



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: December 19, 2023

TIME: 11:00 AM

WSR 24-01-116

Agency: Department of Social and Health Services, Developmental Disabilities Administration (DDA)

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: DDA amended these rules to align with amendments to home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services. Major changes include adding a priority group for waiver enrollment; adding a new provider type for stabilization services; and adding signature options for person-centered service plans. When effective, these permanent rules supersede emergency rules on these sections filed under WSR 23-22-009.

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 388-845-0045, WAC 388-845-1105, WAC 388-845-1505, WAC 388-845-3062

Suspended:

Statutory authority for adoption: RCW 71A.12.030

Other authority: RCW 71A.12.120, 42 USC 1396n(c)

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-22-001 on October 18, 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	<u>4</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	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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	<u>4</u>	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:

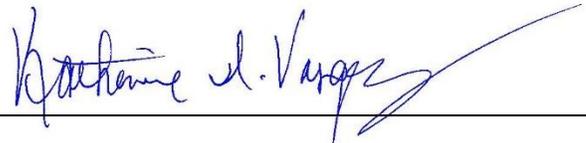
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>4</u>	Repealed	___

Date Adopted: December 19, 2023

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver, DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).

(g) Persons exiting the Washington department of children, youth, and families foster care or aging out of dependency.

(3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1105 Who is a qualified provider of stabilization services - crisis diversion bed? Providers of stabilization services - crisis diversion beds must be:

(1) (~~DDA~~) Department-certified residential agencies per chapter 388-101 WAC;

(2) (~~Other department licensed or certified agencies; or~~

~~(3)) State-operated agencies (-); or~~

(3) Other agencies licensed by the department of children, youth, and families under chapter 110-145 WAC and contracted with DDA to provide services under chapter 388-833 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver? Providers of residential ha-

ilitation services for participants in the core waiver must be one of the following:

(1) ~~((Individuals))~~ An individual contracted with DDA to provide ~~((residential support))~~ services as a ~~(())~~ companion home ~~(())~~ provider under chapter 388-829C WAC;

(2) ~~((Individuals))~~ An individual or agency contracted with DDA to provide ~~((training))~~ services as an ~~(())~~ alternative living provider ~~(())~~ under chapter 388-829A WAC;

(3) ~~((Agencies))~~ An agency contracted with DDA and certified per chapter 388-101 WAC;

(4) A state-operated living ~~((alternatives))~~ alternative (SOLA);
or

(5) A licensed and contracted:

(a) Group care ~~((facilities and))~~ facility or staffed residential ~~((homes))~~ home under chapter 110-145 WAC;

(b) Child foster ~~((homes))~~ home under chapter 110-148 WAC; or

(c) Child placing ~~((agencies))~~ agency under chapter 110-147 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3062 Who is required to sign the person-centered service plan and how can it be signed? (1) If you do not have a legal representative, you must sign the person-centered service plan.

(2) If you have a legal representative, your legal representative must sign the person-centered service plan.

(3) If you need assistance to understand your person-centered service plan, DDA will follow the steps outlined in WAC 388-845-3056 ~~((1) and (3))~~.

(4) You choose how to sign your person-centered service plan - such as, with a pen, or with an electronic or voice signature.