



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: June 04, 2019

TIME: 11:10 AM

WSR 19-12-088

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: This amended rule and new rule are necessary to help the Developmental Disabilities Administration (DDA) comply with federal Medicaid law and receive federal funding. The changes clarify the care provided at residential habilitation centers by cross-referencing the level of care for nursing facilities under WAC 388-106-0355, and by incorporating language from CFR to describe active treatment services in an intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs).

Citation of rules affected by this order:

New: WAC 388-837-9010
Repealed: None
Amended: WAC 388-825-091
Suspended: None

Statutory authority for adoption: RCW 71A.12.030

Other authority: RCW 71A.12.120, 42 C.F.R. 483.440

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-08-043 on March 29, 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:

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**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	<u>1</u>	Amended	<u>1</u>	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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	___	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	<u>1</u>	Amended	<u>1</u>	Repealed	___

Date Adopted: June 4, 2019

Name: Cheryl Strange

Title: DSHS Secretary

Signature:



WAC 388-825-091 Am I eligible for residential habilitation center (RHC) services? (1) If you are twenty-one years of age or over, you are eligible to receive residential habilitation center (RHC) services if:

- (a) You have been determined to meet DDA eligibility criteria;
- (b) You choose to receive services in the RHC;
- (c) ~~((You need the level of care provided at the RHC; and~~
- ~~(d-))~~ DDA has determined that you can be supported safely in an RHC environment and will not pose a danger to other residents of the RHC; ~~((~~o~~))~~ and

(d) You need the level of care provided at the RHC, which is either:

(i) Nursing facility level of care under WAC 388-106-0355 for a client admitted to, or seeking admission to, a state-operated nursing facility; or

(ii) Intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care under WAC 388-828-1020 for a client admitted to, or seeking admission to, a state-operated ICF/IID.

(2) If you are sixteen through twenty years of age, and meet (1)(a) through (d) above you may not be admitted to receive services at a residential habilitation center unless there are no service options available in the community to appropriately meet your needs. Such admission is limited to the provision of short-term respite or crisis stabilization services.

(3) If you are under age sixteen you are not eligible to receive services at a residential habilitation center.

(4) Admission to a nursing facility at a RHC also requires completion of preadmission screening and resident review (PASRR) requirements as described in chapter 388-97 WAC.

NEW SECTION

WAC 388-837-9010 Must a client who is admitted by a residential habilitation center's ICF/IID be in need of and receiving active treatment services? (1) An individual who is admitted by a residential habilitation center's intermediate care facility for individuals with intellectual disabilities must be in need of and receiving active treatment services.

(2) Active treatment services means a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services described in 42 C.F.R. 483.400 through 483.480, that is directed toward:

(a) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(b) The prevention or deceleration of regression or loss of current optimal functional status.