



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: November 18, 2020

TIME: 11:51 AM

WSR 20-23-124

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 Comprehensive Assessment Reporting & Evaluation (CARE) tool has been in place for approximately 17 years. The CARE Modernization project created a new web-based, modern, person-centered user interface for the Long Term Care (LTC) online CARE assessment. Some changes to the CARE tool resulted in the need to bring the Washington Administrative Code (WAC) language in alignment with these changes. No changes were made to the algorithms within the CARE tool that determine eligibility or benefit level.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-106-0033, WAC 388-106-0075, WAC 388-106-0090, WAC 388-106-0095, WAC 388-106-0100
 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 20-16-094 on July 30, 2020 (date).

Describe any changes other than editing from proposed to adopted version: WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "has leakage, needs assistance" was changed to "needs skin cleansing assistance" will be changed to "uses, needs assistance, has incontinence."

WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "You are frequently incontinent (bowel)" was changed to "You are frequently incontinent three to four times per week (bowel)" was corrected to "You are frequently incontinent two to three times per week (bowel)."

WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "You are incontinent all or most of the time (bowel)" was changed to "You are incontinent all or most of the time four or more times per week (bowel)" was corrected back to, "You are incontinent all or most of the time (bowel)"

WAC 388-106-0010 What definitions apply to this chapter? The department removed this section from proposed rulemaking.

WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care? The department removed this section from proposed rulemaking.

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>5</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:

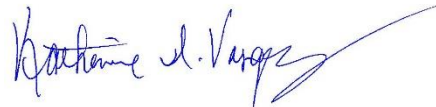
Negotiated rule making:	New	___	Amended	5	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: November 16, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-106-0033 When may I receive services in a facility contracted to provide specialized dementia care services? (1) You may be eligible to receive services in a licensed assisted living facility that has ((a)) DSHS "enhanced adult residential care-specialized dementia care ("EARC-SDC")," which is defined in WAC 388-110-220. You may be eligible to receive EARC-SDC services in a licensed assisted living facility under the following circumstances:

(a) You are enrolled in CFC, as defined in WAC 388-106-0015;
(b) The department has received written or verbal confirmation from a health care practitioner that you have an irreversible dementia (such as Alzheimer's disease, multi-infarct or vascular dementia, Lewy body dementia, Pick's disease, alcohol-related dementia);

(c) You are receiving services in an assisted living facility that has a current EARC-SDC contract, and you are living in the part of the facility that is covered by the contract;

(d) The department has authorized you to receive EARC-SDC services in the assisted living facility; and

(e) You are assessed by the comprehensive assessment reporting evaluation tool ("CARE") as having a cognitive performance scale score of 3 or ((above)) more; and any one or more of the following:

(i) An unmet need for assistance with ((supervision, limited, extensive or total dependence with)) the activity of daily living (ADL) of eating((/drinking)) as defined in WAC 388-106-0010;

(ii) Inappropriate toileting((/))menses activities;

(iii) Rummages/takes ((others)) belongings of others;

(iv) ((Up)) Disrupts household at night when others are sleeping and requires intervention(s);

(v) Wanders/exit seeking;

(vi) Wanders/not exit seeking;

(vii) ((Has)) Left home and gotten lost;

(viii) Inappropriate spitting;

(ix) ((Disrobes in public)) Inappropriate nakedness;

(x) Eats non((-))edible substances/objects (Pica)(persistent for at least a month);

(xi) Sexual acting out;

(xii) Delusions;

(xiii) Hallucinations;

(xiv) Assaultive (not during personal care);

(xv) Breaks, throws items;

(xvi) Combative during personal care;

(xvii) Easily irritable/agitated requiring intervention;

(xviii) Obsessive regarding own health((/)) or body functions;

(xix) Repetitive movement/pacing;

(xx) Unrealistic fears or suspicions;

(xxi) Nonhealth related repetitive anxious complaints/questions;

(xxii) Resistive to care with words/gestures (does not include informed choice);

(xxiii) Verbally abusive;

(xxiv) Yelling/screaming;

(xxv) Inappropriate verbal noises; or

(xxvi) Accuses others of stealing.

AMENDATORY SECTION (Amending WSR 12-14-064, filed 6/29/12, effective 7/30/12)

WAC 388-106-0075 How is my need for personal care services assessed in CARE? The department gathers information from you, your caregivers, family members, and other sources to assess your abilities ~~((to))~~ and how you perform personal care tasks. The department will also consider developmental milestones for children as defined in WAC 388-106-0130 when individually assessing your abilities and ~~((needs))~~ need for assistance. The department will assess your ability to perform:

(1) Activities of daily living (ADL) using self-performance, support provided, status, and assistance available, as defined in WAC 388-106-0010. Also, the department determines your need for "assistance with body care" and "assistance with medication management," as defined in WAC 388-106-0010; and

(2) Instrumental activities of daily living (IADL) using self-performance ~~((difficulty))~~, status, and assistance available, as defined in WAC 388-106-0010.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0090 How does the CARE tool measure cognitive performance? (1) The CARE tool uses a tool called the cognitive performance scale (CPS) to evaluate your cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment). Your CPS score is based on information given at your assessment and documented in the CARE tool:

(a) Whether you are comatose.

(b) Your ability to make decisions, as defined in WAC 388-106-0010 "~~((Decision-making))~~ Decisions."

(c) Your ability to make yourself understood, as defined in WAC 388-106-0010 "Ability to make self understood."

(d) Whether you have short-term memory problem (e.g. can you remember recent events?) ~~((or whether you have delayed recall))~~ as determined by the following:

(i) Information given at your assessment and documented in the CARE tool showed there is evidence that you have short-term memory loss; or

(ii) You could not recall at least one of the three words you were asked to recall during the mini mental status exam completed during your assessment using the CARE tool; and

(e) Whether you score as total dependence for self-performance in eating, as defined in WAC 388-106-0010 "Self-performance of ADLs."

(2) You will receive a CPS score of:

(a) **Zero** when you do not have problems with decision-making ability, making yourself understood, or recent memory.

(b) **One** when you meet one of the following:

(i) ~~((Your decision-making ability is))~~ Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;

(ii) Your ability to make yourself understood is scored as usually, sometimes, or rarely/never understood as defined in WAC 388-106-0010; or

(iii) You have a (~~recent~~) short-term memory problem.

(c) **Two** when you meet two of the following:

(i) (~~Your decision-making ability is~~) Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;

(ii) Your ability to make yourself understood is scored as usually, sometimes, or rarely/never understood; and/or

(iii) You have a short-term memory problem or delayed recall.

(d) **Three** when you meet at least two of the criteria listed in subsection (2)(b) of this section and one of the following applies:

(i) (~~Your decision making is moderately impaired~~) Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; or

(ii) Your ability to make yourself understood is scored as sometimes or rarely/never understood as defined in WAC 388-106-0010.

(e) **Four** when both of the following criteria applies:

(i) (~~Your decision making is moderately impaired~~) Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; and

(ii) (~~Your ability to make yourself understood is~~) Decisions are scored as sometimes or rarely/never understood as defined in WAC 388-106-0010.

(f) **Five** (~~when your ability to make~~) Decisions ((is)) are scored as ((severely impaired)) no/few decisions as defined in WAC 388-106-0010.

(g) **Six** when one of the following applies:

(i) (~~Your ability to make decisions is severely impaired~~) Decisions are scored as no/few decisions and you require total dependence in eating as defined in WAC 388-106-0010; or

(ii) You are comatose.

AMENDATORY SECTION (Amending WSR 07-10-024, filed 4/23/07, effective 6/1/07)

WAC 388-106-0095 How does the CARE tool measure clinical complexity? The CARE tool places you in the clinically complex classification group only when you have one or more of the following criteria and corresponding ADL scores:

Condition	AND an ADL score of
ALS (Lou Gehrig's Disease)	>14
Aphasia (expressive (and/or), receptive, or both)	>=2
Cerebral Palsy	>14
Diabetes Mellitus (insulin dependent)	>14
Diabetes Mellitus (noninsulin dependent)	>14
Emphysema & shortness of breath (at rest or exertion) or dizziness/vertigo	>10
COPD & shortness of breath (at rest or exertion) or dizziness/vertigo	>10
Explicit terminal prognosis	>14

Condition	AND an ADL score of
Hemiplegia	>14
Multiple Sclerosis	>14
Parkinson Disease	>14
Pathological bone fracture	>14
Quadriplegia	>14
Rheumatoid Arthritis	>14
You have one or more of the following skin problems: <ul style="list-style-type: none"> ■ <u>Current pressure ((u)leers)) injuries</u>, with areas of persistent skin redness; ■ <u>Current pressure ((u)leers)) injuries</u> with partial loss of skin layers; ■ <u>Current pressure ((u)leers)) injuries</u>, with a full thickness lost; ■ Skin desensitized to pain/pressure; ■ Open lesions (<u>not cuts, rashes</u>); (<u>and/or</u>) or ■ Stasis ulcers. AND You ((require)) <u>received</u> one of the following types of ((assistance)) <u>skin care or treatment</u> : <ul style="list-style-type: none"> ■ ((U)eer)) <u>Pressure injury care</u>; ■ <u>Pressure relieving device</u>; ■ <u>Turning/((reposition))repositioning program as defined in WAC 388-106-0010</u>; ■ <u>Application of dressing</u>; or ■ <u>Wound/skin care treatment</u>. 	>=2
You have a burn(s) and you ((need)) <u>received</u> one of the following: <ul style="list-style-type: none"> ■ <u>Application of dressing</u>; or ■ <u>Wound/skin care</u> 	>=2
You have one or more of the following problems: <ul style="list-style-type: none"> ■ You are frequently incontinent <u>daily with some control present</u> (bladder); ■ You are incontinent all or most of the time <u>multiple times per day having no control</u> (bladder); ■ You are frequently incontinent <u>two to three times per week</u> (bowel); or ■ You are incontinent all or most of the time (bowel). AND One of the following applies: <ul style="list-style-type: none"> ■ The status of your individual management of bowel bladder supplies is "<u>Uses, ((has leakage,)) needs assistance, has incontinence</u>"; ■ The status of your individual management of bowel bladder supplies is "<u>Does not use, has leakage onto skin</u>"; or ■ You use "<u>Any scheduled toileting plan.</u>" 	>10
You have a current swallowing problem, and you are not independent in eating.	>10
You have <u>edema</u> .	>14
You have <u>pain</u> daily.	>14
You need and ((reeive)) <u>received</u> a <u>bowel program as defined in WAC 388-106-0010</u> .	>10
You need <u>dialysis</u> .	>10
You require IV nutritional support or tube feedings; and Your total calories received per IV or tube was at least 25%; and Your fluid intake is <u>greater than 2 cups</u> .	>=2
You need <u>hospice care</u> .	>14
You need <u>injections</u> .	>14
You need <u>intravenous medications</u> .	>10
You need <u>management of IV lines</u> .	>10
You need <u>ostomy care</u> .	>=2
You need <u>oxygen therapy</u> .	>10
You need <u>radiation</u> .	>10

Condition	AND an ADL score of
You need and ((receive)) <u>received</u> passive range of motion.	>10
You need and ((receive)) <u>received</u> walking training.	>10
You need <u>suction</u> treatment.	>=2
You need <u>tracheostomy</u> care.	>10
You need a <u>ventilator/respirator</u>	>10
You are <18 and you have pain related to your disability and you complain of pain or show evidence of pain daily. (If you are under eighteen and do not have pain related to your disability, you may be placed in the clinically complex classification based on other factors above.)	>14
Key: < means less than. > means greater than. >= means greater than or equal to.	

AMENDATORY SECTION (Amending WSR 08-10-022, filed 4/25/08, effective 5/26/08)

WAC 388-106-0100 How does the CARE tool measure mood and behaviors? (1) When you do not meet the criteria for the clinically complex classification group, or the criteria for exceptional care, or for in-home only have a cognitive performance scale score of five or six, then the mood and behavior criteria listed in subsections (3) and (4) below determines your classification group. If you are eligible for more than one "B" group classification based on the two methodologies, CARE will place you in the highest group for which you qualify.

(2) For each behavior that was assessed and documented in the CARE tool ((~~has documented~~)), the department will determine a status as "current behavior" or "past behavior" as defined in WAC 388-106-0010.

(3) CARE places you in the mood and behavior classification group only if you have one or more of the behavior/moods that also meets the listed status, frequency, and alterability as identified in the following chart:

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive (not during personal care)	Current <u>behavior</u>
Combative during personal care	Current <u>behavior</u>
Combative during personal care	((is)) <u>Past</u> ((and)) <u>behavior</u> , addressed with current interventions
<u>Many incidences of uncontrollable crying</u> tearfulness	Current <u>behavior</u> , frequency 4 or more days per week
Delusions	((is)) <u>Past</u> <u>behavior</u> , addressed with current interventions
Depression score of 14 or greater	N/A
((Disrobes in public)) <u>Inappropriate nakedness</u>	Current <u>behavior</u> and not easily altered
Easily irritable/agitated <u>requiring intervention(s)</u>	Current <u>behavior</u> and not easily altered

Behavior/Mood	AND Status, Frequency & Alterability
Eats nonedible substances/objects (Pica)(persistent for at least a month)	Current <u>behavior</u>
Eats nonedible substances/objects (Pica)(persistent for at least a month)	((H) Past <u>behavior</u> , addressed with current interventions
Hallucinations	Current <u>behavior</u>
Hiding items	((H) Past <u>behavior</u> , addressed with current interventions
Hoarding((collecting))	((H) Past <u>behavior</u> , addressed with current interventions
Mental health therapy/program	((Need) Needs
Nonhealth related repetitive <u>anxious</u> complaints/questions	Current <u>behavior</u> , daily
Nonhealth related repetitive complaints/questions	((H) Past <u>behavior</u> , addressed with current interventions
Repetitive movement/pacing, hand wringing, fidgeting	Current <u>behavior</u> , daily
Resistive to care with words/gestures (does not include informed choice)	Current <u>behavior</u>
Resistive to care with words/gestures (does not include informed choice)	((H) Past <u>behavior</u> , addressed with current interventions
Sexual acting out	Current <u>behavior</u>
Sexual acting out	((H) Past <u>behavior</u> , addressed with current interventions
Inappropriate spitting	Current <u>behavior</u> and not easily altered
Inappropriate spitting	((H) Past <u>behavior</u> , addressed with current interventions
Breaks/throws items	Current <u>behavior</u>
Unsafe smoking	Current <u>behavior</u> and not easily altered
((Up) Disturbs household at night when others are sleeping and requires intervention	Current <u>behavior</u>
Wanders exit seeking	Current <u>behavior</u>
Wanders exit seeking	((H) Past <u>behavior</u> , addressed with current interventions
Wanders not exit seeking	Current <u>behavior</u>
Wanders not exit seeking	((H) Past <u>behavior</u> , addressed with current interventions
Yelling/screaming	Current <u>behavior</u> , frequency 4 or more days per week

or

(4) CARE places you in the mood and behavior classification group if you have a behavior point score greater than 1, your CPS score (as defined in WAC 388-106-0090) is greater than 2, and your ADL score (as defined in WAC 388-106-0105) is greater than 1.

Status	Intervention	Frequency	Weight
Past	No <u>intervention</u>	N/A	0
Past	With <u>intervention</u>	N/A	0.25

Status	Intervention	Frequency	Weight
Current	N/A	1-3 days(/) per wk	0.5
Current	N/A	4-6 days(/) per wk	0.75
Current	N/A	Daily	1

Each current behavior (as shown in the table below) has a value from .5 to 6 depending on the severity and alterability. Each status combination (shown in the table above) has a weight from 0 to 1. Behavior points are determined by multiplying the value of each current behavior (from the list below) by the weight of the status combination (above). Behavior points for past behaviors will be determined by multiplying the easily altered value of the behavior from the table below by the appropriate weight from the table above (0 or .25).

The list of behaviors below is divided into categories. Each category has a point limit of how many points can be counted toward the total behavior point score as detailed below. The total behavior point score is determined by totaling the weight-adjusted values for each category below.

Behavior	Value	
	Easily Altered/ Past	Not Easily Altered
1. <u>Many incidences of uncontrollable crying ((and))_tearfulness</u>	.5	1
2. Easily irritable/agitated	.5	1
3. Obsessive ((about)) regarding own health or body functions	.5	1
4. Repetitive physical <u>movement/pacing, hand wringing, fidgeting</u>	.5	1
5. Hiding items	.5	1
6. Hoarding(/Collecting))	.5	1
7. Inappropriate verbal noise	.5	1
8. Wanders, not exit seeking	.5	1
Maximum total points after adjusting for status for behaviors 1-8 = 2		
9. Repetitive anxious complaints/questions	1	2
10. ((Rummaging through or)) Rummages/takes ((others)) belongings of others	1	2
11. Verbally abusive	1	2
12. Yelling(/) or screaming	1	2
13. Inappropriate spitting	1	2
14. Unrealistic fears and suspicions	1	2
15. Accuses others of stealing	1	2
Maximum total points after adjusting for status for behaviors 9-15 = 3		
16. Resistive to care with words/gestures	2	3

Behavior	Value	
	Easily Altered/ Past	Not Easily Altered
17. ((Up)) <u>Disturbs household at night when others are sleeping, requires intervention</u>	2	3
18. Unsafe cooking	2	3
19. Inappropriate toileting/ menses activity	2	3
20. Unsafe smoking	2	3
21. Left home and (became) <u>gotten</u> lost	2	3
22. ((Disrobes in public)) <u>Inappropriate nakedness</u>	2	3
Maximum total points after adjusting for status for behaviors 16-22 = 4		
23. ((Injures self)) <u>Intentional self-injury</u>	4	5
24. Wanders/Exit seeking	4	5
25. Sexual acting out	4	5
26. Intimidating/ <u>threatening (no physical contact)</u>	4	5
27. Assaultive (<u>not during personal care</u>)	4	5
28. Breaks, throws items	4	5
Maximum total points after adjusting for status for behaviors 23-28 = 10		
29. <u>Deliberate</u> fire setting behaviors	5	6
30. Combative during care	5	6
31. Eats <u>nonedible substances/objects (Pica)</u> (persistent for at least a month)	5	6
32. ((Seeks vulnerable partners)) <u>Deliberate sexual violence</u>	5	6
Maximum total points after adjusting for status for behaviors 29-32 = 12		