</u>	Limits ((are)) determined by DDA
	Emergency assistance is only for basic plus waiver aggregate services	(((\$6000)) <u>Six thousand dollars</u> per year; preauthorization required

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0215 ~~What ((is the scope of)) services ((for the)) are available under the core waiver?~~ (1) The following services are available under the core waiver:

((CORE WAIVER))	SERVICES	YEARLY LIMIT
	Behavior support and consultation Community guide Community transition Environmental adaptations Occupational therapy Physical therapy	Determined by the person-centered service plan/ individual support plan, not to exceed the average cost of an ICF/IID for any combination of services

((CORE WAIVER	SERVICES	YEARLY LIMIT
	Sexual deviancy evaluation Skilled nursing Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation Wellness education	
	Residential habilitation	
	Community access Employment services Prevocational services Supported employment Individualized technical assistance	Limits are determined by DDA assessment Limits are determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavior support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services	Limits determined by a behavioral health professional or DDA
	Respite care	Limits are determined by the DDA assessment))

<u>SERVICE</u>	<u>YEARLY LIMIT</u>
<u>Chemical extermination of cimex lectularius (bedbugs)</u> <u>Community guide</u> <u>Community transition</u> <u>Environmental adaptations</u> <u>Occupational therapy</u> <u>Physical therapy</u> <u>Positive behavior support and consultation</u> <u>Residential habilitation</u> <u>Risk assessment</u> <u>Skilled nursing</u> <u>Specialized medical equipment and supplies</u> <u>Specialized psychiatric services</u> <u>Speech, hearing, and language services</u> <u>Staff and family consultation and training</u> <u>Transportation</u> <u>Wellness education</u>	<u>Determined by the person-centered service plan</u>
<u>EMPLOYMENT SERVICES:</u> <u>Individualized technical assistance</u> <u>Prevocational services</u> <u>Supported employment</u>	<u>Limits determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015</u>
<u>Community inclusion</u>	<u>Limits determined by DDA assessment</u>
<u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> <u>Behavioral health crisis diversion bed services</u> <u>Positive behavior support and consultation</u> <u>Specialized psychiatric services</u>	<u>Limits determined by a behavioral health professional or DDA</u>
<u>Respite care</u>	<u>Limits determined by DDA assessment</u>

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0220 ~~What ((is the scope of)) services ((for)) are available under the community protection waiver?~~ (1) The following services are available under the community protection waiver:

((COMMUNITY PROTECTION WAIVER))	SERVICE(S)	YEARLY LIMIT
	((Behavior support and consultation)) <u>Chemical extermination of cimex lectularius (bedbugs)</u> Community transition Environmental adaptations Occupational therapy Physical therapy ((Sexual deviancy evaluation)) <u>Positive behavior support and consultation</u> <u>Residential habilitation</u> <u>Risk assessment</u> Skilled nursing Specialized medical equipment and supplies Specialized psychiatric services Speech, hearing, and language services Staff ((/)) and family consultation and training Transportation	Determined by the person-centered service plan ((/ individual support plan; not to exceed the average cost of an ICF/IID for any combination of services))
	((Residential habilitation))	

((COMMUNITY PROTECTION WAIVER))	SERVICE(S)	YEARLY LIMIT
	<u>EMPLOYMENT SERVICES:</u> ((Prevocational services)) <u>Individual technical assistance</u> ((Supported employment)) <u>Prevocational services</u> ((Individual technical assistance)) <u>Supported employment</u>	Limits determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	<u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> ((Behavioral support and consultation)) Behavioral health crisis diversion bed services <u>Positive behavior support and consultation</u> Specialized psychiatric services	Limits determined by a behavioral health professional or DDA

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0225 What ((is the scope of)) services ((for)) are available under the children's intensive in-home behavioral support (CIIBS) waiver? (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

((CHBS Waiver))	((Services)) SERVICE	YEARLY LIMIT
	<p> ((Behavior support and consultation)) <u>Assistive technology</u> ((Staff/family consultation and training •)) Environmental adaptations ((Occupational therapy •Physical therapy •Sexual deviancy evaluation •)) Nurse delegation <u>Positive behavior support and consultation</u> <u>Specialized clothing</u> ((Specialized medical equipment(/)) and supplies <u>Staff and family consultation and training</u> ((Specialized psychiatric services •Speech, hearing and language services •Transportation •Assistive technology •)) Therapeutic equipment and supplies ((Specialized nutrition and clothing)) <u>Transportation</u> ((Specialized vehicle modifications •)) </p>	<p> Determined by the person-centered service plan(/individual support plan). Total cost of waiver services ((cannot)) <u>must not exceed the average cost of (((\$4,000)) four thousand dollars</u> per month per participant. </p>
	<p>Respite care</p>	<p>Limits determined by the DDA assessment. Costs are included in the total average cost of (((\$4000)) <u>four thousand dollars</u> per month per participant for all waiver services.</p>
	<p> <u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> Behavioral ((support and consultation)) health crisis diversion bed services <u>Positive behavior support and consultation</u> ((Specialized psychiatric services)) </p>	<p>Limits determined by behavioral health ((specialist)) <u>professional or DDA</u></p>
	<p><u>Risk assessment</u></p>	<p><u>Limits determined by DDA</u></p>

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0230 What ~~((is the scope of))~~ services ~~((for))~~ are available under the individual and family services (IFS) waiver? (1) ~~((IFS waiver))~~ The following services ~~((include))~~ are available under the individual and family services (IFS) waiver:

<u>((IFS-Waiver))</u>	<u>((Services)) SERVICE</u>	<u>YEARLY LIMIT</u>
	((•)) Assistive technology ((•Behavior support and consultation •)) Community engagement ((•Staff/family consultation and training •)) Environmental adaptations ((•)) Occupational therapy ((•)) Peer mentoring <u>Person-centered plan facilitation</u> Physical therapy ((•Sexual devianey evaluation (paid for outside of annual allocation) •Nurse delegation •Peer mentoring •Person-centered plan facilitation •)) <u>Positive behavior support and consultation</u> <u>Respite care</u> <u>Skilled nursing</u> ((•)) Specialized clothing • Specialized medical equipment ((/)) and supplies ((•Specialized nutrition))	Total cost of waiver services ((cannot)) <u>must not exceed</u> annual allocation determined by the person-centered service plan ((ASP)) .

<u>((IFS Waiver))</u>	<u>((Services)) SERVICE</u>	<u>YEARLY LIMIT</u>
	((•)) Specialized psychiatric services ((•)) Speech, hearing, and language services <u>Staff and family consultation and training</u> ((•)) Supported parenting services ((•)) <u>Therapeutic equipment and supplies</u> Transportation ((•) <u>Therapeutic equipment and supplies</u> •)) Vehicle modifications ((•)) Wellness education	
	<u>Risk assessment</u>	<u>Limits determined by DDA. Costs are excluded from the annual allocation.</u>
	((•)) <u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> ((• <u>Behavioral</u>)) <u>Positive behavior support and consultation</u> ((•)) Specialized psychiatric services	Limits determined by behavioral health ((specialist)) <u>professional or DDA. Costs are excluded from the annual allocation.</u>

(2) Your IFS waiver services annual allocation is based upon the DDA assessment (~~((described in))~~) under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = one thousand two hundred dollars;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0420 Who ((is)) may be a qualified provider of assistive technology? The provider of assistive technology must be an entity contracted with DDA to provide assistive technology, or one of

the following professionals contracted with DDA and ~~((duly))~~ licensed, registered, or certified ~~((to provide this service))~~ as:

- ~~(1) ((Occupational therapist))~~ An audiologist;
- ~~(2) ((Physical therapist))~~ A behavior health professional;
- ~~(3) ((Speech and language pathologist))~~ A certified music therapist;
- ~~(4) ((Certified music therapist))~~ An occupational therapist;
- ~~(5) ((Recreation therapist registered in Washington and certified by the national council for therapeutic recreation))~~ A physical therapist;
- ~~(6) ((Audiologist))~~ A rehabilitation counselor;
- ~~(7) ((Behavior specialist))~~ A speech and language pathologist; or
- ~~(8) ((Rehabilitation counselor))~~ A speech therapist.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0425 Are there limits to the assistive technology you ~~((can))~~ may receive? The assistive technology you may receive has the following limits:

(1) Clinical and support needs for assistive technology are identified in your DDA assessment and documented in the person-centered service ~~((plan/individual support))~~ plan.

~~(2) ((Assistive technology may be authorized as a waiver service by obtaining an initial denial of funding or information showing that the technology is not covered by medicaid or private insurance.~~

~~(3) The department does not pay for experimental technology.~~

~~(4) The department))~~ DDA requires your treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation of your use of the equipment and determined its effectiveness in meeting your identified need.

~~((5))~~ (3) Assistive technology requires prior approval by the DDA regional administrator or designee.

~~((6) The department))~~ (4) DDA may require a written second opinion from a ~~((department))~~ DDA-selected professional ~~((that meets the same criteria in subsection (4) of this section)).~~

~~((7))~~ (5) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

(6) Assistive technology excludes any item that is for recreational or diversion purposes such as a television, cable, or DVD player.

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

WAC 388-845-0500 What is positive behavior support and consultation? (1) Positive behavior support and consultation may be provided to persons on any of the DDA HCBS waivers and includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, and development and implementation of a positive behavior support plan).

(2) Positive behavior support and consultation may also be provided as a behavioral health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

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

WAC 388-845-0501 What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? (1) In addition to the definition in WAC 388-845-0500, positive behavior support and consultation in the children's intensive in-home behavioral support (CIIBS) waiver must include ~~((the following characteristics))~~:

(a) ~~((Treatment must be))~~ Treatments that are evidence based, driven by individual outcome data, and consistent with DDA's positive behavior support guidelines as outlined in contract;

(b) ~~((The following written components will be developed in partnership with the child and family by a behavior specialist as defined in WAC 388-845-0506:~~

~~(i) Functional behavioral assessment; and~~

~~(ii) Positive behavior support plan based on functional behavioral assessment.~~

~~(c) Treatment goals must be))~~ Objective and measurable ~~((The))~~ treatment goals ~~((must relate to an increase in skill development and a resulting))~~ that decrease ~~((in))~~ challenging behaviors ~~((that impede))~~ and increase skills that promote quality of life for the child and family; ~~((and~~

~~(d))~~ (c) Behavioral support strategies ~~((will be))~~ individualized and coordinated across all environments, such as home, school, and community, in order to promote a consistent approach among all involved persons; and

(d) The following components developed with the child, family, and a behavior specialist under WAC 388-845-0506:

(i) A functional behavioral assessment; and

(ii) A positive behavior support plan based on the functional behavioral assessment.

(2) Positive behavior support and consultation in the CIIBS waiver may ~~((also))~~ include ~~((the following components))~~:

~~(a) ((Behavioral technicians (as defined in WAC 388-845-0506) may implement)) Positive behavior support plans implemented by a behavioral technician under WAC 388-845-0506, which may include 1:1 behavior interventions and skill development activity((-));~~

~~(b) ((Positive behavior support plans may include)) Recommendations ((by either a music and/or recreation therapist, as defined in)) from a music therapist under WAC 388-845-2005; and~~

~~(c) Recommendations from a recreation therapist under WAC 388-845-2005.~~

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation? Under the basic plus, core, ~~((CP)) community protection (CP), and individual and family services (IFS) waivers,~~ the provider of positive behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered, or certified ~~((to provide this service))~~ as a:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselor~~((s))~~ registered or certified ~~((in accordance with the requirements of))~~ under chapter 18.19 RCW;
- (11) Polygrapher; or
- (12) State-operated positive behavior support agency ~~((limited))~~ qualified to provide behavioral health stabilization services.

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

WAC 388-845-0506 Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support~~((s))~~ (CIIBS) waiver? ~~((+1))~~ Under the children's intensive in-home behavioral support (CIIBS) waiver, providers of positive behavior support and consultation must be contracted with DDA to provide CIIBS intensive services as ~~((one of the following two provider types))~~ a:

~~((a))~~ (1) Master's or PhD-level behavior specialist((-)) who is licensed, certified, or ((certified/))registered to provide behavioral assessments, interventions, and training; or

~~((b))~~ (2) Behavior technician, licensed, certified, or ((certified/))registered to provide behavioral intervention and training((-)

following the lead of)) under the supervision of the behavior specialist.

~~((2) Providers of behavior support and consultation per WAC 388-845-0505 may be utilized to provide counseling and/or therapy services to augment the work of the CIIBS intensive service provider types.))~~

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0510 Are there limits to the positive behavior support and consultation you ~~(can)~~ may receive? (1) Clinical and support needs for positive behavior support and consultation ~~(are)~~ must be identified in your DDA assessment and documented in the person-centered service ~~(plan/individual support))~~ plan.

(2) DDA ~~(and the treating professional will))~~ determines the ~~(need and))~~ amount of ~~(service))~~ positive behavior support and consultation you ~~(will))~~ may receive~~(, subject to the limitations in subsection (3) of this section))~~ based on your needs and information from your treating professional.

(3) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the ~~(IFS))~~ individual and family services (IFS) waiver limit the amount of service unless provided as a behavioral health stabilization service.

(4) DDA ~~(reserves the right to))~~ may require a second opinion from a ~~(department))~~ DDA-selected provider.

(5) Positive behavior support and consultation not provided as a behavioral health stabilization service requires prior approval by the DDA regional administrator or designee for the following waivers:

(a) Basic plus;

(b) Core;

(c) Children's intensive in-home behavior support (CIIBS); and

(d) IFS.

(6) Positive behavior support and consultation services are limited to services:

(a) Consistent with waiver objectives of avoiding institutionalization; and

(b) Not otherwise covered under the medicaid state plan.

NEW SECTION

WAC 388-845-0515 What is chemical extermination of bedbugs? (1) Chemical extermination of cimex lectularius (bedbugs) is professional chemical extermination of bedbugs.

(2) DDA covers professional chemical extermination of bedbugs in your primary residence if you:

(a) Receive residential habilitation services; or

(b) Live in a private house or apartment for which you are financially responsible.

NEW SECTION

WAC 388-845-0520 Who are qualified providers of chemical extermination of bedbugs? A qualified chemical extermination provider must be:

- (1) Licensed as a chemical pesticide applicator by the Washington state department of agriculture; and
- (2) Contracted with DDA to provide chemical extermination of bedbugs.

NEW SECTION

WAC 388-845-0525 Are there limits to the chemical extermination of bedbugs services I may receive? (1) Chemical extermination services covers only:

- (a) The assessment or inspection by the qualified provider;
 - (b) Application of chemical-based pesticide; and
 - (c) One follow-up visit.
- (2) Chemical extermination of bedbugs is limited to two treatments per plan year.
- (3) Chemical extermination of bedbugs excludes:
- (a) Lodging during the chemical extermination process; and
 - (b) Preparatory housework associated with the extermination process.
- (4) DDA does not cover chemical extermination of bedbugs for a participant who lives with their family.
- (5) DDA requires prior approval by the regional administrator or designee for chemical extermination of bedbugs.

AMENDATORY SECTION (Amending WSR 17-12-002, filed 5/24/17, effective 6/24/17)

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

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

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0660 Are there ((limitations)) limits to the community engagement services you ((can)) may receive? (1) ~~((Support needs for))~~ Community engagement services are limited to ((those)) the support needs identified in your DDA assessment and documented in ~~((the)) your~~ person-centered service plan ~~((/individual support plan/))~~.

(2) The dollar amounts in the annual allocation for the individual and family services (IFS) waiver limit the amount of community engagement services you ((can)) may receive ~~((/))~~.

(3) Community engagement services are limited to the community where you live ~~((/and))~~.

(4) Community engagement services do not ~~((pay for the following costs))~~ cover:

- (a) Membership fees or dues;
- (b) Equipment related to activities; or
- (c) The cost of any activities.

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

WAC 388-845-0700 What ((is-a)) are community guide services? Community guide services ~~((increases))~~ increase access to informal community supports. Community guide services are short-term ~~((and))~~ services designed to develop creative, flexible, and supportive community resources for individuals with developmental disabilities to meet a goal identified in the waiver participant's person-centered service plan. ~~((This service is))~~ These services are available in basic plus and core waivers.

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

WAC 388-845-0705 Who ((is)) may be a qualified provider of community guide services? Any individual or agency contracted with DDA as a ~~((a))~~ community guide ~~((is))~~ may be qualified to provide ~~((this))~~ community guide services.

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

WAC 388-845-0710 Are there ((limitations)) limits to the community guide services I ((can)) may receive? (1) You ~~((may))~~ must not receive community guide services if you are receiving residential habilitation services ~~((as defined in))~~ under WAC 388-845-1500 ~~((because your residential provider can meet this need))~~.

(2) ~~((The dollar limitations for aggregate services in your basic plus waiver limit the amount of service))~~ You may receive community guide services up to the aggregate services dollar amount available to you in your basic plus waiver.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-0760 Are there ~~((limitations))~~ limits to community transition services I can receive? ~~((1))~~ Community transition services ~~((do))~~ does not include:

(a) Diversional or recreational items such as televisions, cable TV access, VCRs, MP3, CD, or DVD players; ~~((and~~

~~((b))~~ (2) Computers, if primarily used as a ~~((diversional))~~ diversion or for recreation~~((-))~~; or

~~((2))~~ (3) Rent assistance ~~((is not available as a community transition service))~~.

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

WAC 388-845-0800 What is emergency assistance? Emergency assistance is a temporary increase to the yearly basic plus waiver aggregate dollar limit when additional waiver aggregate services are required to prevent ~~((ICF/ID))~~ placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0820 Are there limits to your use of emergency assistance? All of the following ~~((limitations))~~ limits apply to ~~((your use of))~~ the emergency assistance you may receive:

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service ~~((plan/individual support))~~ plan to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and ~~((cannot))~~ must not exceed six thousand dollars per twelve months based on the effective date of your current person-centered service ~~((plan/individual support))~~ plan;

(3) Emergency assistance services are limited to the following basic plus waiver aggregate services~~((+and))~~:

(a) Community guide;

(b) Environmental adaptations;

(c) Occupational therapy;

(d) Physical therapy;

(e) Positive behavior support and consultation;

- (f) Skilled nursing;
 - (g) Specialized medical equipment and supplies;
 - (h) Specialized psychiatric services;
 - (i) Speech, hearing, and language services;
 - (j) Staff and family consultation and training, which excludes individual and family counseling;
 - (k) Transportation; and
- (4) Emergency assistance may be used for interim services until:
- (a) The emergency situation has been resolved; ((~~or~~))
 - (b) You are transferred to alternative supports that meet your assessed needs; or
 - (c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0900 What are environmental adaptations? (1) ~~((Environmental adaptations are available in all of the DDA HCBS waivers.))~~ Environmental adaptations provide physical adaptations within the physical structure of the home, or outside the home to provide access to the home. The need must be identified by the DDA assessment and the participant's person-centered service plan ~~((individual support plan)).~~

(2) Environmental adaptations are available in all of the DDA HCBS waivers.

(3) An environmental adaptation must ((meet one or more of the following criteria)) be necessary to:

- (a) ~~((Ensure))~~ Maintain the health, welfare, and safety of the ~~((individual or caregiver))~~ participant, the participant's caregiver, or both; or
- (b) ~~((Enable the individual who would otherwise require institutionalization to function with greater))~~ Increase the participant's independence in the home.

~~((2) Environmental adaptations may include the purchase and installation of the following:~~

- ~~(a) Portable and fixed ramps;~~
- ~~(b) Grab bars and handrails;~~
- ~~(c) Widening of doorways, addition of pocket doors, or removal of nonweight bearing walls for accessibility;~~
- ~~(d) Prefabricated roll in showers and bathtubs;~~
- ~~(e) Automatic touchless or other adaptive faucets and switches;~~
- ~~(f) Automatic turn on and shut off adaptations for appliances in the home;~~
- ~~(g) Adaptive toilets, bidets, and sinks;~~
- ~~(h) Specialized electrical or plumbing systems necessary for an approved modification or medical equipment and supplies necessary for either the individual's welfare and safety or caregiver's safety, or both;~~
- ~~(i) Repairs to environmental adaptations due to wear and tear if necessary for client safety and are more cost effective than replacement of the adaptation;~~
- ~~(j) Debris removal necessary due to hoarding behavior addressed in the participant's positive behavior support plan (PBSP);~~

- ~~(k) Lowering or raising of counters, sinks, cabinets, or other modifications for accessibility;~~
 - ~~(l) Reinforcement of walls and replacement of hollow doors with solid core doors;~~
 - ~~(m) Replacement of windows with nonbreakable glass;~~
 - ~~(n) Adaptive hardware and switches;~~
 - ~~(o) Ceiling mounted lift systems or portable lift systems; and~~
 - ~~(p) Other adaptations that meet identified needs.~~
- ~~(3))~~ (4) Only the children's intensive in-home behavioral support (CIIBS) and individual and family services (IFS) waivers ((only)) may include adaptations to the home necessary to prevent property destruction caused by the participant's behavior, as addressed in the participant's positive behavior support plan.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0910 What ((limitations)) limits apply to environmental adaptations? The following service ((limitations)) limits apply to environmental adaptations:

(1) Clinical and support needs for environmental adaptations ((are)) must be identified in the waiver participant's DDA assessment and documented in the person-centered service ((plan/individual support)) plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee and must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) One ((bid is required for adaptations costing one)) thousand five hundred dollars or less((. Two bids are required for adaptations costing)), one bid is required;

(b) More than one thousand five hundred dollars and equal to or less than five thousand dollars((. Three bids are required for adaptations costing)), two bids are required; or

(c) More than five thousand dollars, three bids are required.

(3) All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

~~((3))~~ (4) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

~~((4))~~ (5) Environmental adaptations ((or improvements)) to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, or central air conditioning.

~~((5))~~ (6) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to authorizing payment for work.

~~((6) Deteriorated))~~ (7) The condition of the dwelling or other ((remodeling)) projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.

~~((7))~~ (8) Location of the dwelling in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

~~((8))~~ (9) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.

~~((9))~~ (10) Environmental adaptations ~~((cannot))~~ must not add to the total square footage of the home.

~~((10))~~ (11) The dollar amounts for aggregate services in your basic plus waiver or the dollar amount of your annual IFS allocation limit the amount of service you may receive.

~~((11))~~ (12) For core, community protection, and CIIBS waivers, annual environmental adaptation costs must not exceed twelve thousand one hundred ninety-two dollars.

(13) Damage repairs under the CIIBS and IFS waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original ~~((condition))~~ function;

(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;

(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages; ~~((and))~~

(d) Repairs to personal property such as furniture~~((,))~~ and appliances~~((, and normal wear and tear))~~ are excluded; and

Repairs due to normal wear and tear are excluded.

~~((12))~~ (14) The following adaptations are not ~~((included in this service))~~ covered as an environmental adaptation:

(a) Building fences and fence repairs; ~~((and))~~

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans;
and

(d) Roof repair or siding.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1150 What are behavioral health stabilization services? (1) Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis ~~((or meet criteria for enhanced respite or community crisis stabilization services))~~.

~~((These))~~ (2) Behavioral health stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers ((to individuals determined by)).

(3) A participant may be eligible for behavioral health stabilization services if:

(a) A behavioral health professional((s)) or DDA ((to be)) has determined the participant is at risk of institutionalization or hospitalization w((ho need one or more of the following services));

(b) The participant needs:

~~((1))~~ (i) Positive behavior support and consultation;
~~((2))~~ (ii) Specialized psychiatric services for people age twenty-one and older; or
~~((3))~~ (iii) Behavioral health crisis diversion bed services ~~((not))~~ available to participants on the ~~((IFS))~~ basic plus, core, CIIBS, and community protection waivers.

NEW SECTION

WAC 388-845-1181 What is occupational therapy? (1) Occupational therapy is a service provided to improve, maintain, or maximize the waiver participant's abilities for independent functioning and health maintenance.

(2) Occupational therapy is available under the basic plus, community protection, core, and individual and family services waivers.

NEW SECTION

WAC 388-845-1182 Who may be a qualified provider of occupational therapy? A qualified provider of occupational therapy must:

- (1) Be licensed, registered, and certified as required by law;
- (2) Be contracted with the developmental disabilities administration to provide occupational therapy; and
- (3) Have a core provider agreement with the health care authority.

NEW SECTION

WAC 388-845-1183 Are there limits to occupational therapy? (1) Occupational therapy is limited to:

- (a) Waiver participants age twenty-one or older;
 - (b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;
 - (c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and
 - (d) An amount determined by DDA based on your needs and information from your treating professional.
- (2) DDA may require a second opinion from a DDA-selected provider.

NEW SECTION

WAC 388-845-1315 What is physical therapy? (1) Physical therapy is the evaluation and treatment of functional limitations in movement to facilitate self-care and reintegration into the home, community, or work.

(2) Physical therapy is available under the basic plus, community protection, core, and individual and family services waivers.

NEW SECTION

WAC 388-845-1316 Who may be a qualified provider of physical therapy? A qualified provider of physical therapy must:

(1) Be licensed, registered, and certified as required by law;

(2) Be contracted with the developmental disabilities administration to provide physical therapy; and

(3) Have a core provider agreement with the health care authority.

NEW SECTION

WAC 388-845-1317 Are there limits to physical therapy? (1) Physical therapy is limited to:

(a) Waiver participants age twenty-one and older;

(b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;

(c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and

(d) An amount determined by DDA based on your needs and information from your treating professional.

(2) DDA may require a second opinion from a DDA-selected provider.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1600 What is respite care? (1) Respite care is short-term intermittent care to provide relief for a person((s)) who((+)

(+)) lives with you, ((are)) is your primary care provider((s)), and ((are)) is:

(a) Your family member((s who are)) and your paid or unpaid care provider((s));

(b) A nonfamily member((s)) who ((are)) is not paid to provide care for you;

- (c) A contracted companion home provider ~~((s))~~ paid by DDA to provide support to you; or
- (d) A licensed children's foster home provider ~~((s))~~ paid by DDA to provide support to you.
- (2) ~~((This service))~~ Respite care is available in the:
 - (a) Basic plus ~~((r))~~ waiver;
 - (b) Children's intensive in-home behavioral support (CIIBS) ~~((r))~~;
 - (c) Core ~~((r))~~ waiver; and
 - (d) Individual and family services (IFS) waiver ~~((s))~~.

AMENDATORY SECTION (Amending WSR 17-12-011, filed 5/26/17, effective 6/26/17)

WAC 388-845-1615 Who may be qualified providers of respite care?

Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

- (1) Individuals who meet the provider qualifications under chapter 388-825 WAC;
- (2) Homecare ~~((r))~~ and home health agencies licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;
- (4) Licensed and contracted adult family homes;
- (5) Licensed and contracted adult residential care facilities;
- (6) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;
- (7) Licensed child care centers under chapter 170-295 WAC;
- (8) Licensed child day care centers under chapter 170-295 WAC;
- (9) Adult day care providers under chapter 388-71 WAC contracted with DDA;
- (10) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services; ~~((or))~~
- (11) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or
- (12) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1620 Are there limits to the respite care you

~~((can))~~ may receive? The following ~~((limitations))~~ limits apply to the respite care you ~~((can))~~ may receive:

- (1) For basic plus, core, and the children's intensive in-home behavioral support (CIIBS) waivers, the developmental disabilities ad-

ministration (DDA) assessment will determine how much respite you ((ean)) may receive ((per)) under chapter 388-828 WAC.

(2) 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) Respite ((cannot)) must not replace:

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

(b) Personal care hours available to you. ~~((When determining your unmet need, DDA will first consider the personal care hours available to you.))~~

~~((4))~~ ~~((Respite providers have the following limitations and requirements:))~~

~~((a))~~ If you receive respite ((is provided)) in a private home, the home must be licensed to provide respite care unless ~~((it is))~~ the ~~((client's))~~ home ~~((or))~~ is:

(a) Your private home; or

(b) The home of a relative ((of specified degree per)) under WAC 388-825-345((+)).

~~((b))~~ The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

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

~~((5))~~ (6) Your individual respite provider ~~((may))~~ 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.

~~((6))~~ (7) Your primary caregivers ~~((may))~~ must not provide other DDA services for you during your respite care hours.

~~((7))~~ (8) If your personal care provider is your parent and you live in your parent's adult family home you ~~((may))~~ must not receive respite.

~~((8))~~ (9) DDA ~~((may))~~ must not pay for ~~((any))~~ fees ~~((associated with the respite care; for example,))~~ - such as a membership ((fees at a recreational facility,)) or insurance fee((s)) - associated with your respite care.

~~((9))~~ (10) If you require respite care from a licensed practical nurse (LPN) or a registered nurse (RN), respite services may be authorized ~~((as skilled nursing services per WAC 388-845-1700))~~ using an LPN or RN. Respite services are limited to the assessed respite care ((from a)) hours identified in your person-centered service plan. Respite provided by an LPN or RN requires a prior approval ((per WAC 388-845-1700(2)). If you are on the IFS or basic plus waiver, skilled nursing services are limited to the dollar amounts of your basic plus aggregate services or IFS annual allocation per WAC 388-845-0210 and 388-845-0230)) by the regional administrator or designee.

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

WAC 388-845-1650 ~~What ((are sexual deviancy evaluations))~~ is a risk assessment? (1) ~~((Sexual deviancy evaluations))~~ A risk assessment is a professional evaluation that:

(a) ~~((Are professional evaluations that assess the))~~ Assesses a person's needs and the person's level of risk of ((sexual offending or sexual recidivism)) sexual predatory behavior or aggression;

(b) Determines the need for psychological, medical, or therapeutic services; and

(c) Provides treatment recommendations to mitigate any assessed risk.

(2) ~~((Sexual deviancy evaluations are))~~ A risk assessment is available in all DDA HCBS waivers.

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

WAC 388-845-1655 ~~Who is a qualified provider of ((sexual deviancy evaluations))~~ a risk assessment? The provider of ~~((sexual deviancy evaluations))~~ a risk assessment must be a:

(1) ~~((Be a certified sexual offender treatment provider (SOTP); and))~~ Licensed psychologist under chapter 246-924 WAC; or

(2) ~~((Meet the standards contained in))~~ Certified sexual offender treatment provider (SOTP) and meet requirements under WAC 246-930-030 ((education required prior to certification)) and WAC 246-930-040 ((professional experience required prior to examination)) if the provider is performing a risk assessment for sexually aggressive behavior.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1660 ~~Are there ((limitations))~~ limits to the ((sexual deviancy evaluations)) risk assessment you ((can)) may receive?

(1) Clinical and support needs for ((sexual deviancy evaluations)) a risk assessment are limited to those identified in your DDA assessment and documented in ~~((the))~~ your person-centered service ~~((plan/individual support))~~ plan. ~~((Sexual deviancy evaluations))~~

(2) A risk assessment must meet ~~((the standards contained in))~~ requirements under WAC 246-930-320.

~~((2))~~ Sexual deviancy evaluations require (3) A risk assessment requires prior approval by the DDA regional administrator or designee.

~~((3))~~ (4) The cost((s)) of ((sexual deviancy evaluations do)) a risk assessment does not count toward the:

(a) Dollar limit((s)) for aggregate services in the basic plus waiver((s or the));

(b) Annual allocation in the ((IFS)) individual and family services waiver; or

(c) Monthly average cost limit in the children's intensive in-home behavior support waiver.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1700 What is waiver skilled nursing? (1) Waiver skilled nursing ~~((is continuous))~~ means long-term, intermittent, ((or part-time)) and hourly skilled nursing services consistent with waiver objectives of avoiding institutionalization. ~~((These))~~

(2) Waiver skilled nursing services are available in the basic plus, community protection (CP), core, ((IFS, and CP)) and individual and family services (IFS) waivers.

~~((2))~~ (3) Waiver skilled nursing services include nurse delegation services((, per)) provided by a registered nurse under WAC 388-845-1170((, provided by a registered nurse, including the initial visit, follow up instruction, and supervisory visits)).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1710 Are there ~~((limitations))~~ limits to the skilled nursing services you ~~((can))~~ may receive? The following ~~((limitations))~~ limits apply to ~~((your receipt of))~~ skilled nursing services you may receive:

(1) Clinical and support needs for skilled nursing services are limited to those identified in your DDA assessment and documented in ~~((the))~~ your person-centered service ~~((plan/individual support))~~ plan.

(2) Skilled nursing services ~~((with the exception of)),~~ except for nurse delegation and nursing evaluations, require prior approval by the DDA regional administrator or designee.

(3) ~~((DDA and the treating professional determine the need for and amount of service))~~ Skilled nursing hours must not exceed the number of hours determined by the nursing care consultant's skilled nursing assessment.

(4) DDA ~~((reserves the right to))~~ may require a second opinion by a ~~((department))~~ DDA-selected provider.

(5) The dollar amount for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in your IFS waiver limits the amount of skilled nursing services you may receive.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1810 Are there ~~((limitations))~~ limits to ~~((your receipt of))~~ the specialized medical equipment and supplies you may receive? The following ~~((limitations))~~ limits apply to ~~((your receipt of))~~ the specialized medical equipment and supplies you may receive:

(1) Clinical and support needs for specialized medical equipment and supplies are limited to those identified in ~~((the waiver participant's))~~ your DDA assessment and documented in ~~((the))~~ your person-centered service plan ~~((/individual support plan))~~.

(2) Specialized medical equipment and supplies require prior approval by the DDA regional administrator or designee for each authorization.

(3) DDA may require a second opinion by a ~~((department))~~ DDA-selected provider.

~~(4) ((Items purchased with waiver funds must be in addition to any medical equipment and supplies furnished under the medicaid state plan.~~

~~(5))~~ Items must be of direct medical or remedial benefit to ~~((the individual))~~ you and necessary as a result of ~~((the individual's))~~ your disability.

~~((6))~~ (5) Medications ~~((, prescribed or nonprescribed,))~~ and vitamins are excluded.

~~((7))~~ (6) The dollar amounts for aggregate services in your basic plus waiver limit the amount of service you may receive.

~~((8))~~ (7) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1865 Are there ~~((limitations))~~ limits to your receipt of specialized clothing? (1) The following ~~((limitations))~~ limits apply to ~~((your receipt of))~~ specialized clothing you may receive:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in ~~((the))~~ your person-centered service ~~((plan/individual support))~~ plan.

~~(b) ((Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.~~

~~(c) The department))~~ DDA requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

~~((d) The department))~~ (c) DDA may require a second opinion from a ~~((department))~~ DDA-selected provider ~~((that meets the criteria in subsection (1)(c) of this section))~~.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

(3) You must receive prior approval from the DDA regional administrator or designee to receive specialized clothing.

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

WAC 388-845-1900 What are specialized psychiatric services? (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing behavioral health symptoms. These services are available ~~((in all DDA HCBS waivers))~~ to people age twenty-one and older.

(2) ~~((Service may be any of the following))~~ Specialized psychiatric services includes:

- (a) Psychiatric evaluation~~((τ))~~;
- (b) Medication evaluation and monitoring~~((τ))~~; and
- (c) Psychiatric consultation.

(3) ~~((These))~~ Specialized psychiatric services are also available as a behavioral health stabilization service ~~((in accordance with))~~ under WAC 388-845-1150 through 388-845-1160.

NEW SECTION

WAC 388-845-1915 What are speech, hearing, and language services? (1) Speech, hearing, and language services are services provided to a person with speech, hearing, and language disorders by or under the supervision of a speech pathologist or audiologist.

(2) Speech, hearing, and language services are available under the basic plus, community protection, core, and individual and family services waivers.

NEW SECTION

WAC 388-845-1916 Who may be a qualified provider of speech, hearing, and language services? To be a qualified provider of speech, hearing, and language services, a person must:

(1) Be licensed, registered, and certified as an audiologist or speech pathologist as required by law or work under the supervision of a qualified speech pathologist or audiologist;

(2) Be contracted with the developmental disabilities administration to provide speech, hearing, and language services; and

(3) Have a core provider agreement with the health care authority.

NEW SECTION

WAC 388-845-1917 Are there limits to the speech, hearing, and language services you may receive? (1) Speech, hearing, and language services are limited to:

- (a) Waiver participants age twenty-one and older;

(b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;

(c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and

(d) An amount determined by DDA based on your needs and information from your treating professional.

(2) DDA may require a second opinion from a DDA-selected provider.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2000 What is staff(~~(=)~~) and family consultation and training? (1) Staff(~~(=)~~) and family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of (~~(the waiver person)~~) a participant.

(~~(This service)~~) (2) Staff and family consultation and training is available in all DDA HCBS waivers.

(~~((2))~~) (3) Staff and family consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of (~~(the waiver)~~) a participant as outlined in the participant's person-centered service plan(~~(/individual support plan, including)~~).

(4) Staff and family consultation and training includes:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (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; and
- (j) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2010 Are there (~~(limitations)~~) limits to the (~~(staff/family)~~) staff and family consultation and training you (~~(can)~~) may receive? (1) (~~(Clinical and support needs for staff/family)~~) Staff and family consultation and training are limited to (~~(these)~~) supports identified in your DDA assessment and documented in the person-centered service (~~(plan/individual support)~~) 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/family))~~ staff and family consultation and training.

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

(4) Under the basic plus waiver, 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 person-centered service plan; and

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

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2170 Are there ~~((limitations on))~~ limits to your receipt of therapeutic equipment and supplies? The following ~~((limitations))~~ limits apply to your receipt of therapeutic equipment and supplies under the children's intensive in-home behavior support (CIIBS) and individual and family services (IFS) waivers:

~~((1) ((Therapeutic equipment and supplies may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.~~

~~((2) The department does not pay for experimental equipment and supplies.~~

~~((3) The department))~~ DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

~~((4) The department))~~ (2) DDA may require a ~~((written))~~ second opinion from a ~~((department))~~ DDA-selected professional ~~((that meets the same criteria in subsection (3) of this section))~~.

~~((5))~~ (3) The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.

~~((6))~~ (4) Therapeutic equipment and supplies requires a prior approval by the DDA regional administrator or designee.

(5) Therapeutic equipment and supplies excludes nonspecialized recreational items such as trampolines, swing sets, and hot tubs.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-3070 What happens if you do not sign your person-centered service plan~~((/individual support plan (ISP)))~~? ~~((If DDA is~~

unable to obtain the necessary signature for an initial assessment, reassessment, or review of your person centered service plan/individual support plan (ISP), DDA will take one or more of the following actions:))

(1) If ~~((this))~~ you do not sign your initial person-centered service plan~~(/individual support plan is an initial plan))~~ (PCSP), DDA ~~((will be unable to))~~ must not provide waiver services~~((. DDA will not assume consent for an initial plan and will follow the steps described in WAC 388-845-3056 (1) and (3))~~ to you until you sign the PCSP.

(2) If ~~((this person-centered service plan/individual support plan))~~ you do not sign your PCSP and it is a reassessment or review, DDA will:

(a) ~~((DDA will))~~ Continue providing services ~~((as))~~ identified in your ~~((most))~~ current ~~((ISP))~~ PCSP until the end of the ~~((ten-day advance))~~ notice period ~~((as stated in))~~ under WAC 388-825-105~~((.-))~~; and

(b) ~~((After DDA signs and dates your complete person-centered service plan/individual support plan, DDA will send it))~~ Return your PCSP to you for your signature.

(3) If you do not return your signed ~~((ISP to DDA))~~ PCSP within two months of your ~~((assessment completion))~~ reassessment or review, DDA ~~((will))~~ must terminate your services.

~~((3))~~ If this person-centered service plan/individual support plan is a reassessment or review and you are not able to understand your ISP, DDA will continue your existing services and take the steps described in WAC 388-845-3056.)

(4) ~~((You will be provided written notification and appeal rights to this action to implement the new ISP.~~

~~(5))~~ Your appeal rights are ~~((in))~~ under:

(a) WAC 388-845-4000; and

(b) WAC 388-825-120 through 388-825-165.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-845-1000	What are extended state plan services?
WAC 388-845-1010	Who is a qualified provider of extended state plan services?
WAC 388-845-1015	Are there limits to the extended state plan services you can receive?
WAC 388-845-1200	What are "person-to-person" services?
WAC 388-845-1205	Who are qualified providers of person-to-person services?
WAC 388-845-1210	Are there limits to the person-to-person service I can receive?
WAC 388-845-1840	What is specialized nutrition?
WAC 388-845-1845	Who are qualified providers of specialized nutrition?
WAC 388-845-1850	Are there limitations to your receipt of specialized nutrition?