

Chapter 388-448 WAC

INCAPACITY

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-448-0005 The following criteria is used to determine if a child is deprived of parental support due to incapacity. [Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. 98-16-044, § 388-448-0005, filed 7/31/98, effective 9/1/98.] Repealed by 00-15-051, filed 7/17/00, effective 9/1/00. Statutory Authority: RCW 74.04.057, 74.08.090.
- 388-448-0170 Termination requirement—How we determine you are no longer incapacitated. [Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0170, filed 8/2/00, effective 9/1/00.] Repealed by 04-07-140, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10.
- 388-448-0190 Reinstating your eligibility after termination due to lack of medical evidence. [Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0190, filed 8/2/00, effective 9/1/00.] Repealed by 04-07-140, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10.

WAC 388-448-0001 What are the incapacity requirements for general assistance? For the purposes of this chap-

ter, "we" and "us" refer to the department of social and health services. "You" means the applicant or recipient. "GA" means the general assistance program. For you to receive general assistance (GA) program benefits, we must determine you are incapacitated.

"Incapacitated" means that you cannot be gainfully employed as a result of a physical or mental impairment that is expected to continue for at least ninety days from the date you apply.

"Physical impairment" means a diagnosable physical illness. "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(1) We determine you are incapacitated if you are:

- (a) Eligible for payments based on Social Security Administration (SSA) disability criteria;
- (b) Eligible for services from the division of developmental disabilities (DDD);
- (c) Diagnosed as having mental retardation based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);
- (d) At least sixty-four years old and seven months;
- (e) Eligible for long-term care services from aging and disability services administration; or
- (f) Approved through the progressive evaluation process (PEP).

(2) We consider you to be incapacitated for ninety days after:

- (a) You are released from inpatient treatment for a mental impairment if:
 - (i) The release from inpatient treatment was not against medical advice; and
 - (ii) There is no break in your participation between inpatient and outpatient treatment of your mental impairment.
- (b) You are released from a medical institution where you received long-term care services from the aging and disability services administration.
- (c) The Social Security Administration stops your Supplemental Security Income payments because you are not a citizen.

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0001, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.057, 74.08.090. 00-15-018, § 388-448-0001, filed 7/10/00, effective 9/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. 98-16-044, § 388-448-0001, filed 7/31/98, effective 9/1/98.]

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0001, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.057, 74.08.090. 00-15-018, § 388-448-0001, filed 7/10/00, effective 9/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. 98-16-044, § 388-448-0001, filed 7/31/98, effective 9/1/98.]

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0001, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.057, 74.08.090. 00-15-018, § 388-448-0001, filed 7/10/00, effective 9/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. 98-16-044, § 388-448-0001, filed 7/31/98, effective 9/1/98.]

WAC 388-448-0010 How do we decide if you are incapacitated? When you apply for disability lifeline program benefits, you must provide medical evidence to us to show that you are unable to work.

If you are gainfully employed at the time of your application for DL, we deny incapacity. **"Gainful employment"**

means you are performing, in a regular and predictable manner, an activity usually done for pay or profit.

(1) We don't consider work to be gainful employment when you are working:

(a) Under special conditions that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop we have approved; or

(b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job as verified by your employer.

(2) We determine if you are incapacitated when:

(a) You apply for disability lifeline benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(3) Unless you meet the other incapacity criteria in WAC 388-448-0001, we decide incapacity by applying the progressive evaluation process (PEP) to the medical evidence that you provide that meets WAC 388-448-0030. The PEP is the sequence of seven steps described in WAC 388-448-0035 through 388-448-0110.

(4) If you have a physical or mental impairment and you are impaired by alcohol or drug addiction and do not meet the other incapacity criteria in WAC 388-448-0001, we decide if you are eligible for disability lifeline by applying the progressive evaluation process described in WAC 388-448-0035 through WAC 388-448-0110. You aren't eligible for DL benefits if you are incapacitated primarily because of alcoholism or drug addiction.

(5) In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096 and 10-21-001, § 388-448-0010, filed 7/30/10 and 10/6/10, effective 9/1/10 and 11/6/10. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0010, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0010, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0020 Which health professionals can I go to for medical evidence? We accept medical evidence from these sources:

(1) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

(a) A physician, which for GA program purposes, includes:

(i) Medical doctor (M.D.);

(ii) Doctor of osteopathy (D.O.);

(iii) Doctor of optometry (O.D.) to evaluate visual acuity impairments;

(iv) Doctor of podiatry (D.P.) for foot disorders; and

(v) Doctor of dental surgery (D.D.S.) or doctor of medical dentistry (D.M.D.) for tooth abscesses or temporomandibular joint (TMJ) disorders.

(b) An advanced registered nurse practitioner (ARNP) for physical impairments that are within the ARNP's area of certification to treat;

(c) The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law; or

(d) A physician assistant when the report is cosigned by the supervising physician.

(2) For a mental impairment, professionals licensed in Washington state or where the examination was performed:

(a) A psychiatrist;

(b) A psychologist;

(c) An advanced registered nurse practitioner certified in psychiatric nursing; or

(d) At our discretion:

(i) A person identified as a mental health professional within the regional support network mental health treatment system provided the person's training and qualifications at a minimum include having a master's degree and two years of mental health treatment experience; or

(ii) The physician who is currently treating you for a mental impairment.

(3) "**Supplemental medical evidence**" means information from a health professional not listed in subsection (1) or (2) of this section and who can provide supporting medical evidence for impairments identified by any of the professionals listed in subsections (1) or (2) of this section. We include as supplemental medical evidence sources:

(a) A health professional who has conducted tests on or provides on-going treatment to you, such as a physical therapist, chiropractor, nurse, physician assistant;

(b) Workers at state institutions and agencies who are not health professionals and are providing or have provided medical or health-related services to you; or

(c) Chemical dependency professionals (CDPs) when requesting information on the effects of alcohol or drug abuse.

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0020, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0020, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0020, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0030 What medical evidence do I need to provide? You must provide medical evidence that clearly shows you have an impairment and how that impairment prevents you from being capable of gainful employment. Medical evidence must be in writing and be clear, objective and complete.

(1) Objective evidence for physical impairments means:

(a) Laboratory test results;

(b) Pathology reports;

(c) Radiology findings including results of X rays and computer imaging scans;

(d) Clinical finding, including but not limited to ranges of joint motion, blood pressure, temperature or pulse; and documentation of a physical examination; or

(e) Hospital history and physical reports and admission and discharge summaries; or

(f) Other medical history and physical reports related to your current impairments.

(2) Objective evidence for mental impairments means:

(a) Clinical interview observations, including objective mental status exam results and interpretation.

(b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) Hospital, outpatient and other treatment records related to your current impairments.

(d) Testing results, if any, including:

(i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

(ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

Medical evidence sufficient for an incapacity determination must be from a medical professional described in WAC 388-448-0020 and must include:

(a) A diagnosis for the impairment, or impairments, based on an examination performed within twelve months of application;

(b) A clear description of how the impairment relates to your ability to perform the work-related activities listed in WAC 388-448-0010(5);

(c) Documentation of how the impairment, or impairments, is currently limiting your ability to work based on an examination performed within the ninety days of the date of application or the forty-five days before the month of incapacity review; and

(d) Facts in addition to objective evidence to support the medical provider's opinion that you are unable to be gainfully employed, such as proof of hospitalization.

(4) When making an incapacity decision, we do not use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.

(5) We don't use symptoms related to substance abuse or a diagnosis of addiction or chemical dependency when determining incapacity.

(6) We consider diagnoses that are independent of addiction or chemical dependency when determining incapacity.

(7) We determine you have a diagnosis that is independent of addiction or chemical dependency if the impairment will persist at least ninety days after you stop using drugs or alcohol.

(8) If you can't obtain medical evidence of an impairment that prevents you from working without cost to you and you meet the eligibility conditions other than incapacity in WAC 388-400-0025, we pay the costs to obtain objective evidence based on our published payment limits and fee schedules.

(9) We decide incapacity based solely on the objective information we receive. We are not obligated to accept a decision that you are incapacitated or unemployable made by another agency or person.

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(10) We can't use a statement from a medical professional to determine that you are incapacitated unless the statement is supported by objective medical evidence.

[Statutory Authority: RCW 74.08.090, 74.04.005, 74.04.050, 74.04.055, and 74.04.057. 10-08-025, § 388-448-0030, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0030, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0030, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0035 How we assign severity ratings to your impairment. (1) "Severity rating" means a rating of the extent of your incapacity, and how severely it impacts your ability to perform the basic work activities. Severity ratings are assigned in Steps II through IV of the PEP. The following chart provides a description of levels of limitations on work activities and the severity ratings that would be assigned to each.

Effect on work activities	Severity rating
(a) There is no effect on your performance of basic work-related activities.	1
(b) There is no significant effect on your performance of basic work-related activities.	2
(c) There are significant limits on your performance of at least one basic work-related activity.	3
(d) There are very significant limits on your performance of at least one basic work-related activity.	4
(e) You are unable to perform at least one basic work-related activity.	5

(2) We use the severity rating given by the medical evidence provider:

(a) If the rating is supported by and consistent with the medical evidence;

(b) If the provider's assessment of your limitations is consistent with our definition of the rating; and

(c) If the rating is consistent with other medical evidence provided to us.

(3) If the medical evidence provider assigns a severity rating that is not consistent with the objective evidence and your symptoms from your impairment as described in the medical evidence, we take the following action:

(a) If your limitations are more severe than the rating given, we raise your severity rating; or

(b) If your limitations are less severe than the rating given, we lower your severity rating; and

(c) We give clear and convincing reasons for adjusting the rating.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0035, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0040 PEP step I—Review of medical evidence required for eligibility determination. When we receive your medical evidence, we review it to see if it is sufficient to decide whether your circumstances meet incapacity requirements.

(1) We require a written medical report to determine incapacity. The report must:

(a) Contain sufficient information as described under WAC 388-448-0030;

(b) Be written by an authorized medical professional described in WAC 388-448-0020;

(c) Document the existence of a potentially incapacitating condition; and

(d) Indicate an impairment is expected to last ninety days or more from the application date.

(2) If the information received isn't clear, we may require more information before we decide your ability to be gainfully employed. As examples, we may require you to get more medical tests or be examined by a medical specialist.

(3) We deny incapacity if:

(a) There is only one impairment and the severity rating is less than three;

(b) A reported impairment isn't expected to last ninety days (twelve weeks) or more from the date of application;

(c) The only impairment supported by objective medical evidence is drug or alcohol addiction; or

(d) We don't have clear and objective medical evidence to approve incapacity.

[Statutory Authority: RCW 74.08.090, 74.04.005, 74.04.050, 74.04.055, and 74.04.057. 10-08-025, § 388-448-0040, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0040, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0050 PEP step II—How we determine the severity of mental impairments. If you are diagnosed with a mental impairment by a professional described in WAC 388-448-0020, we use information from the provider to determine how the impairment limits work-related activities.

(1) We review the following psychological evidence to determine the severity of your mental impairment:

(a) Psychosocial and treatment history records;

(b) Clinical findings of specific abnormalities of behavior, mood, thought, orientation, or perception;

(c) Results of psychological tests; and

(d) Symptoms observed by the examining practitioner that show how your impairment affects your ability to perform basic work-related activities.

(2) We exclude diagnosis and related symptoms of alcohol or substance abuse or addiction;

(3) If you are diagnosed with mental retardation, the diagnosis must be based on the Wechsler Adult Intelligence Scale (WAIS). The following test results determine the severity rating:

Intelligence Quotient (IQ) Score	Severity Rating
85 or above	None (1)
71 to 84	Moderate (3)
70 or lower	Severe (5)

(4) If you are diagnosed with a mental impairment with physical causes, we assign a severity rating based on the most severe of the following four areas of impairment:

(a) Short term memory impairment;

(b) Perceptual or thinking disturbances;

(c) Disorientation to time and place; or

(d) Labile, shallow, or coarse affect.

(5) We base the severity of an impairment diagnosed as a mood, thought, memory, or cognitive disorder on a clinical assessment of the intensity and frequency of symptoms that:

(a) Affect your ability to perform basic work related activities; and

(b) Are consistent with a diagnosis of a mental impairment as listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV).

(6) We base the severity rating for a functional mental impairment on accumulated severity ratings for the symptoms in subsection (5)(a) of this section as follows:

Symptom Ratings or Condition	Severity Rating
(a) You are diagnosed with a functional disorder with psychotic features; (b) You have had two or more hospitalizations for psychiatric reasons in the past two years; (c) You have had more than six months of continuous psychiatric inpatient or residential treatment in the past two years; (d) The objective evidence and global assessment of functional score are consistent with a significant limitation on performing work activities.	Moderate (3)
(e) The objective evidence and global assessment of functioning score are consistent with very significant limitations on ability to perform work activities.	Marked (4)
(f) The objective evidence and global assessment of functioning score are consistent with the absence of ability to perform work activities.	Severe (5)

(7) If you are diagnosed with any combination of mental retardation, mental impairment with physical causes, or functional mental impairment, we assign a severity rating as follows:

Condition	Severity Rating
(a) Two or more disorders with moderate severity (3) ratings; or (b) One or more disorders rated moderate severity (3); and one rated marked severity (4).	Marked (4)
(c) Two or more disorders rated marked severity (4).	Severe (5)

(8) We deny incapacity when you haven't been diagnosed with a significant physical impairment and your overall mental severity rating is one or two;

(9) We approve incapacity when you have an overall mental severity rating of severe (five).

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090. 10-20-089, § 388-448-0050, filed 9/30/10, effective 11/1/10; 10-08-036, § 388-448-0050, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 09-11-078, § 388-448-0050, filed 5/18/09, effective 6/18/09; 00-16-113, § 388-448-0050, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0060 PEP step III—How we determine the severity of physical impairments. We must decide if your physical impairment is serious enough to limit your ability to be gainfully employed. "Severity of a physical impairment" means the degree that an impairment restricts you from performing basic work-related activities (see WAC 388-448-0010). Severity ratings range from one to five, with five being the most severe. We will assign severity ratings according to the table in WAC 388-448-0035.

(1) We assign to each physical impairment a severity rating that is supported by medical evidence.

(2) If your physical impairment is rated two, and there is no mental impairment or a mental impairment that is rated one, we deny incapacity.

(3) If your physical impairment is consistent with a severity rating of five, we approve incapacity.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0060, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0070 PEP step IV—How we determine the severity of multiple impairments. (1) If you have more than one impairment we decide the overall severity rating by deciding if your impairments have a combined effect on your ability to be gainfully employed. Each diagnosis is grouped by affected organ or function into one of thirteen "body systems." The thirteen body systems consist of:

- (a) Musculo-skeletal,
- (b) Special senses and speech,
- (c) Respiratory,
- (d) Cardiovascular,
- (e) Digestive,
- (f) Genito-urinary,
- (g) Hemic and lymphatic,
- (h) Skin,
- (i) Endocrine and obesity,
- (j) Neurological,
- (k) Mental disorders,
- (l) Neoplastic, and
- (m) Immune systems.

(2) We follow these rules when there are multiple impairments:

(a) We group each diagnosis by body system.

(b) When you have two or more diagnosed impairments that limit work activities, we assign an overall severity rating as follows:

Your Condition	Severity Rating
(i) All impairments are in the same body system, are rated two and there is no cumulative effect on basic work activities.	2
(ii) All impairments are in the same body system, are rated two and there is a cumulative effect on basic work activities.	3
(iii) All impairments are in different body systems, are rated two and there is a cumulative effect on basic work activities.	

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Your Condition	Severity Rating
(iv) Two or more impairments are in different body systems and are rated three.	4
(v) Two or more impairments are in different body systems; one is rated three and one is rated four.	
(vi) Two or more impairments in different body systems are rated four.	5

(c) We deny incapacity when the overall severity rating is two.

(d) We approve incapacity when the overall severity rating is five.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0070, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0070, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0080 PEP step V—How we determine your ability to function in a work environment if you have a mental impairment. If you have a mental impairment we evaluate your cognitive and social functioning in a work setting. Functioning means your ability to perform typical tasks that would be required in a routine job setting and your ability to interact effectively while working.

(1) We evaluate cognitive and social functioning by assessing your ability to:

- (a) Understand, remember, and persist in tasks by following simple instructions of one or two steps.
- (b) Understand, remember, and persists in tasks by following complex instructions of three or more steps.
- (c) Learn new tasks.
- (d) Perform routine tasks without undue supervision.
- (e) Be aware of normal hazards and take appropriate precautions.
- (f) Communicate and perform effectively in a work setting with public contact.
- (g) Communicate and perform effectively in a work setting with limited public contact.
- (h) Maintain appropriate behavior in a work setting.

(2) We approve incapacity when we have objective medical evidence, including a mental status exam (MSE) per WAC 388-448-0050, that demonstrates you are:

- (a) At least moderately impaired in your ability to understand, remember, and persist in tasks following simple instructions, and at least moderately limited in your ability to:
 - (i) Learn new tasks;
 - (ii) Be aware of normal hazards and take appropriate precautions; and
 - (iii) Perform routine tasks without undue supervision;
- (b) At least moderately impaired in the ability to understand, remember, and persist in task following complex instructions; and

(c) Markedly impaired in the ability to learn new tasks, be aware of normal hazards and take appropriate precautions, and perform routine tasks without undue supervision.

(3) We approve incapacity when you are moderately (rated three) impaired in your ability to:

- (a) Communicate and perform effectively in a work setting with public contact;

(b) Communicate and perform effectively in a work setting with limited public contact; and

(c) Markedly (rated four) impaired in your ability to maintain appropriate behavior in a work setting.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090. 10-20-089, § 388-448-0080, filed 9/30/10, effective 11/1/10; 10-08-036, § 388-448-0080, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0080, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0090 PEP step V—How we determine your ability to function in a work environment if you have a physical impairment. In Step V of the PEP we review the medical evidence you provide and make a determination of how your physical impairment prevents you from working. This determination is then used in Steps VI and VII of the PEP to determine your ability to perform either work you have done in the past or other work.

(1) **"Exertion level"** means having strength, flexibility, and mobility to lift, carry, stand or walk as needed to fulfill job duties in the following work levels. For this section, "occasionally" means less than one-third of the time and "frequently" means one-third to two-thirds of the time.

The following table is used to determine your exertion level. Included in this table is a strength factor, which is your ability to perform physical activities, as defined in Appendix C of the Dictionary of Occupational Titles (DOT), Revised Edition, published by the U.S. Department of Labor as posted on the Occupational Information Network (O*NET).

If you are able to:	Then we assign this exertion level
(a) Lift no more than two pounds or unable to stand or walk.	Severely limited
(b) Lift ten pounds maximum and frequently lift or carry lightweight articles. Walking or standing only for brief periods.	Sedentary
(c) Lift twenty pounds maximum and frequently lift or carry objects weighing up to ten pounds. Walk six out of eight hours per day or stand during a significant portion of the workday. Sitting and using pushing or pulling arm or leg movements most of the day.	Light
(d) Lift fifty pounds maximum and frequently lift or carry up to twenty-five pounds.	Medium
(e) Lift one hundred pounds maximum and frequently lift or carry up to fifty pounds.	Heavy

(2) **"Exertionally related limitation"** means a restriction in mobility, agility or flexibility in the following twelve activities: Balancing, bending, climbing, crawling, crouching, handling, kneeling, pulling, pushing, reaching, sitting, and stooping. If you have exertionally related limitations, we consider them in determining your ability to work.

(3) **"Functional physical capacity"** means the degree of strength, agility, flexibility, and mobility you can apply to work-related activities. We consider the effect of the physical

impairment on the ability to perform work-related activities when the physical impairment is assigned an overall severity rating of three or four. We determine functional physical capacity based on your exertional, exertionally related and nonexertional limitations. All limitations must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(4) **"Nonexertional physical limitation"** means a restriction on work activities that does not affect strength, mobility, agility, or flexibility. Examples are:

(a) Environmental restrictions which could include, among other things, your inability to work in an area where you would be exposed to chemicals; and

(b) Workplace restrictions, such as impaired hearing or speech, which would limit the types of work environments you could work in.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090. 10-20-089, § 388-448-0090, filed 9/30/10, effective 11/1/10; 10-08-036, § 388-448-0090, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0090, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0100 PEP step VI—How we evaluate capacity to perform relevant past work. If your overall severity rating is moderate (three) or marked (four) and we have reached this stage of the PEP and have not approved or denied your application, we decide if you can do the same or similar work as you have done in the past. We look at your current physical and/or mental limitations from cognitive, social, and vocational factors to make this decision. Vocational factors are education, relevant work history, and age.

(1) We evaluate education in terms of formal schooling or other training to acquire skills that enables you to meet job requirements. We classify education as:

If you	Then your education level is
(a) Can't read or write a simple communication, such as two sentences or a list of items.	Illiterate
(b) Have no formal schooling or vocational training beyond the eleventh grade; or (c) Had participated in special education in basic academic classes of reading, writing, or mathematics in high school.	Limited education
(d) Have received a high school diploma or general equivalency degree (GED); or (e) Have received skills training and were awarded a certificate, degree or license.	High school and above level of education

(2) We evaluate your work experience to determine if you have relevant past work. "Relevant past work" means work:

(a) Defined as gainful employment per WAC 388-448-0010;

(b) Has been performed in the past five years;

(c) You performed long enough to acquire the knowledge and skills to continue performing the job. You must

meet the specific vocational preparation level as defined in Appendix C of the Dictionary of Occupational Titles.

(3) For each relevant past work situation you have had, we determine:

- (a) The exertional or skill requirements of the job.
- (b) Current cognitive, social, or nonexertional factors that significantly limit your ability to perform past work.

(4) After considering vocational factors, we deny incapacity when you have:

(a) The physical and mental ability to perform past work, and there is no significant cognitive, social or nonexertional limitation that would prevent you from performing past work; or

(b) Recently acquired specific work skills through completion of schooling or training, for jobs within your current physical or mental capacities.

(5) We approve incapacity when you are fifty-five years of age or older and don't have the physical or mental ability to perform past work.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090. 10-20-089, § 388-448-0100, filed 9/30/10, effective 11/1/10; 10-08-036, § 388-448-0100, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0100, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0110 PEP step VII—How we evaluate your capacity to perform other work. If we decide you cannot do work that you've done before, we then decide if you can do any other work.

(1) We approve incapacity if you have a physical impairment and meet the vocational factors below:

Highest work level assigned by the practitioner	Your age	Your education level	Other vocational factors
Sedentary	Any age	Any level	Does not apply
Light	Fifty and older	Any level	Does not apply
Light	Thirty-five and older	Illiterate or limited English proficiency (LEP)	Does not apply
Light	Eighteen and older	Limited education	Does not have any past work
Medium	Fifty and older	Limited education	Does not have any past work

(2) We approve incapacity when you have a (moderate three) or marked (four) mental health impairment and we have objective medical evidence, including a mental status exam (MSE) per WAC 388-448-0050, that demonstrates social or cognitive factors described in WAC 388-448-0080, interfere with working as follows:

Social limitation	Age
(a) Moderately impaired (rated three) in your ability to: (i) Communicate and perform effectively in a work setting with limited public contact; and (ii) Maintain appropriate behavior in a work setting.	Fifty years and older
(b) You have a severe (five) impairment in your ability to: (i) Communicate and perform effectively in a work setting with public contact; or (ii) Communicate and perform effectively in a work setting with limited public contact.	Any age
(c) A mental disorder of marked severity (rated four); (i) One or more severe (rated five) mental impairment symptoms; and (ii) Moderately impaired (rated three) in the ability to communicate and perform effectively in a work setting with public or limited public contact.	Any age

(3) We approve incapacity when you have both mental and physical impairments and we have objective medical evidence, including a mental status exam (MSE) per WAC 388-448-0050, that demonstrate social or cognitive factors, as described in WAC 388-448-0080 interfere with working as follows:

Your age	Your education	Your other restrictions
Any age	Any level	(a) You are moderately impaired in your ability to communicate and perform effectively in a work setting with limited public contact; and (b) You are markedly impaired in your ability to communicate and perform effectively in a work setting with public contact.
Fifty or older	Limited education	(c) Restricted to medium work level or less.
Any age	Limited education	(d) Restricted to light work level.

(4) We deny incapacity if we decide you don't meet the criteria listed above.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090. 10-20-089, § 388-448-0110, filed 9/30/10, effective 11/1/10; 10-08-036, § 388-448-0110, filed 3/31/10, effective 5/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0110, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0120 How we decide how long you are incapacitated. We decide how long you are incapacitated, up to the maximum period set by WAC 388-448-0160, using medical evidence on the expected length of time needed to heal or recover from the incapacitating disorder(s).

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0120, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0120, filed 6/29/01, effective 8/1/01. Stat-

utory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0120, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0130 Treatment and referral requirements. We refer you for medical treatment or to other agencies for services, rehabilitation, or work activities when we decide medical treatment or services are available, and will improve your ability to become gainfully employed or reduce your need for disability lifeline benefits. **"Medical treatment"** means any medical, surgical, mental health service, or any other treatment or service recommended by a medical or mental health provider.

(1) When you are first approved, and at each review determination, we give you written information regarding your medical treatment and agency referral requirements.

(2) You must accept and follow through on required medical treatment and referrals to other agencies and services, unless you have good cause for not doing so. Good cause for medical treatment and referrals is defined in WAC 388-448-0140.

(3) You may request an administrative hearing if you disagree with the medical treatment or agency referral requirements we set for you (see WAC 388-458-0040).

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096, § 388-448-0130, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0130, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0130, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0140 When does a person have good cause for refusing or failing to participate in medical treatment or referrals to other agencies? When you refuse or fail to participate in required medical treatment or referrals to other agencies, you may claim good cause by providing a reason for your refusal or failure. We determine whether your reason is valid. We may require you to provide proof to support your good cause claim. These rules do not apply to participation requirements listed in WAC 388-448-0200 through 388-448-0250.

(1) Valid reasons for refusing or failing to participate in medical treatment:

(a) You are so fearful of the treatment that your fear could interfere with the treatment or reduce its benefits;

(b) The treatment provider has identified a risk that the treatment may cause further limitations or loss of a function or an organ and you are not willing to take that risk;

(c) You practice an organized religion that prohibits the treatment; or

(d) We determine that treatment is not available because you can't obtain it without cost to you.

(2) Valid reasons for refusing or failing to participate in referrals to other agencies:

(a) You are unable to participate because we didn't give you enough information about the requirement;

(b) You didn't receive written notice of the requirement;

(c) The requirement was made in error;

(d) You provide proof of interference beyond your control that temporarily prevented you from participating; or

(e) Your medical condition or limitations are consistent with the need for necessary supplemental accommodation

(NSA), as defined in WAC 388-472-0020 and contributed to your refusal or failure, per WAC 388-472-0050.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096, § 388-448-0140, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0140, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0140, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0150 Penalty for refusing or failure to participate in medical treatment or other agency referrals.

(1) If you refuse or fail to participate in required medical treatment or agency referral without having good cause, we will terminate your disability lifeline benefits.

(2) You are ineligible for cash and medical benefits until you participate in:

(a) Chemical dependency treatment as required under WAC 388-448-0220.

(b) Obtaining federal aid assistance as required under WAC 388-448-0200.

(3) If we terminate your disability lifeline benefits because you didn't have good cause to refuse, or fail to participate in, other required medical treatment services or referrals to other agencies, you are not eligible for cash and medical benefits until you verify that you have agreed to accept and pursue the medical treatment service or referral to other agencies.

(4) If you reapply for disability lifeline, you must participate as described in subsection (2) and (3) and wait for a penalty period to pass before you begin receiving benefits. The penalty is based on how often you have refused:

Refusal	Penalty
First	One week
Second within six months	One month
Third and subsequent within one year	Two months

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096, § 388-448-0150, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0150, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0160 When do my disability lifeline benefits end? (1) The maximum period of eligibility for disability lifeline is twelve months before we must review incapacity.

(a) We use current medical evidence and the expected length of time before you are capable of gainful employment to decide when your benefits will end.

(b) If you meet the incapacity criteria in WAC 388-448-0001 (1)(a) through (e), you must provide information about your cooperation and progress with treatment or agency referrals we required according to WAC 388-448-0130.

(2) Your benefits stop at the end of your incapacity period unless you provide additional medical evidence that demonstrates during your current incapacity period that there was no material improvement in your impairment. No material improvement means that your impairment continues to meet the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110, excluding the requirement that your impairment(s) prevent employment for ninety days.

(3) The medical evidence must meet all of the criteria defined in WAC 388-448-0030.

(4) We use medical evidence received after your incapacity period had ended when:

(a) The delay was not due to your failure to cooperate; and

(b) We receive the evidence within thirty days of the end of your incapacity period; and

(c) The evidence meets the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110.

(5) Even if your condition has not improved, you aren't eligible for disability lifeline when:

(a) We receive current medical evidence that doesn't meet the progressive evaluation process criteria in WAC 388-448-0035 through 388-448-0110; and

(b) Our prior decision that your incapacity met the requirements was incorrect because:

(i) The information we had was incorrect or not sufficient to show incapacity; or

(ii) We didn't apply the rules correctly to the information we had at that time.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096, § 388-448-0160, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0160, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0160, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0180 How do we redetermine your eligibility when we decide you are eligible for general assistance expedited medicaid (GAX)? (1) The maximum period of eligibility for GAX is twelve months before we must review additional medical evidence. If you remain on GAX at the end of the twelve-month period, we determine your eligibility using current medical evidence.

(2) If your application for SSI is denied, and the denial is upheld by an SSI/SSA administrative hearing, we change your program eligibility from GAX to GAU if you do not provide proof you have filed an appeal with the SSI/SSA appeals council within sixty days of your hearing decision.

(3) We change your program eligibility from GAX to GAU after the final SSI/SSA determination or if you fail to follow through with any part of the SSI/SSA appeals process.

[Statutory Authority: RCW 74.08.090, 74.04.005, and Title 42 C.F.R. § 435.120 and 20 C.F.R. § 416.1455. 08-18-044, § 388-448-0180, filed 8/29/08, effective 10/1/08. Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0180, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0180, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0180, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0200 Can I get general assistance while waiting for Supplemental Security Income (SSI)?

(1) You may receive general assistance benefits while you are waiting to receive Social Security Supplemental Security Income (SSI) benefits only when you:

(a) Have filed your SSI application with the Social Security Administration (SSA), follow through with SSA directions and requirements to process your application including keeping all interview and consultative examination appointments, and do not withdraw your application;

(b) Agree to assign the initial or reinstated SSI payment to us provided under WAC 388-448-0210;

(c) Are otherwise eligible according to WAC 388-400-0025; and

(d) Meet incapacity criteria listed in WAC 388-448-0001.

(2) When we obtain certification that you are likely to qualify for SSI, we also approve categorical needy medical coverage under WAC 388-505-0110.

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0200, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. 01-14-059, § 388-448-0200, filed 6/29/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0200, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0210 What is interim assistance and how do I assign it to you?

The general assistance and SSI programs both provide cash assistance to meet your basic needs. You cannot receive this assistance for the same time period from both programs. When you are approved for or reinstated on SSI, you may receive a back payment. When we made GA payments to you or on your behalf for the same time period, you must assign your interim assistance to repay us.

(1) **"Assign"** means that you sign a written authorization for the Social Security Administration (SSA) to send the SSI back payment to us. We will deduct the interim assistance we provided to you.

(2) **"Interim assistance"** means the GA funds we paid to you or on your behalf during:

(a) The time between your SSI application date and the month recurring SSI payments begin; or

(b) The period your SSI payments were suspended or terminated, and later reinstated.

(3) We pay up to twenty-five percent of the interim assistance reimbursement that we receive from the SSA to the attorney who successfully represented you in your effort to receive SSI.

[Statutory Authority: RCW 74.08.090, 74.04.005, and 2003 1st sp.s. c 10. 04-07-140, § 388-448-0210, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. 00-16-113, § 388-448-0210, filed 8/2/00, effective 9/1/00.]

WAC 388-448-0220 How does alcohol or drug dependence affect my eligibility for disability lifeline?

(1) You must complete a chemical dependency assessment when we have information that indicates you may be chemically dependent.

(2) You must accept an assessment referral and participate in drug or alcohol treatment if a certified chemical dependency counselor indicates a need for treatment, unless you meet one of the following good cause reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient chemical dependency treatment you need isn't available in the county you live in.

(c) You need inpatient chemical dependency treatment at a location that you can't reasonably access.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005

[74.04.005], and 2010 c 8. 10-16-096, § 388-448-0220, filed 7/30/10, effective 9/1/10.]

WAC 388-448-0250 Are there limits on the number of months I may receive disability lifeline benefits? (1) Beginning September 1, 2010, you may be eligible to receive disability lifeline benefits for a maximum of twenty-four out of any sixty month period.

(2) You aren't subject to a benefit month limit if:

(a) You are aged sixty-five or older;

(b) Blind as defined in WAC 388-475-0050; or

(c) We have determined you meet, or are likely to meet, the federal Supplemental Security Income (SSI) disability standard.

(3) We count months you received general assistance or disability lifeline benefits in the last sixty months towards your maximum benefit limit.

(4) We don't count any benefit month that you were determined to meet the criteria in subsection (2) towards your maximum benefit limit.

(5) We will review your case record to determine if you are likely to meet the federal SSI disability standard before we terminate your benefits.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.090, 74.08A.100, 74.04.770, 74.04.0005 [74.04.005], and 2010 c 8. 10-16-096, § 388-448-0250, filed 7/30/10, effective 9/1/10.]