

**WSR 23-22-001**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed October 18, 2023, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-035.

Title of Rule and Other Identifying Information: WAC 388-845-0045  
When there is capacity to add people to a waiver, how does DDA determine who will be enrolled?, 388-845-1105 Who is a qualified provider of stabilization services - crisis diversion bed?, 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver?, and 388-845-3062 Who is required to sign the person-centered service plan and how can it be signed?

Hearing Location(s): On December 5, 2023, at 10:00 a.m., virtual via Microsoft Teams or call in. Please see the department of social and health services (DSHS) website for the most up-to-date information.

Date of Intended Adoption: Not earlier than December 6, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on December 5, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration is amending these rules to align with amendments to home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services. Major changes include: Adding a priority group for waiver enrollment; adding a new provider type for stabilization services; and adding signature options for person-centered service plans.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.120.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Ann Vasilev, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1551.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5) (b) (vii) which states in part, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal

statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 17, 2023  
Katherine I. Vasquez  
Rules Coordinator

### SHS-4988.3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) ((DDA)) Department-certified residential agencies per chapter 388-101 WAC;
- (2) ~~((Other department licensed or certified agencies; or~~
- ~~(3)) State-operated agencies ((-)); or~~
- (3) Other agencies licensed by the department of children, youth, and families under chapter 110-145 WAC and contracted with DDA to provide services under chapter 388-833 WAC.

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

**WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver?** Providers of residential habilitation services for participants in the core waiver must be one of the following:

- (1) ((Individuals)) An individual contracted with DDA to provide ~~((residential support))~~ services as a ((")) companion home ((")) provider under chapter 388-829C WAC;
  - (2) ((Individuals)) An individual or agency contracted with DDA to provide ~~((training))~~ services as an ((")) alternative living provider ((")) under chapter 388-829A WAC;
  - (3) ((Agencies)) An agency contracted with DDA and certified per chapter 388-101 WAC;
  - (4) A state-operated living ((alternatives)) alternative (SOLA);
- or
- (5) A licensed and contracted:
    - (a) Group care ~~((facilities and))~~ facility or staffed residential ~~((homes))~~ home under chapter 110-145 WAC;
    - (b) Child foster ~~((homes))~~ home under chapter 110-148 WAC; or
    - (c) Child placing ~~((agencies))~~ agency under chapter 110-147 WAC.

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

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

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

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

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