

Chapter 388-837 WAC
RESIDENTIAL HABILITATION CENTER (RHC) ICF/ID PROGRAM

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WAC

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WAC 388-837-9005 What is the purpose of this chapter? (1) The purpose of this chapter is to establish rules authorized by Title 71A RCW for RHC ICF/ID programs, rules that:

(a) Regulate the purchase and provision of services in state operated intermediate care facility for those with an intellectual disability (ICF/ID); and

(b) Assure adequate ICF/ID care, service, and protection are provided through certification procedures; and

(c) Establish standards for providing habilitative training, health-related care, supervision, and residential services to eligible persons.

(2) Except where specifically referenced, this chapter supersedes and replaces any and all sections affecting ICF/ID facilities or programs contained in chapter 388-96 WAC.

(3) Except as referenced, definitions in WAC 388-835-0010 apply to this chapter.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-15-036, § 388-837-9005, filed 7/8/15, effective 8/8/15. Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-837-9005, filed 7/23/04, effective 8/23/04.]

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.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120, 42 C.F.R. 483.440. WSR 19-12-088, § 388-837-9010, filed 6/4/19, effective 7/5/19.]

WAC 388-837-9015 What does a transfer from one RHC to another RHC mean? A transfer means the discharge of a resident from the current RHC in which the resident resides and the admission of that resident to another RHC.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-837-9015, filed 7/23/04, effective 8/23/04.]

WAC 388-837-9020 Do residents have a right to a hearing when transferring from a residential habilitation center (RHC) to another RHC? Notwithstanding hearing rights set forth in WAC 388-825-120 (1)(d), there is no right to an adjudicative proceeding for a resident when the department concludes that the facility where the resident resides cannot provide services due to:

- (1) Decertification of the RHC;
- (2) Revocation of the RHC's certification; or
- (3) An emergency suspension of the RHC's certification;
- (4) Partial closure of the RHC; or
- (5) Closure of the RHC.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-837-9020, filed 7/23/04, effective 8/23/04.]

WAC 388-837-9030 What rights are available to a resident regarding a proposed transfer from one RHC to another RHC? (1) A resident, their guardian, next-of-kin, or responsible party must be notified in writing at least thirty days before any transfer occurs.

(2) The transfer notice must include the reason for the proposed transfer.

(3) A resident, their guardian, next of kin, or responsible party has a right to an informal administrative review before the assistant secretary or designee.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-15-036, § 388-837-9030, filed 7/8/15, effective 8/8/15. Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-837-9030, filed 7/23/04, effective 8/23/04.]

WAC 388-837-9040 What rights are available to a resident regarding a proposed transfer from an RHC to the community, per RCW 71A.20.080? (1) A resident, or the resident's authorized representative has a right to a hearing regarding the proposed transfer from an RHC to the community, per RCW 71A.20.080 and under chapter 34.05 RCW and chapter 388-02 WAC. DSHS must send a hearing request form with the notice of transfer.

(2) If the resident requests a hearing within the thirty-day time period, DSHS may not transfer the resident until a hearing decision is reached or appeal rights have been exhausted unless the transfer is warranted by the resident's health or safety needs or the welfare of the other residents.

(3) If the secretary or the secretary's designee concludes that the transfer is not appropriate, no further action is to be taken to

transfer unless there is a change in the situation or circumstances surrounding the transfer request. If there is a change in the situation or circumstances, the request may be resubmitted.

(4) If the secretary or the secretary's designee affirms the decision to transfer the resident and no petition for judicial review is filed within thirty days, DSHS may proceed with the planned action.

(5) If the secretary or secretary's designee affirms the decision to transfer the resident and a petition for judicial review has been filed, any proposed transfer must be delayed until the appeal process is complete unless a delay jeopardizes the resident's health or safety or the welfare of other residents, or as otherwise provided in RCW 71A.20.080.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-837-9040, filed 7/23/04, effective 8/23/04.]