



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 06, 2023

TIME: 3:50 PM

WSR 23-12-082

Agency: Department of Social and Health Services, Aging and Long-Term Support Administration, HCS

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 adopted amended sections to WAC 388-106-0270(5) "What services are available under community first choice (CFC)?" and 388-106-0274(1) and (3) "Are there limits to the assistive technology I may receive?." The purpose of the amended language provided clarification to our stakeholders on what CFC assistive technology is, the examples of CFC assistive technology, the examples of items that are not covered as CFC assistive technology, and what a treating professional providing a written recommendation should know about the assistive technology item. The rules also addressed the process when individuals request the assistive technology. The adopted amendments assist case managers, and CFC clients in understanding program requirements.

Citation of rules affected by this order:

New: None

Repealed: None

Amended: WAC 388-106-0270 and 388-106-0274

Suspended: None

Statutory authority for adoption: RCWs 74.08.090, 74.09.520, 74.39A.400, and 42 C.F.R. 441.500-590

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-05-102 on 02/15/2023 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	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	<u>2</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>2</u>	Repealed	___
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The number of sections adopted using:

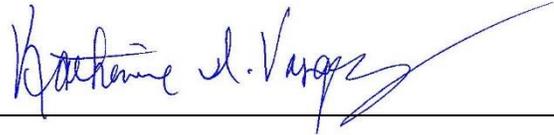
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>2</u>	Repealed	___

Date Adopted: June 6, 2023

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-106-0270 What services are available under community first choice (CFC)? The services you may receive under the community first choice program include:

- (1) Personal care services as defined in WAC 388-106-0010.
- (2) Relief care, which is personal care services by a second individual or agency provider as a back-up to your primary paid personal care provider.
- (3) Skills acquisition training, which is training that allows you to acquire, maintain, and enhance skills necessary to accomplish ADLs, IADLs, or health related tasks more independently. Health related tasks are specific tasks related to the needs of an individual that under state law licensed health professionals can delegate or assign to a qualified health care practitioner.
- (4) Personal emergency response systems (PERS), which are basic electronic devices that enable you to secure help in an emergency when:
 - (a) You live alone in your own home;
 - (b) You are alone in your own home for significant parts of the day and have no provider for extended periods of time; or
 - (c) No one in your home, including you, is able to secure help in an emergency.
- (5) Assistive technology, including assistive equipment, which are adaptive and assistive items that increase your independence or substitute for human assistance specifically with ADLs, IADLs, or health related tasks, including but not limited to:
 - (a) ~~((Additions to the standard)) PERS ((unit))~~ add-on services, such as fall detection, GPS, or medication ~~((delivery with or without))~~ reminder systems;
 - (b) Department approved devices that are not excluded by WAC 388-106-0274, including but not limited to: ~~((visual alert systems, voice activated systems, switches and eyegazes, and timers or electronic devices that monitor or sense movement and react in a prescribed manner such as turning on or off an appliance;))~~
 - (i) Adaptive utensils to assist with activities such as eating, dressing, and writing;
 - (ii) Communication applications/software or devices;
 - (iii) Visual alert systems;
 - (iv) Voice activated systems;
 - (v) Switches and eyegazes; and
 - (vi) Timers or electronic devices that monitor or sense movement and react in a prescribed manner such as turning on or off an appliance;
 - (c) Repair or replacing items as limited by WAC 388-106-0274; and
 - (d) Training of participants and caregivers on the maintenance or upkeep of equipment purchased under assistive technology.
- (6) Nurse delegation services as defined in WAC 246-840-910 through 246-840-970.
- (7) Nursing services when you are not already receiving nursing services from another source. A registered nurse may visit you and perform 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, which is care that requires authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, including but not limited to medication administration or wound care such as debridement; nursing services will only provide skilled treatment in the event of an emergency and in nonemergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, home health agency, or other appropriate resource;

(e) File review; and

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

(8) Community transition services, which are nonrecurring, setup items or services to assist you with discharge from a nursing facility, institution for mental diseases, or intermediate care facility for individuals with intellectual disabilities, when these items or services are necessary for you to set up your own home, including but not limited to:

(a) Security deposits that are required to lease an apartment or home, including first month's rent;

(b) Essential household furnishings required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bath and linen supplies;

(c) Setup fees or deposits for utilities, 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) Activities to assess need, arrange for, and procure necessary resources.

(9) Caregiver management training on how to select, manage, and dismiss personal care providers.

AMENDATORY SECTION (Amending WSR 17-03-127, filed 1/18/17, effective 2/18/17)

WAC 388-106-0274 Are there limits to the assistive technology I may receive? (1) There are limits to the assistive technology you may receive. Assistive technology excludes:

(a) Any purchase solely for recreational purposes;

(b) Items of general utility, meaning they are used by people in the absence of illness, injury, or disability, such as a wood splitter, facial wipes, menstrual supplies, or a slow cooker;

(c) Subscriptions, ((and)) data plan charges, and ((monthly)) ongoing recurring fees;

(d) Educational software, game applications, or gift cards for educational/game applications;

((e)) (e) Medical supplies and medical equipment, items available as specialized equipment and supplies, or durable medical equipment;

(f) Specialized clothing or slip-on shoes that are for convenience and not adaptive in nature;

(g) Exercise equipment;

~~((d))~~ (h) Home/environmental modifications; ~~((and))~~

(i) Medically necessary items, including but not limited to compression socks/stockings, orthotics, hearing aids, and eyeglasses; and

~~((e))~~ (j) Any item that would otherwise be covered under any other payment source, including but not limited to medicare, medicaid, ~~((and))~~ private insurance, or another resource.

(2) In combination with skills acquisition training, assistive technology purchases are limited to a yearly amount determined by the department per fiscal year.

(3) To help decide whether to authorize assistive technology the department may require a treating professional's written recommendation regarding the need for an assistive technology evaluation. The treating professional who makes this recommendation must:

(a) Have personal knowledge of ~~((or))~~ and experience with the requested assistive technology that is in alignment with their profession; and

(b) Have ~~((examined))~~ evaluated you, reviewed your medical records, ~~((and))~~ have knowledge of your level of functioning, and your ability to use the requested assistive technology or device.

(4) Your choice of assistive technology is limited to the most cost effective option that meets your health and welfare needs.

(5) Replacement of an assistive technology item or piece of equipment is limited to once every two years.