



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: July 10, 2019

TIME: 1:11 PM

WSR 19-15-029

Agency: Department of Social and Health Services, Aging and Long-Term Support 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 received approval from the Centers for Medicare and Medicaid (CMS) to add two new services to Community Options Program Entry Systems (COPES).

The department is adding these services to the COPES WAC: 1) Community Choice Guiding (CCG), to assist an individual establish or stabilize a community living arrangement; and 2) Community Supports: Goods and Services which will provide necessary goods and services for individuals who choose to move from a residential living arrangement to an in-home setting. Also, the home health aide benefit was removed from the COPES waiver and is being removed from WAC.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 388-106-0300, WAC 388-106-0305
- Suspended: None

Statutory authority for adoption: RCW 74.08.090, RCW 74.09.520

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-11-137 on May 22, 2019 (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Federal statute:	New	___	Amended	___	Repealed	___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	<u>2</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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	___	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: July 10, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-106-0300 What services may I receive under community options program entry system (COPEs) when I live in my own home? When you live in your own home, you may be eligible to receive (~~only~~) the following services under COPEs:

(1) Adult day care if you meet the eligibility requirements under WAC 388-106-0805(~~-~~);

(2) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare, and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes; and

(e) Are not adaptations or improvements, which are of general utility or add to the total square footage(~~-~~);

(3) Home delivered meals(~~, providing nutritional~~) which provide one nutritionally balanced (~~(meals, limited to one)~~) meal per day(~~-~~) if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver(~~-~~);

(4) (~~Home health aide service tasks~~) Community choice guiding are services to help you establish or stabilize your living arrangement in your own home(~~-~~) if (~~(the service tasks)~~):

(a) (~~Include assistance with ambulation, exercise, self-administered medications and hands-on personal care~~) You have frequent institutional contacts;

(b) (~~Are beyond the amount, duration or scope of medicaid reimbursed home health services as described in WAC 182-551-2120 and are in addition to those available services~~) You have frequent turn-over of caregivers; or

(c) You are (~~(health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit)~~) in imminent jeopardy of eviction or loss of your current community setting; (~~and~~

~~(d) Do not replace medicare home health services.~~)

(5) Skilled nursing, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration, or scope of medicaid-reimbursed home health services as provided under WAC 182-551-2100(~~-~~);

(6) Specialized (~~(durable and nondurable)~~) medical equipment and supplies under WAC 182-543-1000, if the items (~~(are)~~):

(a) (~~(Medically necessary under WAC 182-500-0700;~~

~~(b)-~~) Are necessary for:

(i) Life support;

(ii) To increase your ability to perform activities of daily living; or

(iii) To perceive, control, or communicate with the environment in which you live; or

~~((e))~~ (b) Are directly ~~((medically or))~~ remedially beneficial to you; and

~~((d) In addition to and))~~ (c) Do not replace any medical equipment ~~((and/or))~~ or supplies otherwise provided under either medicaid ~~((and/or))~~ or medicare~~((-))~~;

(7) Training needs identified in the CARE ~~((or in a professional evaluation,))~~ assessment which meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers~~((-))~~;

(8) Transportation services, when the service:

(a) Provides access to community services and resources to meet ~~((your))~~ a therapeutic goal;

(b) Is not diverting in nature; and

(c) ~~((Is in addition to and))~~ Does not replace the medicaid-brokered transportation or transportation services available in the community~~((-))~~;

(9) Nursing services from a registered nurse based on your individual need as determined by your CARE assessment, when you are not already receiving this type of service from another resource~~((A registered nurse may visit you and perform))~~, which may include any of the following activities~~((The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager.))~~;

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, ~~((only))~~ in the event of an emergency~~((A skilled treatment is care that would require))~~, which requires authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement~~((In nonemergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.))~~;

(e) File review; ~~((and/or))~~ or

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

(10) Adult day health services as described in WAC 388-71-0706 when you are:

(a) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714 and:

(i) There is a reasonable expectation that these services will improve, restore, or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering;

(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment~~((-))~~;

(b) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met~~((-))~~; however

- (c) You are not eligible for adult day health if you:
 - (i) Can independently perform or obtain the services provided at an adult day health center; or
 - (ii) Have referred care needs that:
 - (A) Exceed the scope of authorized services that the adult day health center is able to provide;
 - (B) Do not need to be provided or supervised by a licensed nurse or therapist;
 - (C) Can be met in a less structured care setting;
 - (D) In the case of skilled care needs, are being met by paid or unpaid caregivers;
 - (E) Live in a nursing home or other institutional facility; or
 - (F) Are not capable of participating safely in a group care setting(~~(-)~~);
- (11) Wellness education, as identified in your person centered service plan to address an assessed need or condition; and
- (12) Community support: Goods and services are nonrecurring set-up items and services to assist with expenses if you choose to move from a residential setting to an in-home setting and may include:
 - (a) Security deposits that are required to lease an apartment or home;
 - (b) Activities to assess need, arrange for, and obtain needed resources, including essential household furnishings;
 - (c) Set-up fees or deposits for utility or services access, 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) Necessary home accessibility adaptations.

AMENDATORY SECTION (Amending WSR 15-11-049, filed 5/15/15, effective 7/1/15)

WAC 388-106-0305 What services may I receive under COPES if I live in a residential facility? If you live in one of the following residential facilities: A licensed assisted living facility contracted with the department to provide assisted living, enhanced adult residential care, enhanced adult residential care-specialized dementia care, or an adult family home, you may be eligible to receive only the following services under COPES:

- (1) Specialized (~~(durable and nondurable)~~) medical equipment and supplies under WAC 182-543-1000, when the items (~~(are)~~):
 - (a) (~~(Medically necessary under WAC 182-500-0005; and~~ ~~(b-))~~) Are necessary for: (~~(For)~~)
 - (i) Life support;
 - (ii) To increase your ability to perform activities of daily living; or
 - (iii) To perceive, control, or communicate with the environment in which you live; (~~(and)~~) or
 - (~~(e))~~) (b) Are directly (~~(medically or)~~) remedially beneficial to you; (~~(and)~~)
 - (~~(d) In addition to and))~~) (c) Do not replace any medical equipment (~~(and/or)~~) or supplies otherwise provided under either medicaid (~~(and/or)~~) or medicare; and

~~((e) In addition to and)) (d) Do not replace the services required by the department's contract with a residential facility~~((-))~~;~~

(2) Training needs identified in the CARE ~~((or in a professional evaluation,))~~ assessment that are in addition to and do not replace the services required by the department's contract with the residential facility and that meet a therapeutic goal such as:

- (a) Adjusting to a serious impairment;
 - (b) Managing personal care needs; or
 - (c) Developing necessary skills to deal with care providers~~((-))~~;
- (3) Transportation services, when the service:

(a) Provides access to community services and resources to meet a therapeutic goal;

(b) Is not diverting in nature;

(c) ~~((Is in addition to and))~~ Does not replace the medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential facilities~~((-))~~;

(4) Skilled nursing, when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;

(b) Beyond the amount, duration or scope of medicaid-reimbursed home health services as provided under WAC 182-551-2100; and

(c) In addition to and does not replace the services required by the department's contract with the residential facility (e.g. intermittent nursing services as described in WAC 388-78A-2310)~~((-))~~;

(5) Nursing services from a registered nurse based on your individual need as determined by your CARE assessment, when you are not already receiving this type of service from another resource~~((A registered nurse may visit you and perform any of the following activities. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager.))~~, which may include 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~~((, only))~~ in the event of an emergency~~((A skilled treatment is care that would require))~~, which requires authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement~~((In nonemergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.))~~;

(e) File review; ~~((and/or))~~ or

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

(6) Adult day health services as described in WAC 388-71-0706 when you are:

(a) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714, and:

(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the de-

cline of your health and functional status or ease related pain or suffering;

(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment((-));

(b) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met((-)); however

(c) You are not eligible for adult day health if you:

(i) Can independently perform or obtain the services provided at an adult day health center;

(ii) Have referred care needs that:

(A) Exceed the scope of authorized services that the adult day health center is able to provide;

(B) Do not need to be provided or supervised by a licensed nurse or therapist;

(C) Can be met in a less structured care setting;

(D) In the case of skilled care needs, are being met by paid or unpaid caregivers;

(E) Live in a nursing home or other institutional facility; or

(F) Are not capable of participating safely in a group care setting((-));

(7) Wellness education, as identified in your person centered service plan to address an assessed need or condition;

(8) Community choice guiding are services to help you establish or stabilize your living arrangement in your own home or a residential setting if:

(a) You have frequent institutional contacts;

(b) You have frequent turn-over of caregivers; or

(c) You are in imminent jeopardy of eviction or loss of your current community setting; and

(9) Community support: Goods and services are nonrecurring set-up items and services to assist with expenses if you choose to move from a residential setting to an in-home setting and may include:

(a) Security deposits that are required to lease an apartment or home;

(b) Activities to assess need, arrange for, and obtain needed resources, including essential household furnishings;

(c) Set-up fees or deposits for utility or services access, 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) Necessary home accessibility adaptations.