

Chapter 388-850 WAC
COUNTY PLAN FOR DEVELOPMENTAL DISABILITIES
(Formerly chapter 275-25 WAC)

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WAC

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WAC 388-850-010 Definitions. (1) All terms used in this chapter not defined herein shall have the same meaning as indicated in the act.

(2) "Act" means local funds for community services chapter 71.20 RCW, State services chapter 71A.12 RCW, and Local services chapter 71A.14 RCW as now existing or hereafter amended.

(3) "County" means each county or two or more counties acting jointly.

(4) "Department" means the department of social and health services.

(5) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(6) "Indian" shall mean any:

(a) Person enrolled in or eligible for enrollment in a recognized Indian tribe; any person determined to be or eligible to be found to be an Indian by the secretary of the interior; and any Eskimo, Aleut or other Alaskan native;

(b) Canadian Indian person who is a member of a treaty tribe, Metis community, or other nonstatus Indian community from Canada;

(c) Unenrolled Indian person considered an Indian by a federally or nonfederally recognized Indian tribe or by an urban Indian/Alaska community organization.

(7) "Plan" means the application a county submits to the secretary for review and approval under the act(s); or revision of an existing plan.

(8) "Population" means the most recent estimate of the aggregate number of persons located in the designated county as computed by the office of financial management.

(9) "Secretary" means the secretary of the department or such employee or such unit of the department as the secretary may designate.

[WSR 99-19-104, recodified as § 388-850-010, filed 9/20/99, effective 9/20/99. Statutory Authority: Chapters 70.96A and 34.05 RCW and P.L. 102-234. WSR 93-15-013 (Order 3591), § 275-25-010, filed 7/8/93, effective 8/8/93. Statutory Authority: RCW 71A.14.030. WSR 91-17-005 (Order 3230), § 275-25-010, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 69.54.040 and 71.24.190. WSR 83-03-011 (Order 1936), § 275-25-010, filed 1/12/83; Order 1142, § 275-25-010, filed 8/12/76. Formerly chapters 275-12, 275-13 and 275-29 WAC.]

WAC 388-850-015 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 388-850-010(5) provided an:

(a) Assessment of the exemption request ensures granting the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely affect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-850-015, filed 7/25/02, effective 8/25/02. WSR 99-19-104, recodified as § 388-850-015, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71A.14.030. WSR 91-17-005 (Order 3230), § 275-25-015, filed 8/9/91, effective 9/9/91.]

WAC 388-850-020 Plan development and submission. (1) Each county must submit to the department a written plan each biennium no more than 60 days after the initial biennial contract.

(2) The department may modify deadlines for submission of county plans when, in the department's judgment, the modification enables the county to improve the program planning process.

(3) The department may authorize the county to continue providing services in accordance with the previous plan and contract and reimburse at the average level of the previous contract, in order to continue services until the new contract is executed.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, and 71A.14.050. WSR 24-16-010, § 388-850-020, filed 7/25/24, effective 8/25/24. WSR 99-19-104, recodified as § 388-850-020, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71A.14.030 and 71A.16.020. WSR 92-09-115 (Order 3373), § 275-25-020, filed 4/21/92, effective 5/21/92. Statutory Authority: RCW 69.54.040 and 71.24.190. WSR 83-03-011 (Order 1936), § 275-25-020, filed 1/12/83. Statutory Authority: RCW 69.54.040. WSR 78-08-086 (Order 1322), § 275-25-020, filed 7/28/78; Order 1142, § 275-25-020, filed 8/12/76.]

WAC 388-850-025 Program operation—General provisions. (1) The provisions of this section shall apply to all programs operated under authority of the act.

(2) The county and all contractors and subcontractors must comply with all applicable law or rule governing the department's approval of payment of funds for the programs. Verification may be in the manner and to the extent requested by the assistant secretary.

(3) State funds must not be paid to a county for costs of services provided by the county or other person or organization who or which was not licensed, certified, or approved as required by law or by rule whether or not the assistant secretary approved the plan.

(4) The assistant secretary may impose such reasonable fiscal and program reporting requirements as the assistant secretary deems necessary for effective program management.

(5) **Funding.**

(a) The department and county must negotiate and execute a contract before the department provides reimbursement for services under contract, except as provided under WAC 388-850-020 (3).

(b) Payments to counties must be made on the basis of information submitted to the department for costs incurred under the contract. The department must specify the form and content of the information.

(c) The assistant secretary may make advance payments to counties, where such payments would facilitate sound program management.

(d) The assistant secretary may withhold all or part of a subsequent monthly disbursement to a county if the department receives evidence a county or subcontractor performing under the contract is:

(i) Not in compliance with applicable state law or rule;

(ii) Not in substantial compliance with the contract; or

(iii) Unable or unwilling to provide such records or data as the assistant secretary may require.

(e) The department may withhold funds until satisfactory evidence of corrective action is received. Such withholding of funds is subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

(6) **Subcontracting.** A county may subcontract for the performance of any of the services specified in the contract. A county's subcontract must include:

(a) A precise and definitive work statement, including a description of the services provided;

(b) The subcontractor's specific agreement to abide by the act and the rules;

(c) Specific authority for the assistant secretary and the state auditor to inspect all records and other material the assistant secretary deems pertinent to the subcontract and agreement by the subcontractor that such records will be made available for inspection;

(d) Specific authority for the assistant secretary to make periodic inspection of premises in the community where services are provided in order to evaluate performance under the contract between the department and the county; and

(e) Specific agreement by the subcontractor to provide such program and fiscal data as the assistant secretary may require.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, and 71A.14.050. WSR 24-16-010, § 388-850-025, filed 7/25/24, effective 8/25/24. Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-850-025, filed 7/25/02, effective 8/25/02. WSR 99-19-104, recodified as § 388-850-025, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71A.14.030. WSR 91-17-005 (Order 3230), § 275-25-030, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 69.54.040 and 71.24.190. WSR 83-03-011 (Order 1936), § 275-25-030, filed 1/12/83; Order 1142, § 275-25-030, filed 8/12/76.]

WAC 388-850-030 Appeal procedure. (1) Any agency making application to participate in a county program operated under authority of the act(s), which is dissatisfied with the disposition of its application, or the community board(s) as defined in the act(s) or the community social services board, which is dissatisfied with any aspect of the plan, may appeal for a hearing before the county governing body. The county governing body shall review the appeal and notify the agen-

cy or board of its disposition within thirty days after the appeal has been received.

(2) A county which is dissatisfied with the department's disposition of its plan may request an administrative review.

(3) All requests for administrative reviews shall:

(a) Be made in writing to the appropriate program office within the department;

(b) Specify the date of the decision being appealed;

(c) Specify clearly the issue to be resolved by the review;

(d) Be signed by, and include the address of the county or its representative;

(e) Be made within thirty days of notification of the decision which is being appealed.

(4) An administrative review and redetermination shall be provided by the department within thirty days of the submission of the request for review, with written confirmation of the findings and the reasons for the findings to be forwarded to the county as soon as possible.

(5) Any county dissatisfied with the finding of an administrative review or who chooses not to request an administrative review may initiate proceedings pursuant to the Administrative Procedure Act (chapter 34.05 RCW).

[WSR 99-19-104, recodified as § 388-850-030, filed 9/20/99, effective 9/20/99. Statutory Authority: Chapters 70.96A and 34.05 RCW and P.L. 102-234. WSR 93-15-013 (Order 3591), § 275-25-040, filed 7/8/93, effective 8/8/93; Order 1142, § 275-25-040, filed 8/12/76.]

WAC 388-850-035 Services—Developmental disabilities. (1) The department pays a county for department-authorized services provided to eligible people with developmental disabilities.

(2) A county may purchase or provide authorized services. Authorized services include:

(a) Childhood development services;

(b) Supported employment services;

(c) Community inclusion services;

(d) Individual technical assistance; and

(e) Residential Services.

(3) The county must provide indirect services. Indirect services include:

(a) Community information and education;

(b) Training and other activities;

(c) County planning and administration; and

(d) Program evaluation.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, and 71A.14.050. WSR 24-16-010, § 388-850-035, filed 7/25/24, effective 8/25/24. Statutory Authority: RCW 71A.12.030, 71A.12.120, 71A.14.040, and Title 71A RCW. WSR 05-11-015, § 388-850-035, filed 5/9/05, effective 6/9/05. Statutory Authority: RCW 71A.12.030, 71A.10.020 and 2002 c 371. WSR 04-02-014, § 388-850-035, filed 12/29/03, effective 1/29/04. WSR 99-19-104, recodified as § 388-850-035, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71A.14.030. WSR 91-17-005 (Order 3230), § 275-25-520, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.070, 72.33.125 and 72.33.850. WSR 82-06-034 (Order

1771), § 275-25-520, filed 3/1/82. Statutory Authority: RCW 71.20.030, 71.20.050, and 71.20.070. WSR 78-04-002 (Order 1278), § 275-25-520, filed 3/2/78; Order 1142, § 275-25-520, filed 8/12/76.]

WAC 388-850-040 Rights—Health and safety assured. A county, when contracting for specific services, must assure that client rights and client health and safety are protected.

[WSR 99-19-104, recodified as § 388-850-040, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71.20.070, 72.33.125 and 72.33.850. WSR 82-06-034 (Order 1771), § 275-25-527, filed 3/1/82.]

WAC 388-850-045 What is the formula for distribution of funding to the counties? (1) For the purpose of this section, "county" means the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties is based on the following criteria:

(a) The distribution of funds provided by the legislature or other sources is based on a distribution formula which best meets the needs of the population to be served.

(b) The distribution formula takes into consideration the number of clients receiving county-funded services or child development services funded through maintenance of effort, and the number of DDA-eligible clients entering long-term services.

(3) A county may use 10% or less of the county's allocated funds for county administrative expenses. A county may use more than 10% for county administration with approval from the DDA assistant secretary.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, and 71A.14.050. WSR 24-16-010, § 388-850-045, filed 7/25/24, effective 8/25/24. Statutory Authority: RCW 71A.12.030, 71A.12.020, 2009 c 564 § 205 (1)(n), and chapter 34.05 RCW. WSR 10-13-164, § 388-850-045, filed 6/23/10, effective 7/24/10. Statutory Authority: RCW 71A.12.030, 71A.12.120, 71A.14.040, and Title 71A RCW. WSR 05-11-015, § 388-850-045, filed 5/9/05, effective 6/9/05. Statutory Authority: RCW 71A.12.030, 71A.10.020 and 2002 c 371. WSR 04-02-014, § 388-850-045, filed 12/29/03, effective 1/29/04. WSR 99-19-104, recodified as § 388-850-045, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 71A.14.040. WSR 92-13-032 (Order 3404), § 275-25-530, filed 6/10/92, effective 7/11/92. Statutory Authority: RCW 71A.14.030. WSR 91-17-005 and 91-17-025 (Orders 3230 and 3230A), § 275-25-530, filed 8/9/91 and 8/14/91, effective 9/9/91 and 9/14/91. Statutory Authority: RCW 69.54.040 and 71.24.190. WSR 83-03-011 (Order 1936), § 275-25-530, filed 1/12/83; Order 1142, § 275-25-530, filed 8/12/76.]

WAC 388-850-050 Client rights—Notification of client. (1) All agencies providing services under the act shall post a statement of client rights. Such statement shall inform the client of the client's right to:

- (a) Be treated with dignity;
- (b) Be protected from invasion of privacy;
- (c) Have information about him/her treated confidentially;

(d) Actively participate in the development or modification of his/her treatment program;

(e) Be provided treatment in accordance with accepted quality-of-care standards and which is responsive to his/her best interests and particular needs;

(f) Review his/her treatment records with the therapist at least bimonthly: Provided, That information confidential to other individuals shall not be reviewed by the client;

(g) Be fully informed regarding fees to be charged and methods for payment.

(2) Clients shall be informed of their rights pursuant to WAC 388-865-0515 upon admission to inpatient service.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-850-050, filed 7/25/02, effective 8/25/02. WSR 99-19-104, recodified as § 388-850-050, filed 9/20/99, effective 9/20/99; Order 1142, § 275-25-755, filed 8/12/76.]