

WSR 21-15-059
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed July 15, 2021, 2:40 p.m., effective August 15, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments to chapter 388-826 WAC align with recent amendments to chapter 74.13 RCW, and align with new chapter 71A.28 RCW, Out-of-home services. These amendments are necessary to update the program from the voluntary placement services model to the way the program will now operate under chapter 71A.28 RCW as out-of-home services.

Citation of Rules Affected by this Order: New WAC 388-826-0018, 388-826-0019, 388-826-0042, 388-826-0043, 388-826-0044, 388-826-0073, 388-826-0074, 388-826-0231, 388-826-0232, 388-826-0233, 388-826-0234, 388-826-0235, 388-826-0236 and 388-826-0237; repealing WAC 388-826-0011 and 388-826-0050; and amending WAC 388-826-0001, 388-826-0005, 388-826-0010, 388-826-0016, 388-826-0040, 388-826-0041, 388-826-0070, 388-826-0071, 388-826-0072, 388-826-0075, 388-826-0077, 388-826-0078, 388-826-0079, 388-826-0095, 388-826-0096, 388-826-0097, 388-826-0098, 388-826-0130, 388-826-0133, 388-826-0138, 388-826-0145, 388-826-0150, 388-826-0160, 388-826-0170, 388-826-0175, 388-826-0200, 388-826-0205, 388-826-0230, and 388-826-0240.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapters 71A.28, 74.13 RCW.

Adopted under notice filed as WSR 21-09-055 on April 16, 2021.

Changes Other than Editing from Proposed to Adopted Version: **Under WAC 388-826-0005, developmental disabilities administration (DDA) changed the definition of "custody" to replace "as allocated between two divorcing parents" with "as allocated by a court to one of two parents under a parenting plan." This change broadens the definition to include parents who were not married.**

Under WAC 388-826-0019, DDA changed the text as shown below:

(1) Out-of-home services ~~must~~ may be terminated if:

~~(1) The client is receiving services in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or other institution for thirty consecutive days or longer.~~

(2) Out-of-home services must be terminated if:

(2a) The client's parent or legal guardian terminates services;

or

(2b) The client is over eighteen and terminates services.

DDA made this change because out-of-home services also follow waiver rules under chapter 388-845 WAC. Under WAC 388-845-0060, DDA may terminate a client's waiver enrollment if the client resides in one of the settings above for at least one full calendar month. Changing "must" to "may" in WAC 388-826-0019 aligns with the permissiveness in WAC 388-845-0060.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 29, Repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 29, Repealed 2.

Date Adopted: July 15, 2021.

Donald Clintsman
Acting Secretary

SHS-4859.4

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0001 What are ~~((voluntary placement))~~ out-of-home services? ~~((Voluntary placement))~~ Out-of-home services are administered by the developmental disabilities administration (DDA) ~~((and))~~ through a person-centered service plan to provide ~~((temporary))~~ residential ~~((placement))~~ habilitation services for a child in a qualified setting outside of the child's ~~((regular))~~ home ~~((setting))~~ that is ~~((voluntarily))~~ agreed to by the child's parent ~~((, custodian,))~~ or legal guardian ~~((and DDA))~~. Out-of-home services do not include educational services or care that is provided by other paid supports.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0001, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0001, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0005 What definitions apply to this chapter?

"Child" means a person who is eligible under chapter 388-823 WAC for developmental disabilities administration (DDA) services ~~((under chapter 388-825 WAC))~~, under age eighteen, and in the custody of a parent ~~((by blood, adoption,))~~ or legal ~~((guardianship))~~ guardian.

"Child and family engagement plan" means a written agreement between the client's parent or legal guardian and the licensed or certified provider.

"Child foster home" means a private home licensed under chapter 110-148 WAC by the department of children, youth, and families (DCYF) to provide twenty-four hour care to children.

"Client" means a person eligible for DDA services under chapter ~~((388-825))~~ 388-823 WAC.

"Client responsibility" means the total amount of a client's participation and room and board.

"Community inclusion activities" means ~~person-centered ((, age appropriate, participation in))~~ activities where clients engage with others in ((a client's)) their local community.

"Custody" means:

(1) Protective care or guardianship of someone; or

(2) Parental responsibility, especially as allocated by a court to one of two ((divorcing)) parents under a parenting plan.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Department" means the department of social and health services of the state of Washington.

"Family" means one or more of the following relatives: Spouse or registered domestic partner((~~7~~)); natural, adoptive, or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Group care facility" means ~~((an agency, other than a foster family home, which))~~ a facility licensed under chapter 110-145 WAC by DCYF that is maintained and operated ((for the care of a group of children)) on a twenty-four hour basis to provide a safe and healthy living environment that meets the developmental needs of the children in care.

~~((("Guardian ad litem (GAL)" means a court-appointed neutral investigator whose job is to make a recommendation to the court if the proposed guardian is fit to serve and whether the client is legally incapacitated.~~

~~"Judicial determination" means a court process to determine whether out-of-home placement is in the best interest of a child.))~~

"Habilitation" means services delivered by a DCYF-licensed or DDA-certified provider that are intended to help a client acquire, retain, or improve upon the self-help, socialization, and adaptive skills necessary to reside successfully in a community-based setting.

"Individual instruction and support plan" means a written document that describes how staff will provide habilitation and supports to meet the needs identified in the client's person-centered service plan, which are assigned to and agreed upon by the out-of-home service provider.

"Legal guardian" means a person's legal guardian appointed through formal proceedings in accordance with state law.

~~((("Legal status of the child" means that the child is in legal custody of a biological or adoptive parent or legal and custodial guardian.~~

~~"Out-of-home placement" means a home other than the child's regular home, such as a state-operated living alternative or a facility licensed by the division of licensed resources (DLR) where the child has been placed.~~

~~"Parent" means a biological or adoptive parent who has legal responsibility for and physical custody of the child.))~~

"Out-of-home services acknowledgment" means a document signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services in a licensed or certified facility.

"Parent or legal guardian" means a biological or adoptive parent, guardian, or legal custodian with legal authority to make decisions on behalf of the child regarding healthcare and public benefits.

"**Participation**" has the same meaning as is under WAC 182-513-1100.

"**Personal needs allowance (PNA)**" means an amount set aside from a client's income under WAC 182-513-1105.

"**Person-centered service plan (PCSP)**" (~~means a document that identifies the client's goals and assessed health and welfare needs. The person-centered service plan also indicates the paid services and natural supports that will assist the client to achieve their goals and address their assessed needs~~) has the same meaning as is under WAC 388-845-0001.

"**Registered nurse delegator**" means a licensed registered nurse who delegates specific nursing care tasks to a qualified nursing assistant or home care aide, and supports clients in a community-based care setting or in-home care setting under RCW 18.79.260.

"**Residential habilitation services**" means instruction and support services under WAC 388-845-1500.

"**Respite care**" means short-term, intermittent care to relieve a primary caregiver under WAC 388-845-1600.

"**Room and board**" has the same meaning as is under WAC 182-513-1100.

~~(**"Shared parenting"** means a collaboration between the parent or legal guardian and licensed provider or state-operated living alternative (SOLA) to share in meeting the support needs of the client receiving voluntary placement services.~~

~~"**Shared parenting plan**" means a written plan for sharing responsibilities among the parent, a licensed provider or SOLA and the department, outlining the shared responsibilities for care of a child.~~

~~"**Significant change assessment**" means an assessment triggered by an unexpected, documented change in a client's condition, activities of daily living, mood and behaviors, or psychological or medical conditions which affect the level of care needed for the client.)~~

"**Significant change,**" as defined in WAC 388-832-0001, means a change in a client's medical condition, caregiver status, behavior, living situation, or employment status.

"**SOLA**" means a certified state-operated living alternative program.

"**Staffed residential home,**" as defined in WAC 388-110-145-1305, means a licensed group care facility that provides twenty-four hour care to six or fewer children who require more supervision than can be provided in a foster home.

"**Supplemental security income (SSI)**" means a needs-based assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

~~(**"Voluntary placement agreement"** means a written agreement between the department and a child's parent, custodian, or legal guardian authorizing the department to place the child in a licensed facility or SOLA.)~~

"**Treating professional**" means a professional who specializes in the discipline within the professional's scope of practice.

"**Wraparound planning**" means a strengths-based process that includes regular meetings to review the client's individual instruction and support plan and ensure coordination with the client's team. The wraparound process is driven by the perspectives of the family and the child or youth.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0005, filed 11/7/18, effective 12/8/18. Statutory Authority:

RCW 74.13.350. WSR 02-22-057, § 388-826-0005, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0010 Who is eligible for ~~((voluntary placement))~~ out-of-home services? ~~((1))~~ A ~~((child))~~ client is eligible for ~~((voluntary placement))~~ out-of-home services if:

~~((a))~~ (1) The ~~((child))~~ client:

~~((i))~~ (a) Is ~~((DDA-eligible))~~ eligible for DDA services under chapter ~~((388-825))~~ 388-823 WAC;

~~((ii))~~ Will enter voluntary out-of-home placement while under eighteen;

~~((b))~~ Is eligible for the core waiver under chapter 388-845 WAC, or roads to community living under WAC 182-513-1235;

~~((iii))~~ (c) Has ~~((accessed all other available and appropriate DDA services))~~ received medically necessary inpatient treatment—when recommended by the client's treating professional—for conditions related to behavioral health or autism;

~~((b))~~ (d) Will begin receiving out-of-home services before turning eighteen;

(e) Does not have a treatment recommendation for a locked or secure facility; and

(f) Is not:

(i) In the custody of the department of children, youth, and families under RCW 13.34.050 or 26.44.050;

(ii) In shelter care under RCW 13.34.060; or

(iii) A dependent in foster care under RCW 13.34.130;

(2) The ~~((child's))~~ client's parent~~((, guardian,))~~ or legal ~~((custodian))~~ guardian:

~~((i))~~ Is unable to provide care for the child needs;

~~((ii))~~ Has determined that the child would benefit from voluntary out-of-home placement;

~~((iii))~~ (a) Has accessed available services the client is eligible for, including those available through private insurance, medicare, the medicaid state plan, and DDA;

(b) Requests out-of-home ~~((placement))~~ services solely because of the child's developmental disability; and

~~((iv))~~ Requests voluntary placement services in writing;

~~((v))~~ Complies with the voluntary placement agreement; and

~~((c))~~ DDA:

~~((i))~~ Has available funding;

~~((ii))~~ Determines that available and appropriate in-home supports do not meet the child's needs;

~~((iii))~~ Determines that voluntary out-of-home placement is in the child's best interest.

~~((2))~~ The department considers voluntary out-of-home placement to be in the best interest of the child if voluntary placement services:

~~((a))~~ Help maintain family relationships; and

~~((b))~~ Provide the least restrictive setting that will benefit the child's medical, social, developmental, and personal needs.

~~((3))~~ DDA waits to determine a client's eligibility for voluntary placement services until any pending child protective services' investigations conclude)

(c) Acknowledges and understands that enrollment

in out-of-home services does not affect the legal rights and responsibilities of a client's parent or legal guardian.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0010, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0010, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0016 Where may a client receive (~~voluntary placement~~) out-of-home services? (1) A client may receive (~~voluntary placement~~) out-of-home services (~~in~~) from the following provider types:

(~~(1)~~) (a) A children's state-operated living alternative certified under this chapter; or

(~~(2)~~) (b) A home contracted with the developmental disabilities administration and licensed under chapter 74.15 RCW(~~, including~~) as

a:

(~~(a)~~) (i) Child foster home;

(~~(b)~~) (ii) Staffed residential home; or

(~~(c)~~) (iii) Group care facility for medically fragile children.

(2) To determine which type of provider will provide a client's out-of-home services, DDA:

(a) Assesses the amount of direct support necessary to meet the client's medical, social, developmental, and personal care needs; and

(b) Determines which provider type is the most cost-effective option that meets the unmet need identified in the client's person-centered service plan as required under WAC 388-845-0110.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0016, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0018 Does approval of out-of-home services affect a client's parental or custodial rights and responsibilities? (1) Enrollment in out-of-home services does not affect the legal rights and responsibilities of a client's parent or legal guardian.

(2) When a client enrolls in out-of-home services neither DSHS nor DDA takes custodial responsibility of the client.

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NEW SECTION

WAC 388-826-0019 When must out-of-home services be terminated?

(1) Out-of-home services may be terminated if the client is receiving services in a hospital, nursing facility, intermediate care facility

for individuals with intellectual disabilities, or other institution for thirty consecutive days or longer.

- (2) Out-of-home services must be terminated if:
 - (a) The client's parent or legal guardian terminates services; or
 - (b) The client is over eighteen and terminates services.

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AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0040 What is the ((voluntary placement agreement)) out-of-home services acknowledgment? (1) ((Before a child may enter voluntary out-of-home placement, the child's parent or legal guardian must execute a voluntary placement agreement)) The out-of-home services acknowledgment is a document signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services from a qualified provider.

(2) ((The voluntary placement agreement must specify)) An out-of-home services acknowledgment must state:

- (a) ((That the child's parent or legal guardian retains legal custody of the child;
- (b) That the department is responsible for the child's placement and care;
- (c) That the signature of the child's parent or legal guardian is required;
- (d) The legal status of the child;
- (e) The rights and obligations of the parent or legal guardian;
- (f) The rights and obligations of the child;
- (g) The rights and obligations of the department while the child is in placement; and
- (h) That any party to the voluntary placement agreement may terminate the agreement at any time.

(3) If a court has entered a final divorce decree or parenting plan that delineates decision-making authority, the parent must provide a copy of the document to the department.

(4) A voluntary placement agreement regarding an Indian child is invalid unless it complies with RCW 13.38.150.

(5) If a child's placement is unsuccessful under the terms of the voluntary placement agreement, the child returns to their parent's physical care until a new placement is available.

(6) Upon termination of the voluntary placement agreement, the child must return to the parent or legal guardian's care unless:

- (a) Taken into custody under RCW 13.34.050 or 26.44.050;
- (b) Placed in shelter care under RCW 13.34.060; or
- (c) Placed in foster care under RCW 13.34.130)) DSHS and DDA are offering services through medicaid or roads to community living;

(b) The client is not a dependent of the state by enrolling in out-of-home services;

(c) Enrollment in out-of-home services does not affect the legal rights and responsibilities of the parent or legal guardian;

(d) The client's parent or legal guardian retains the authority to authorize medical care for the client;

(e) The client's parent or legal guardian retains the authority to make all legal decisions for the client;

(f) The client's parent or legal guardian continues to be legally responsible for caring for the client;

(g) The client's parent or legal guardian continues to be legally responsible for the client if out-of-home services are disrupted; and

(h) The client's parent or legal guardian continues to be legally responsible for the cost of the client's care, including room and board and basic expenses that are not covered by private insurance, medicare, the medicaid state plan, or other funding sources.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0040, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0040, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0041 What is a ~~((shared parenting))~~ child and family engagement plan?

(1) A ~~((shared parenting))~~ child and family engagement plan is a written agreement between the client's parent or legal guardian~~((r))~~ and the ~~((licensed))~~ provider ~~((or SOLA, and the department))~~.

(2) ~~((The shared parenting))~~ A child and family engagement plan must:

(a) ~~((Include a plan for))~~ Outline the parent or legal guardian's ~~((continual involvement))~~ role while their child is receiving out-of-home services, including:

(i) A visitation schedule for ~~((visiting the child in out-of-home placement))~~ both the licensed or certified setting and family home;

(ii) ~~((An activities schedule))~~ Assistance in maintaining significant relationships to the child, such as transportation assistance and coordination; and

(iii) ~~((Emergency contact information;~~

~~(iv) Consent to medical care;~~

~~(v) Routine communication about medical issues, education, daily routines, and special considerations in the life of the child; and~~

~~(vi) Expectations for each party's role, including special considerations.))~~ Participation in attending medical and dental appointments, school meetings, and community inclusion activities;

(b) ~~((Coordinate health care benefits;~~

~~(c) Designate a representative payee;~~

~~(d) Address the requirement to access all available income sources under WAC 182-512-0700(1);~~

~~(e) Include a plan for respite care if the child lives in a child foster home))~~ Outline the provider's role, including:

(i) Supporting the client, parent, or legal guardian's cultural or religious practices;

(ii) Developing and implementing an individual financial plan under WAC 388-826-0042; and

~~((f))~~ (iii) Celebrating holidays and special occasions;

(c) Be developed ~~((within forty-five days))~~ before the start date of the client's out-of-home ~~((placement and reviewed annually thereafter by the department.~~

~~(3) If any party does not follow the shared parenting plan, all parties must review and revise the shared parenting plan.~~

~~(4) If any party does not follow the revised shared parenting plan, DDA may terminate the client's voluntary placement services and the child will return to the parent or legal guardian's care unless:~~

~~(a) Taken into custody under RCW 13.34.050 or 26.44.050;~~

~~(b) Placed in shelter care under RCW 13.34.060; or~~

~~(c) Placed in foster care under RCW 13.34.130) services;~~

~~(d) Be reviewed during the annual assessment or more frequently upon request; and~~

~~(e) Be updated when the client turns age eighteen to reflect the client's individualized transition goals, and legal guardianship if applicable.~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0041, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0042 What is an individual financial plan? (1) An individual financial plan is a written agreement that delineates support needed in managing any portion of a client's funds by the provider.

(2) An individual financial plan is required when the child and family engagement plan indicates support is needed for the client to acquire money management skills.

(3) The provider must obtain signatures from the client's parent or legal guardian on the individual financial plan.

(4) The provider must include the following in the client's individual financial plan:

(a) Client funds and income managed by the provider;

(b) Client funds and income managed by the client;

(c) Client funds and income managed by the representative payee;

(d) The type of accounts containing client funds; and

(e) Money management instruction or support provided to the client.

(5) The provider must review the individual financial plan with the client's parent or legal guardian at least every twelve months.

(6) If the client is seventeen or younger, the provider must send a copy of the client's individual financial plan to:

(a) The client's parent or legal guardian; and

(b) The client's DDA case/resource manager or social service specialist.

(7) If the client is eighteen or older, the provider must send a copy of the client's individual financial plan to:

(a) The client;

(b) The client's parent or legal guardian if they have one; and

(c) The client's DDA case/resource manager or social service specialist.

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NEW SECTION

WAC 388-826-0043 When must an individual instruction and support plan be developed or revised? (1) If a client is receiving out-of-home services in a staffed residential home or children's SOLA, the provider must develop and implement an individual instruction and support plan for each client they support.

(2) The provider must develop and implement a client's instruction and support plan no more than 30 days after the client begins receiving out-of-home services.

(3) The provider must revise a client's individual instruction and support plan:

(a) As goals are achieved or as the client's assessed needs change;

(b) At least semiannually; and

(c) If requested by the client or the client's parent or legal guardian.

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NEW SECTION

WAC 388-826-0044 What requirements must the individual instruction and support plan meet? The individual instruction and support plan must:

(1) Describe habilitation goals that the provider and client will work on together while the provider supports the client;

(2) List the instruction and support activities the provider will provide to the client and explain how those activities meet the assessed needs identified in the client's person-centered service plan; and

(3) Describe other relevant support and service information.

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AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0070 What are the department's responsibilities for a ((child)) client receiving ((voluntary placement)) out-of-home services? When a ((child)) client receives ((voluntary placement)) out-of-home services, the department must:

(1) ~~((Develop the shared parenting))~~ Facilitate the development of the child and family engagement plan ((no more than forty-five days after the child is placed out-of-home and review the plan)) under WAC 388-826-0041 before the start of service and at each annual assessment;

(2) Visit the ((child)) client in their ((out-of-home placement)) licensed or certified setting at least every ninety days;

(3) ~~((Review))~~ Develop the ((child's)) client's person-centered service plan ((no more than ninety days after the child is placed out-of-home)) as required under WAC 388-845-3055;

(4) Assist families to access a client's medically necessary physical or behavioral health benefits, which may include attending care conferences and sharing information with medicare, medicaid, or private health insurance representatives for purposes of care coordination;

(5) Monitor the ~~((child's voluntary placement))~~ client's out-of-home services by:

(a) Facilitating team meetings using a wraparound planning model;

(b) Reviewing the ~~((child's))~~ individual instruction and support ((plans)) plan;

(c) Reviewing the quarterly report;

(d) Reviewing incident reports and follow-up measures involving the client;

~~((d))~~ (e) Authorizing payment for services; ((and

~~(e) Facilitating communication between the client's parent, legal guardian, and licensed provider or SOLA;~~

~~(5))~~ (f) Completing annual quality assurance assessments of staffed residential providers and children's state-operated living alternative providers; and

(g) Contracting with evaluators to complete certification evaluations of children's state-operated living alternative providers.

(6) Determine eligibility for ~~((apple health))~~ medicaid coverage under chapters 182-513 and 182-515 WAC;

~~((6))~~ (7) Determine the ~~((child's))~~ client's participation and room and board amount, if any;

~~((7) Comply with the permanency planning hearing requirements under RCW 13.34.270 no more than one hundred eighty days after the child is placed out-of-home and annually thereafter;))~~

~~((8) Notify the child's parent or legal guardian in writing before the date of each annual permanency planning hearing;~~

~~(9))~~ (8) Monitor the ~~((licensed))~~ provider ~~((or SOLA))~~ to ensure the provider complies with contract requirements, which includes compliance with DDA policies ~~((and minimum licensing rules));~~ and

~~((10))~~ (9) Refer a client ~~((age eighteen or older))~~ for a nurse delegation assessment by a registered nurse delegator, if ~~((necessa-ry))~~ requested by the provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0070, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0070, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0071 What are the responsibilities of the licensed or certified provider supporting a client receiving ~~((voluntary placement))~~ out-of-home services? (1) When a client is receiving ~~((voluntary placement))~~ out-of-home services, the licensed or certified provider must:

~~((1))~~ (a) Ensure the health and safety of the client;

(b) Provide adequate staff to meet the needs of clients as identified in the rate assessment;

(c) Meet the requirements of each contract entered into with the department;

(d) Develop and implement an individual instruction and support plan, unless the client is receiving out-of-home services from a child foster home provider or a group care facility for medically fragile children;

(e) Complete quarterly reports under subsection (2) or subsection (3) of this section;

(f) Participate in the development of the child and family engagement plan with the client, the client's parent or legal guardian, and social service specialist;

(g) Implement the child and family engagement plan;

(h) Support the client in regular school attendance, including following the school's reporting requirements when the client is absent or has an appointment during the school day;

(i) Participate in the client's individualized education program;

(j) Attend all school-related meetings;

(k) With the parent or legal guardian's consent, maintain regular communication with school representatives;

(l) Maintain regular communication with the client's parent or legal guardian;

(m) Develop evacuation plans in case of fire, natural disaster, or other emergencies in accordance with:

(i) WAC 110-145-1670 for staffed residential and group care facilities for medically fragile children; or

(ii) WAC 110-148-1460 for child foster homes;

(n) Maintain a client rights policy in accordance with chapter 71A.26 RCW;

(o) If the client is in a staffed residential home or children's SOLA:

(i) Discuss and schedule community inclusion activity options with the client; and

(ii) Track, and make available to the department upon request, the client's participation in community inclusion activities, including:

(A) Date of each activity;

(B) Cost of each activity; and

(C) A running balance of the client's community inclusion activities funds;

(p) Request an assessment for nurse delegation if the client needs medication administration.

(2) ~~((Develop a))~~ Quarterly ~~((report if the client is in a staffed residential home or group care facility for medically fragile children. The quarterly report))~~ reports from a staffed residential provider, a children's SOLA, or group care facility for medically fragile children must ~~((include))~~:

(a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and

(b) Include:

(i) A summary of the client's progress toward ~~((developing skills))~~ habilitation goals identified in the ~~((individualized treatment))~~ individual instruction and support plan;

~~((b))~~ (ii) An update regarding ~~((shared parenting))~~ the child and family engagement plan, including a summary of family visits;

~~((e))~~ (iii) A summary of incident reports, if any;

~~((d))~~ (iv) School progress, including individualized education program updates;

- ~~((e))~~ (v) Any significant changes in the client's condition or prescribed medications; and
- ~~((f))~~ (vi) A summary of the client's participation in community inclusion activities.
- ~~(3) ((Help develop and implement the shared parenting plan;~~
- ~~(4) Participate in the client's individualized education program;~~
- ~~(5) Develop emergency preparedness plans under WAC 110-145-1670;~~
- ~~(6) Track, and make available to the department upon request, the client's participation in community inclusion activities — if the client is in a staffed residential home — including:~~
- ~~(a) Date of each activity;~~
- ~~(b) Cost of each activity; and~~
- ~~(c) A running balance of the client's community inclusion activities funds;~~
- ~~(7) Retain all client records for at least six years after termination or expiration of their contract; and~~
- ~~(8) Request an assessment for nurse delegation if the client is age eighteen or older and needs medication administration))~~ Quarterly reports from a child foster home provider must:
- (a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and
- (b) Include:
- (i) The client's progress toward their habilitation goal;
- (ii) A list of community and other activities the client has participated in;
- (iii) An update regarding the child and family engagement plan, including a summary of family visits;
- (iv) School progress, including individualized education program updates; and
- (v) Any significant changes in the client's condition or prescribed medications.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0071, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0072 What training must ~~((a-licensed))~~ direct care staff of a staffed residential ((or SOLA employee)) home complete? To provide direct support to a client receiving ((voluntary placement)) out-of-home services, ((a-licensed)) direct care staff of a staffed residential ((or SOLA employee)) home must complete:

(1) Training required under chapter 110-145 WAC;

(2) Training and continuing education required under chapter 388-829 WAC;

(3) Client-specific training based on the ((client's treatment plan and person-centered service)) individual instruction and support plan; and

(4) Nurse delegation training under chapter 246-888 WAC, if applicable.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0072, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0073 What training must a child foster home provider complete? To support a client receiving out-of-home services, a child foster home provider must complete:

(1) Training required to maintain licensing under chapter 110-148 WAC; and

(2) Nurse delegation training under chapter 246-888 WAC, if applicable.

[]

NEW SECTION

WAC 388-826-0074 What training must a children's state-operated living alternative provider complete? (1) To provide direct support to a client receiving out-of-home services, a children's state-operated living alternative provider must complete:

(a) Training and continuing education required under chapter 388-829 WAC;

(b) Training required under WAC 388-101D-0090 through WAC 388-101D-0110; and

(c) Nurse delegation training under chapter 246-888 WAC, if applicable.

(2) The provider must ensure that each employee providing direct support keeps their first-aid training, CPR certification, food worker card, and bloodborne pathogens training current.

[]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0075 What are a parent or legal guardian's responsibilities ((when a child is receiving voluntary placement)) while the client receives out-of-home services? ~~((1) When)~~ While a client ~~((is receiving voluntary placement))~~ receives out-of-home services, the client's parent or legal guardian must:

~~((a))~~ (1) Maintain weekly contact with the child and actively participate in care planning;

~~((b))~~ Comply with the voluntary placement agreement;

~~((c))~~ (2) Participate in the development and ongoing assessment of the client's individual educational plan and maintain regular communication with the provider and school representatives;

(3) Coordinate all medically necessary physical or behavioral health benefits available through private insurance, medicare, or the medicaid state plan;

(4) Apply for ~~((all))~~ income and benefits available to the child; ~~((and~~

~~((d))~~ (5) Participate in:

~~((i))~~ (a) The ~~((shared parenting))~~ development and implementation of the child and family engagement plan;

~~((ii))~~ (b) Team meetings; and

~~((iii))~~ (c) The DDA annual assessment, including the person-centered service plan(-

~~(2) When the child receives social security income, the child's parent or legal guardian must establish a representative payee to manage the child's income and comply with the client responsibility and basic expenses required in this chapter.~~

~~(3) Nonpayment of a child's client responsibility or basic expenses may jeopardize the child's placement with a provider); and~~

(6) Establish a representative payee to manage the client's social security or supplemental security income and comply with the client responsibility and basic expenses required in this chapter.

(7) Ensure payment of the client responsibility or basic expenses. Nonpayment may jeopardize the client's services with a provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0075, filed 12/31/19, effective 2/1/20; WSR 18-23-004, § 388-826-0075, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0075, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0077 ~~((Who is eligible for))~~ May a client who is receiving out-of-home services also receive respite services? (1) A client ~~((who lives in a foster home is))~~ receiving out-of-home services in a child foster home may be eligible for respite services under chapter 388-828 WAC.

(2) A client ~~((who lives))~~ receiving out-of-home services in a ~~((licensed))~~ staffed residential, children's SOLA, or group home for medically fragile children is not eligible for respite services.

~~((3) The DDA assessment under chapter 388-828 WAC determines the amount of respite services a client may receive.))~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0077, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.010, 71A.12.030, and Title 71A RCW. WSR 09-24-063, § 388-826-0077, filed 11/25/09, effective 12/26/09.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0078 Who may provide respite services to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home? To provide respite services to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home, a provider must:

(1) Be a qualified provider under WAC 388-845-1615; and

(2) Have a respite contract with the developmental disabilities administration.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0078, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0079 What limits apply to respite services? The respite limits under WAC 388-845-1620 apply to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0079, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0095 What must a client pay toward the cost of ~~((voluntary placement))~~ out-of-home services in a ~~((licensed))~~ staffed residential home, a children's SOLA, or a group care facility? (1) To receive ~~((voluntary placement))~~ out-of-home services in a ~~((licensed))~~ staffed residential home, a children's SOLA, or a group care facility for medically fragile children, a client may be required to pay client responsibility as required under this section.

(2) The department determines the amount of client responsibility and room and board a client must pay under:

(a) WAC 182-515-1510 if the client is enrolled on a DDA home and community-based ~~((HCB))~~ services (HCBS) waiver under chapter 388-845 WAC; or

(b) WAC 182-513-1235 if the client is enrolled in roads to community living under chapter 388-106 WAC.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0095, filed 12/31/19, effective 2/1/20. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0095, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0096 What must a client pay toward the cost of ~~((voluntary placement))~~ out-of-home services in a child foster home? (1) To receive ~~((voluntary placement))~~ out-of-home services in a child foster home, a client must pay the provider a fixed monthly amount referred to as basic expenses, which must be outlined in a basic expense agreement.

(2) The written basic-expense agreement must include:

(a) Monthly amounts for rent, utilities, and food costs; and

(b) The day of the month the payment is due to the provider.

(3) The total monthly obligation in the basic-expense agreement must not exceed the client's available income minus the personal needs allowance under WAC 182-513-1105(5).

(4) Before the client moves into the child foster home, the basic-expense agreement must be:

(a) Signed by the ~~((client or the))~~ client's parent or legal ~~((representative))~~ guardian;

(b) Signed by the provider; and

(c) Sent to DDA.

(5) Changes to the basic-expense agreement must be reviewed by DDA before implementation.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0096, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0097 What expenses must a parent or legal guardian pay for while their child receives ((voluntary placement)) out-of-home services? A parent or legal guardian remains financially responsible for all expenses for their minor child that are not included in ((voluntary placement)) out-of-home services.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0097, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0098 What does the department pay toward ((voluntary placement)) out-of-home services? (1) For a client residing in a ((licensed)) staffed residential home, a children's ((state-operated living alternative (SOLA))) SOLA, or a group care facility for medically fragile children, the department pays the cost of the ((voluntary placement)) out-of-home services minus the amount of client responsibility under WAC 388-826-0095.

(2) For a client residing in a child foster home, the department pays the cost of the ((voluntary placement)) out-of-home services minus basic expenses under WAC 388-826-0096.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0098, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0130 How does the department determine the rate to support a client in a ((licensed)) child foster home? (1) The department determines the rate that is paid to support a client in a ((licensed)) child foster home by conducting a child foster ((care)) home rate assessment.

(2) DDA conducts the child foster ((care)) home rate assessment (÷

~~(a) No more than thirty days after the date the child is admitted to a licensed foster home;~~

~~(b) Annually; and~~

~~(c) If a significant change occurs) with the child foster home provider before out-of-home services begin.~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0130, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0130, filed 7/6/07, effective 8/6/07. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0130, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0133 What is the representative payee's role? The representative payee:

- (1) Manages the client's social security or supplemental security income;
- (2) Uses the client's income to contribute toward the cost of the client's participation and room and board;
- (3) Places the client's personal needs allowance and any conserved funds in a payee account; and
- (4) Monitors the child's payee account to maintain eligibility for supplemental security income ((-SSI-)) and medicaid.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0133, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0138 What questions are in the child foster ((care)) home rate assessment and how are ((answers)) responses scored? (1) The child foster ((care)) home rate assessment consists of thirteen questions.

- (2) Scores are based on the parent or legal guardian's report, natural supports available, documented support plans (e.g., nursing, physical therapy, occupational therapy), and report of care provided by the ((licensed)) child foster home provider.
- (3) The assessment excludes any additional paid supports provided, such as nursing and therapies.
- (4) The hours are assessed against the number of hours expected to support a typically developing child the same age as the client.
- (5) Daily living: What is the average number of hours per day spent supporting the client with daily living tasks like dressing, grooming, toileting, feeding and providing specialized body care? Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 9	213
10 to 20	396
Over 20	609

(6) Physical needs: What is the average number of hours per day spent providing assistance to the client that is not included in the "daily living" category above? Examples include assistance with: Mobility; prosthetics; communication; other assistive devices; airway management (monitors, ventilators); pressure sores; and enteral nutrition. Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 20	274
Over 20	609

(7) Behavioral needs: What is the average number of hours per day spent providing behavioral, emotional, and mental health supports to the client? Do not include hours under subsection (8) (b) of this section in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 13	335
14 to 24	578
Over 24	731

(8) Therapeutic plan: What is the average number of hours per week spent implementing a plan prescribed by a professional related to the child's physical, behavioral, emotional, or mental health therapy? The foster parent must provide a copy of each plan to the assessor.

(a) What is the average number of hours per week spent providing or attending physical, occupational, and speech therapy?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 9	30
10 to 46	65
Over 46	390

(b) What is the average number of hours per week spent participating in or implementing services identified in the client's behavioral support plan, such as applied behavior analysis (ABA) or counseling?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 19	48
20 to 60	104
Over 60	390

(9) Appointments: What is the average number of hours per week spent scheduling, traveling to and from, and participating in appointments? The foster parent must provide documentation of appointments to the assessor.

(a) What is the average number of hours per week spent scheduling, traveling to and from, and participating in doctor visits, dental visits, rehabilitation, and therapy visits?

Hours per week	Score
0 to 1	4
2 to 5	13
6 to 14	39
Over 14	82

(b) What is the average number of hours per week spent scheduling, traveling to and from, and participating in community activities, such as recreation, leisure, sports, and extra-curricular activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 7	30
8 to 20	48
Over 20	130

(10) House care: What is the average number of times per week spent repairing, cleaning, and replacing household items and medical equipment, over and above normal wear and tear, due to:

(a) A chronic medical condition?

Times per week	Score
0 to 1	6
2 to 7	24
8 to 19	58
20 to 38	91
Over 38	238

(b) Destructive behavior?

Times per week	Score
0 to 1	6
2 to 3	15
4 to 9	28
10 to 22	58
Over 22	162

(11) Development and socialization skills: What is the average number of hours per week spent providing guidance and assistance?

(a) What is the average number of hours per week spent helping with homework and learning new activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 11	30
12 to 30	87
Over 30	249

(b) What is the average number of hours per week spent interacting with other professionals, such as meeting with teachers, visiting

the client's school, speaking on the phone with school personnel, participating in individual education plan development and review?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 5	22
6 to 12	30
Over 12	82

(c) What is the average number of hours per week spent developing socialization and functional life skills, like making positive choices, being accountable, managing money, exploring the community, and relating to peers, adults, and family members?

Hours per week	Score
0 to 1	4
2 to 7	22
8 to 19	56
20 to 60	173
Over 60	403

(12) (~~Shared parenting~~) Child and family engagement plan: What is the average number of hours per week spent (~~implementing the shared parenting~~) coordinating the child and family engagement plan? The (~~shared parenting~~) plan must be available for review by the assessor.

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 12	30
Over 12	82

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0138, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0138, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0145 How does DDA determine the (~~foster care~~) assessed level from the raw score in the child foster home rate assessment? (1) The following are the (~~foster care~~) assessed levels based on the range of aggregate scores:

Level	Low Score	High Score
1	0	320
2	321	616
3	617	1501
4	1502	2085
5	2086	2751

Level	Low Score	High Score
6	2752	9999999

(2) A standardized rate for (~~specialized~~) out-of-home services is assigned to levels one through six.

(3) The standardized rate is published by DDA and is paid monthly to the child foster (~~parent~~) home provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0145, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0145, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0150 What happens if a client who is receiving out-of-home services in a child foster home experiences a significant change (~~assessment occurs~~)? (1) If a client who is receiving out-of-home services in a child foster home experiences a significant change (~~assessment occurs~~), DDA conducts (~~a~~):

(a) A reassessment under WAC 388-828-1500; and

(b) A child foster (~~care~~) home rate assessment.

(2) If the child foster (~~care~~) home rate assessment results in a rate change, the foster parent receives a thirty-day written notice that includes the effective date of the change.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0150, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0150, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0160 Are child foster (~~care~~) home rates appealable? A child foster (~~care~~) home rate is not appealable through the administrative hearing process.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0160, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0160, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0170 How does the department determine the rate to support a client in a (~~licensed~~) staffed residential home? (1) (~~To determine~~) The department determines the rate to support a client in a (~~licensed~~) staffed residential home (~~(, the department assesses)~~)

by assessing the client's ~~((support))~~ identified needs ~~((, includ-~~
~~ing:))~~.

(2) The department completes a rate assessment, which consists of four cost centers:

(a) Administrative and nonstaff costs, including transportation and damage reimbursement, if applicable;

(b) Funds for community inclusion activities as outlined in WAC 388-826-0005;

(c) Consultant and training costs; and

(d) Instruction and support services, which are determined by assessing a client's identified needs and supervision in the following areas:

(i) Activities of daily living as defined in WAC 388-106-0010;

~~((b))~~ (ii) Instrumental activities of daily living as defined in WAC 388-106-0010; and

~~((e))~~ (iii) Behavioral support and supervision ((supports)).

~~((2) Children are entitled to appropriate educational services including, to the extent possible, participating in a full school day. The department must not pay a provider for any hours the client is in school))~~

(3) Instruction and support services provided by the school district are not included in the rate assessment to support a client in a staffed residential home.

(4) A rate assessment must be completed before start of services, if a significant change occurs, or when the household composition changes.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0170, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0170, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0175 ~~((How))~~ What does the department ~~((determine the rate to support a medically fragile client in))~~ pay a group care facility for medically fragile children that is providing out-of-home services to a client? (1) To support a client receiving out-of-home services in a group care facility for medically fragile children, the department pays ((a group care facility)) the provider a DDA-established, per-person, monthly rate ((to support a medically fragile client)).

(2) Out-of-home services must not replace or duplicate services or benefits available through private insurance, medicare, or the medicaid state plan.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0175, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0175, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0200 What happens if a licensed provider terminates a client's out-of-home ((placement)) services? (1) If a licensed provider terminates a client's out-of-home ((placement)) services, the provider must:

~~((1) The child must return to the parent or legal guardian's care unless:~~

- ~~(a) Taken into custody under RCW 13.34.050 or 26.44.050;~~
- ~~(b) Placed in shelter care under RCW 13.34.060; or~~
- ~~(c) Placed in foster care under RCW 13.34.130;~~
- ~~(2) The provider must:))~~

(a) Notify the client's parent or legal guardian, the department, and the client's school in writing at least thirty days before the termination; ((and))

(b) ((Develop)) Provide one of the following termination reasons:

- (i) The provider cannot meet the needs of the client;
- (ii) The client's safety or the safety of other people in the home or facility is endangered;
- (iii) The client's health or the health of other people in the home or facility would otherwise be endangered; or
- (iv) The provider ceases to operate; and
- (c) Participate in the development of a transition plan((; and (3)).)

(2) If a licensed provider terminates a client's out-of-home services, the department assesses the client's health and welfare needs((,)) and ((may authorize supports to the family while a new out-of-home placement is identified)) authorizes services within the scope of the home and community-based services waiver identified in the client's person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0200, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0200, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0100, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0205 What happens when a client, parent, or legal guardian requests a different provider? (1) A client, parent, or legal guardian requesting a change in provider must((; and

- ~~(a-)) notify the DDA social ((worker)) service specialist and provider((; and~~
- ~~(b) Determine if current services can be modified to meet the client's need)).~~

(2) ((If services cannot be modified to meet the client's need, alternative residential options may be explored)) DDA will work with the parent or legal guardian to determine whether the parent or legal guardian's concerns can be addressed with the current provider.

(3) If the parties do not come to a resolution:

(a) The client may return to the family home until a ((new placement)) qualified residential service provider is identified; or

(b) The client may remain (~~(in)~~) with the current (~~(placement)~~) provider until (~~(a new)~~) another qualified provider is (~~(identified)~~) selected by the parent or legal guardian.

~~((3) The department may request a court review and a guardian ad litem to represent the best interest of the child.)~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0205, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0230 ~~((What happens after a client turns))~~ When may a client age eighteen or older continue to receive out-of-home services? A client (~~(who turns eighteen while in voluntary)~~) age eighteen or older may continue receiving out-of-home (~~(placement may remain there until their twenty-first birthday)~~) services if the client is:

- (1) ~~((They pursue a high school or equivalency course of study (GED/HSEC) or vocational program))~~ Under the age of twenty-one;
- (2) ~~((A voluntary placement agreement is signed by the client or their legal guardian))~~ Receiving out-of-home services the day before their eighteenth birthday; and
- (3) ~~((The client can self-administer medication or they receive nurse delegation services))~~ Pursuing a high school or equivalency course of study (GED/HSEC) or vocational program.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0230, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0230, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0115, filed 10/31/02, effective 12/1/02.]

NEW SECTION

WAC 388-826-0231 **What is initial certification?** (1) Initial certification is a document issued by DDA that indicates a children's state-operated living alternative provider meets the requirements under this chapter to deliver out-of-home services.

- (2) The provider must obtain initial certification no more than ninety days after the first date of service delivery.
- (3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.
- (4) Based on the findings of the certification evaluation, DDA may issue:
 - (a) Initial certification; or
 - (b) Provisional certification.
- (5) An initial certification is valid for no more than twelve months.

[]

NEW SECTION

WAC 388-826-0232 What is standard certification? (1) Standard certification is a document issued by DDA that indicates a children's state-operated living alternative provider meets the requirements under this chapter to deliver out-of-home services.

(2) The provider must obtain standard certification before their initial certification expires.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the evaluation, DDA may:

- (a) Issue standard certification;
- (b) Issue provisional certification; or
- (c) Decertify the provider.

(5) A standard certification is valid for no more than twenty-four months.

[]

NEW SECTION

WAC 388-826-0233 What is provisional certification? (1) DDA may impose a provisional certification for a maximum of ninety days if the children's state-operated living alternative provider:

(a) Prevents or interferes with a certification evaluation or complaint investigation by DSHS;

(b) Fails to comply with chapter 388-826 WAC;

(c) Fails to comply with chapter 74.34 RCW or chapter 26.44 RCW;

(d) Knowingly makes a false statement of material fact to DSHS;

or

(e) Fails to implement a plan of correction.

(2) At the end of the provisional certification, if the provider has complied with certification requirements, DDA may approve the provider for standard certification.

(3) At the end of the provisional certification, if the provider has not complied with certification requirements, DDA must decertify the provider.

[]

NEW SECTION

WAC 388-826-0234 What must a children's state-operated living alternative provider comply with to maintain certification? To maintain certification, a children's state-operated living alternative provider must comply with:

(1) Requirements under this chapter;

(2) Laws governing this chapter, including chapter 71A.12 RCW;

(3) Requirements under chapter 74.34 RCW;

(4) Other relevant federal, state and local laws, requirements, and ordinances.

[]

NEW SECTION

WAC 388-826-0235 What if a children's state-operated living alternative provider disagrees with a certification evaluation or certification decision? If a children's state-operated living alternative provider disagrees with a certification evaluation or certification decision under this chapter, the provider may request an informal dispute resolution meeting with DDA by:

- (1) Submitting a written request to DDA no more than ten days after receiving the final certification letter and report; and
- (2) Including a written statement that identifies the challenged action, describes the provider's concerns, and lists regulations and standards cited.

[]

NEW SECTION

WAC 388-826-0236 When may DDA decertify a children's state-operated living alternative provider? DDA may decertify a children's state-operated living alternative provider who:

- (1) Has had a certification, medicaid or medicare provider agreement denied, suspended, revoked, not renewed, or terminated for non-compliance with state or federal regulations;
- (2) Obtained or attempted to obtain a certification or contract by fraudulent means or misrepresentation; or
- (3) Willfully prevented or interfered with or failed to cooperate with any investigation or certification evaluation made by the department or DDA-contracted evaluator, including refusal to permit authorized department representatives to interview clients or have access to their records.

[]

NEW SECTION

WAC 388-826-0237 How must the children's state-operated living alternative provider participate in the certification evaluation process? The children's state-operated living alternative provider must participate in the certification evaluation process with DDA employees and DDA-contracted evaluators by:

- (1) Allowing scheduled and unscheduled visits;
- (2) Providing information and documentation as requested;
- (3) Cooperating in setting up appointments;
- (4) Responding to questions or issues identified;
- (5) Participating in an exit conference; and
- (6) Submitting a corrective action plan within an agreed time frame, if applicable.

[]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0240 Who may appeal a department action? ~~((1))~~ A client, the client's parent, or the client's ~~((authorized representa-~~
~~tive))~~ legal guardian may appeal ~~((any decision))~~ an action under ~~((RCW 71A.10.050))~~ chapter 182-526 WAC or WAC 388-825-120.

~~((2) A request may be made orally or in writing.~~

~~(3) An appellant must request an administrative hearing no more than ninety days after the date they received notification of the disputed decision.~~

~~(4) An appellant must request an administrative hearing within the ten-day notice period under WAC 388-458-0040 if the client wishes to receive continued benefits under WAC 388-825-145.)~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0240, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0240, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0120, filed 10/31/02, effective 12/1/02.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|--|
| WAC 388-826-0011 | What do voluntary placement services include? |
| WAC 388-826-0050 | What are the judicial requirements for a child receiving voluntary placement services? |