

WSR 24-21-043
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed October 8, 2024, 3:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-02-034.

Title of Rule and Other Identifying Information: WAC 388-825-058
What services does DDA authorize?, 388-825-082 What state-only funded services may DDA authorize?, 388-825-083 Is there a comprehensive list of waiver and state-only DDA services?, 388-828-9000 What is the individual and family services assessment?, 388-828-9140 How does DDA determine the amount of your individual and family service allocation?, 388-832-0001 What definitions apply to this chapter?, 388-832-0140 What services are available through the state-funded IFS program?, 388-832-0143 What is respite care?, 388-832-0170 What therapies may I receive?, 388-832-0185 What are environmental adaptations?, 388-832-0186 What are vehicle modifications?, 388-832-0200 What are specialized equipment and supplies?, 388-832-0215 What are specialized nutrition and specialized clothing?, 388-832-0235 What are copays for medical and therapeutic services?, 388-832-0250 What are transportation services?, 388-832-0265 What is training and counseling?, 388-832-0280 What is positive behavior support and consultation?, 388-832-0316 What is assistive technology?, 388-832-0317 What is community engagement?, 388-832-0318 What is remote support?, 388-832-0319 What is specialized habilitation?, 388-832-0321 What is staff and family consultation?, 388-832-0322 What is supported parenting?, 388-832-0333 What limits apply to state-funded IFS program services?, 388-832-0335 What is a one-time award?, 388-832-0355 What is an emergency service?, 388-832-0366 What limitations apply to emergency services?, 388-832-0367 What if the client or family situation requires more than ninety days of emergency service?, 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service?, 388-832-0370 What are community service grants?, 388-832-0375 How does a proposal for a community service grant project qualify for funding?, 388-832-0470 What are my appeal rights under the state-funded individual and family services program?, 388-845-0220 What services are available under the community protection waiver?, 388-845-0500 What is positive behavior support and consultation?, 388-845-0505 Who is a qualified provider of positive behavior support and consultation?, and 388-845-0510 Are there limits to the positive behavior support and consultation you may receive?

Hearing Location(s): On December 10, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than December 11, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on October 23, 2024, by 5:00 p.m. on December 10, 2024.

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 26, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is proposing amendments to sections from chapters 388-825, 388-828, 388-832, and 388-845 WAC. The purpose of this proposed rule making is to update lists of available services, their names, descriptions, limits, and qualified providers, and to increase the individual and family service (IFS) award amounts. These amendments also repeal sections about positive behavior support and consultation, which DDA no longer authorizes as of September 1, 2022.

Reasons Supporting Proposal: The proposed amendments may lead to client access to more types of services through the state-funded IFS program, and an increased IFS award.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.161.

Statute Being Implemented: RCW 71A.12.040.

Rule is necessary because of federal law, 42 U.S.C. 1396n(c).

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, 360-890-2127.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, email chantelle.diaz@dshs.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. DDA analyzed these draft amendments and concludes that they do not impose costs on small businesses. While some sections do establish service provider qualifications, the requirements do not require the provider to take an action that costs money, such as paying for a license, certification, or training.

October 1, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5022.5

AMENDATORY SECTION (Amending WSR 23-07-130, filed 3/22/23, effective 4/22/23)

WAC 388-825-058 What services does DDA authorize? (1) DDA authorizes the following paid services:

- (a) Adult day care.
- (b) Assistive technology.
- (c) Attendant care.
- (d) Bed bug extermination.
- (e) (~~Behavior support treatment team.~~
- (f)) Caregiver management.

~~((g))~~ (f) Child development services.
~~((h))~~ (g) Child placing agency.
~~((i))~~ (h) Community engagement.
~~((j))~~ (i) Community inclusion.
~~((k))~~ (j) Community transition (~~(or sustainability services)~~).
~~((l))~~ (k) Community/recreational activities.
~~((m))~~ (l) Copays for medical and therapeutic services.
~~((n))~~ (m) County services.
~~((o))~~ (n) Crisis stabilization.
~~((p))~~ (o) Durable medical equipment.
~~((q))~~ (p) Employment technical assistance add-on.
~~((r))~~ (q) Environmental adaptations.
~~((s))~~ (r) Equine therapy.
~~((t))~~ (s) Excess medical costs not covered by another source.
~~((u))~~ (t) Family and provider support.
~~((v))~~ (u) Group supported employment.
~~((w))~~ (v) Individual employment.
~~((x))~~ (w) Music therapy.
~~((y))~~ (x) Nonmedical equipment.
~~((z))~~ (y) Nurse consultation.
~~((a-a))~~ (z) Nurse delegation.
~~((b-b))~~ (a) (a) Occupational therapy.
~~((c-c))~~ (b) (b) Overnight planned respite for adults.
~~((d-d))~~ (c) (c) Parent and sibling education.
~~((e-e))~~ (d) (d) Peer mentoring.
~~((f-f))~~ (e) (e) Personal emergency response system.
~~((g-g))~~ (f) (f) Personal care.
~~((h-h))~~ (g) (g) Person-centered plan facilitation.
~~((i-i))~~ (h) (h) Physical therapy.
~~((j-j))~~ ~~Plethysmograph.~~
~~((k-k))~~ ~~Polygraph.)~~
~~((l-l))~~ ~~Positive behavior support.~~
~~((m-m))~~ (i) (i) Private duty nursing.
~~((n-n))~~ (j) (j) Recreational opportunities.
~~((o-o))~~ (k) (k) Reentry community (~~(safety)~~) services program.
~~((p-p))~~ (l) (l) Relief care.
(m) (m) Remote support.
~~((q-q))~~ (n) (n) Residential habilitation.
~~((r-r))~~ (o) (o) Respite.
~~((s-s))~~ (p) (p) Risk assessment.
~~((t-t))~~ ~~Service animal services.~~
~~((u-u))~~ (q) (q) Skilled nursing.
~~((v-v))~~ (r) (r) Skills acquisition.
~~((w-w))~~ (s) (s) Specialized clothing.
~~((x-x))~~ (t) (t) Specialized evaluation and consultation.
~~((y-y))~~ (u) (u) Specialized habilitation.
~~((z-z))~~ (v) (v) Specialized habilitation-stabilization.
~~((a-a-a))~~ (w) (w) Specialized equipment and supplies.
~~((b-b-b))~~ (x) (x) Specialized nutrition.
~~((c-c-c))~~ (y) (y) Speech therapy.
~~((d-d-d))~~ (z) (z) Stabilization diversion bed.
~~((e-e-e))~~ (a) (a) (a) Staff and family consultation.
~~((f-f-f))~~ (b) (b) (b) (~~(Staff)~~) Stabilization-staff and family consultation(~~(-stabilization)~~).
~~((g-g-g))~~ (c) (c) (c) State supplementary payments.
~~((h-h-h))~~ (d) (d) (d) Supported parenting.
~~((i-i-i))~~ (e) (e) (e) Therapeutic adaptations.

- ~~((j)(j)(j) Training and counseling.))~~
- ~~((k)(k)(k)) (f)(f)(f) Transition services.~~
- ~~((l)(l)(l)) (g)(g)(g) Transportation.~~
- ~~((m)(m)(m)) (h)(h)(h) Vehicle modifications.~~
- ~~((n)(n)(n)) (i)(i)(i) Wellness education.~~

(2) This section does not include services directly provided by the department.

AMENDATORY SECTION (Amending WSR 23-07-130, filed 3/22/23, effective 4/22/23)

WAC 388-825-082 What state-only funded services may DDA authorize? DDA may authorize state-only funded services as follows:

- (1) Adult day care.
- (2) Attendant care, which provides respite care or personal care and is limited to persons who:
 - (a) Are not eligible for other DDA services that meet their needs; and
 - (b) Were receiving attendant care in March 2004.
- (3) Child development services.
- (4) Counseling and strategies for effectively relating to people or coping with situations and problems.
- (5) Crisis stabilization.
- (6) Emergency transitional support services.
- ~~((5))~~ (7) Individual and family services under chapter 388-832 WAC.
- ~~((6))~~ (8) Medical and dental services necessary for the health of the client that are not covered by medicaid or private insurance.
- ~~((7))~~ (9) Medical insurance copays and costs exceeding other coverage.
- ~~((8) Offender re-entry))~~ (10) Re-entry community ((safety)) services program ((services)).
- ~~((9))~~ (11) Overnight planned respite services under chapter 388-829R WAC.
- ~~((10) Parent training and counseling.))~~
- ~~((11))~~ (12) PASRR services under chapter 388-834 WAC if you reside in a medicaid-certified home nursing facility but you do not qualify for medicaid.
- ~~((12) Psychological counseling which provides specialized cognitive counseling and strategies for effectively relating to people or coping with situations and problems))~~ (13) Specialized treatment at a youth transitional care facility.
- ~~((13))~~ (14) State supplementary payments under chapter 388-827 WAC.
- ~~((14))~~ (15) Transportation reimbursement for ~~((an escort, which is a payment for))~~ someone other than the driver to provide one-on-one attention to the client being transported.
- ~~((15))~~ (16) Waiver services under chapter 388-845 WAC if prior approval is received by the assistant secretary or designee.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-9000 What is the individual and family services assessment? The individual and family services assessment is ~~((an))~~ one algorithm ~~((in))~~ within the DDA assessment that determines an ~~((award))~~ allocation amount that you may receive if DDA has authorized you to receive individual and family services per ~~((chapter))~~ chapters 388-832 and 388-845 WAC.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-9140 How does DDA determine the amount of your individual and family service ((award)) allocation? DDA uses the following table to determine the amount of your individual and family services ~~((award))~~ allocation:

If your individual and family services score is:	The ((award)) <u>allocation</u> level will be	The amount of your ((award)) <u>allocation</u> is up to:
0 to 60	Not eligible	No ((Award)) <u>allocation</u>
61 to 240	Level 1	\$ ((1,200)) <u>1,560</u>
241 to 336	Level 2	\$ ((1,800)) <u>2,340</u>
337 to 527	Level 3	\$ ((2,400)) <u>3,120</u>
528 or more	Level 4	\$ ((3,600)) <u>4,680</u>

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0001 What definitions apply to this chapter? The following definitions apply to this chapter:

"Agency provider" means a long-term care worker who works for a home care agency.

"Allocation" means needs-based funding available to a client and the client's family for a maximum of ~~((twelve))~~ 12 months.

"Authorization" means developmental disabilities administration (DDA) funding approval for a service identified in a client's person-centered service plan.

"Caregiver" means a person who provides formal (paid), informal (unpaid), or primary (paid or unpaid) support.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020~~((+3))~~ who also has been determined eligible to receive services from DDA under chapter 71A.16 RCW.

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

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

"**Family**" means ~~((a relative who lives with the client. A relative includes the client's))~~ one or more of the following relatives: spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"**Family home**" means the residence where the client and the client's family live.

"**Individual and family services contract**" means a contract between DDA and the family to reimburse the family for the purchase of goods and services.

"**Individual provider**" means an individual who is contracted with DDA to provide medicaid state plan personal care or medicaid waiver personal care, respite care, or attendant care services.

"**Person-centered service plan**" or "**PCSP**" is a document that ~~((authorizes DDA-paid services that meet))~~ identifies the client's goals and assessed health and welfare needs ((identified in the client's DDA assessment)). 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.

"**Primary caregiver**" means the person who provides the majority of a client's care and supervision.

"**Significant change**" means a change in a client's medical condition, caregiver status, behavior, living situation, or employment status.

"**State-funded**" means a service or program funded entirely with state dollars.

"**State supplementary payment**" or "**SSP**" means a state paid cash assistance program for certain DDA clients eligible for supplemental security income per chapter 388-827 WAC.

"**You**" means the client.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0140 What services are available through the state-funded IFS program? You may receive any combination of the following services - up to your state-funded individual and family services (IFS) annual allocation - ~~((but only if))~~ when the service addresses a need identified in your person-centered service plan:

(1) ~~((Architectural modification under WAC 388-832-0185))~~ Assis-
tive technology under WAC 388-832-0316;

(2) Community engagement under WAC 388-832-0317;

(3) Copays for medical and therapeutic services under WAC 388-832-0235;

(4) Environmental modification under WAC 388-832-0185;

~~((3))~~ (5) Excess medical costs not covered by another source under WAC 388-832-0165;

~~((4))~~ (6) Occupational therapy under WAC 388-832-0170;

~~((5))~~ (7) Parent and sibling education under WAC 388-832-0300;

~~((6))~~ (8) Physical therapy under WAC 388-832-0170;

~~((7) Positive behavior support and consultation under WAC 388-832-0280;)~~

~~((8))~~ (9) Recreational opportunities under WAC 388-832-0315;

- (10) Remote support under WAC 388-832-0318;
 ((9)) (11) Respite care under WAC 388-832-0143;
 (12) Specialized habilitation under WAC 388-832-0319;
 ((10)) (13) Specialized (~~medical~~) equipment and supplies under WAC 388-832-0200;
 ((11)) (14) Specialized nutrition and clothing under WAC 388-832-0215;
 ((12)) (15) Speech, language, and communication therapy under WAC 388-832-0170;
 (16) Staff and family consultation under WAC 388-832-0321;
 (17) Supported parenting under WAC 388-832-0322;
 ((13) Training and counseling under WAC 388-832-0265;))
 ((14)) (18) Transportation under WAC 388-832-0250; and
 ((15)) (19) Vehicle modifications under WAC 388-832-0186.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0143 What is respite care? (1) Respite care is short-term, intermittent care to relieve a family member who is your primary (~~, paid care provider~~) caregiver.

(2) Respite care may be provided in the settings described in WAC 388-845-1610.

(3) Qualified providers of respite care are described in WAC 388-845-1615.

(4) Respite care is limited to:

(a) The limits under WAC 388-845-1620 (~~apply~~); and

(b) The amount of your state-funded individual and family services annual allocation.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0170 What therapies may I receive? (1) The therapies you may receive include:

(a) Physical therapy;

(b) Occupational therapy; and

(c) Speech, hearing, and language therapy.

(2) To be a qualified provider of therapies, the provider must (~~be~~):

(a) ((A)) Be a certified, registered, or licensed therapist as required by law; (~~and~~)

(b) Hold a core provider agreement with the health care authority to provide therapeutic services; and

((b)) (c) Be contracted with the developmental disabilities administration (DDA) for the service they provide.

(3) The following limits apply to the therapies you may receive:

(a) DDA determines the amount of therapy services you will receive based on your assessed needs, annual allocation, and information received from your therapist and DDA may require a second opinion from a DDA-selected therapist;

(b) DDA does not pay for treatment that is experimental or investigational under WAC 182-531-0050; and

(c) Additional therapy may be authorized as a service only after you have ~~((exhausted))~~ accessed resources available to you ~~((under))~~ through medicaid, private health insurance, or ~~((school))~~ other resources.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0185 What are ~~((architectural modifications))~~ environmental adaptations? (1) ~~((Architectural modifications))~~ Environmental adaptations are physical adaptations to your home to:

(a) Ensure the health, welfare, and safety of you, your caregiver, or both; or

(b) Enable you ~~((, who may otherwise require a more restrictive environment,))~~ to function with greater independence in your home and community.

(2) Examples of ~~((architectural modifications))~~ environmental adaptations include:

(a) Installing ramps and grab bars;

(b) Widening of doorways;

(c) Bathroom modifications;

(d) Installing electrical or plumbing systems necessary to accommodate the specialized ~~((medical))~~ equipment and supplies that are necessary for your welfare;

(e) Repairing damage to your residence as a result ~~((to))~~ of your disability up to the balance of your allocation; and

(f) ~~((Repairing architectural modifications))~~ If necessary for your safety ~~((,)),~~ repairs to a DDA-purchased environmental adaptation.

(3) The provider ~~((making architectural modifications))~~ completing environmental adaptations must be contracted with the developmental disabilities administration (DDA) and be a registered contractor under chapter 18.27 RCW.

(4) The following limits apply to ~~((architectural modifications))~~ environmental adaptations:

(a) Prior approval by the regional administrator or designee is required.

(b) ~~((Architectural modifications are excluded if they are of general utility without direct medical or remedial benefit to you, such as carpeting, linoleum, tile, hardwood flooring, decking, roof repair, air conditioning, and fencing for the yard.~~

~~((c))~~ An environmental adaptation must not add to the square footage of the home, convert nonliving space to living space, or create a new room.

~~((d))~~ (c) DDA requires evidence that you have ~~((exhausted))~~ accessed your private insurance, medicaid benefits, and benefits from the division of vocational rehabilitation (DVR) before authorizing ~~((architectural modifications))~~ an environmental adaptation.

~~((e))~~ (d) An environmental adaptation must be the most cost-effective modification as determined by DDA and based on a comparison of contractor bids as ~~((determined by DDA))~~ required under subsection (5) of this section.

~~((f))~~ (e) DDA may require an occupational therapist, physical therapist, or ~~((construction consultant))~~ other professional to review and recommend an ~~((appropriate architectural modification))~~ environ-

mental adaptation statement of work before you solicit bids or purchase ~~((architectural modifications))~~ an environmental adaptation.

~~((g))~~ (f) Deteriorated condition of the dwelling or other remodeling projects in progress in the dwelling may limit or prevent ~~((or limit some or all architectural modifications))~~ an environmental adaptation. ~~((at the discretion of DDA.))~~

~~((h))~~ (g) Location of the dwelling in a flood plain, landslide zone, or other hazardous area may limit or prevent ~~((any architectural modifications))~~ an environmental adaptation. ~~((at the discretion of DDA.))~~

~~((i))~~ (h) Written consent from your landlord is required before starting any ~~((architectural adaptations))~~ environmental adaptation for a rental property. The landlord must not require removal of the ~~((architectural modification))~~ environmental adaptation at the end of your tenancy as a condition of the landlord approving the ~~((architectural modification))~~ environmental adaptation.

~~((j))~~ (i) Damage repairs are limited to the cost of restoration to original function. If the damage resulted from your behavior, the behavior must be addressed before the damages are repaired~~((+)).~~

~~((k))~~ (j) The following are excluded from ~~((architectural modifications))~~ environmental adaptations:

- (i) Repairs to personal property, such as furniture and appliances;
- (ii) Cosmetic improvements to the home;
- (iii) Deck construction or repairs;
- (iv) Fence construction or repairs; ((and))
- ~~((iii))~~ (v) Carpet installation or replacement((-)); and
- (vi) Other home improvements of general utility that have no direct medical or remedial benefit to the client, such as roof repair or air conditioner installation.

(5) An environmental adaptation must be supported by written bids from licensed contractors.

(a) For an adaptation that costs:

- (i) \$1,500 or less, one bid is required;
 - (ii) More than \$1,500 but equal to or less than \$5,000, two bids are required; or
 - (iii) More than \$5,000, three bids are required.
- (b) All bids must include:
- (i) The cost of all required permits and sales tax; and
 - (ii) An itemized list and clearly outlined scope of work.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0186 What are vehicle modifications? ~~((What are vehicle modifications?))~~

(1) Vehicle modifications are physical adaptations or alterations to ~~((your))~~ a vehicle required in order to accommodate your unique needs, enable your full integration into the community, and ensure your health, welfare, and safety or the safety of a caregiver.((+))

~~((a) Ensure the health, welfare, and safety of you, your caregiver, or both; or~~

~~((b) Enable you, who may otherwise require a more restrictive environment, to function with greater independence in your home and community.))~~

(2) Examples of vehicle modifications include:

~~(a) ((Wheel chair lifts;~~

~~(b) Strap-downs;~~

~~(c) Other access modifications; and~~

~~(d) Repairs and maintenance to vehicle modifications if necessary for your safety.)~~ Manual hitch-mounted carrier and hitch for all wheelchair types;

(b) Wheelchair cover;

(c) Wheelchair strap-downs;

(d) Wheelchair ramp;

(e) Accessible running boards and steps;

(f) Assist poles and grab handles;

(g) Power-activated carrier for all wheelchair types;

(h) Permanently installed wheelchair ramps;

(i) Repairs and maintenance to vehicular modifications as needed for client safety; and

(j) Other access modifications.

(3) The provider making vehicle modifications must be ~~((a vehicle adaptive equipment vendor contracted with the developmental disabilities administration (DDA))~~ contracted with DDA as a specialized goods and services provider to provide this service.

(4) The following limits apply to vehicle modifications:

(a) Prior approval by the regional administrator or designee is required.

(b) DDA requires evidence that you have ~~((exhausted))~~ accessed your private insurance, medicaid benefits, and benefits from the division of vocational rehabilitation (DVR) before authorizing this service.

(c) Vehicle modifications must be the most cost-effective modification based on a comparison of contractor bids as determined by DDA.

(d) Clinical and support needs for vehicle modifications are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(e) Modifications will only be approved for a vehicle that serves as your primary means of transportation and is owned by you, your family, or both.

(f) DDA requires your treating professional's written recommendation regarding your need for vehicle modifications. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

(g) DDA may require a second opinion from a DDA-selected provider.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0200 What are specialized ((medical)) equipment and supplies? (1) Specialized ~~((medical))~~ equipment and supplies are items that help you:

(a) Increase or maintain ability to perform activities of daily living; ~~((or))~~

(b) Perceive, control, or communicate with the environment in which you live ~~((or))~~; or

(c) Improve daily functioning through sensory integration identified in a written therapeutic plan by the current treating professional.

~~(2) ((Specialized medical equipment and supplies may include durable and nondurable equipment that are specialized or adapted, and generally are not useful to a person in the absence of illness, injury, or disability))~~ Types of specialized equipment and supplies include:

(a) Durable medical equipment;

(b) Nondurable medical equipment designed to directly improve an activity of daily living or instrumental activity of daily living need; and

(c) Nonmedical, specialized equipment designed to directly assist a person in tasks affected by a functionally limiting disability.

(3) The developmental disabilities administration (DDA) may cover items and services necessary to maintain the proper functioning of the equipment and supplies.

(4) The provider of equipment and supplies must be ~~((an equipment supplier contracted with DDA or a))~~ a specialized equipment and supplies vendor, a purchasing goods and services vendor, or a parent who has a DDA contract for IFS reimbursement.

(5) The following limits apply to specialized ~~((medical))~~ equipment and supplies:

(a) Specialized ~~((medical))~~ equipment and supplies - except for incontinence supplies such as diapers, disposable pads, and wipes - require prior approval by the DDA regional administrator or designee.

(b) DDA may require a second opinion by a DDA-selected provider.

(c) Items reimbursed with state funds must be in addition to any specialized ~~((medical))~~ equipment and supplies furnished under medic-aid or private insurance.

(d) DDA does not cover medications or vitamins.

(e) DDA only covers specialized ~~((medical))~~ equipment and supplies that are:

(i) Of direct medical or remedial benefit to you; and

(ii) Necessary as a result of your disability.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0215 What are specialized nutrition and specialized clothing? (1) Specialized nutrition is prepared food that constitutes ~~((fifty percent))~~ 50% or more of a person's caloric intake. Specialized nutrition must be recommended by a qualified professional, such as a licensed physician or registered dietician.

(2) Specialized clothing is nonrestrictive clothing adapted to your individual needs and related to your ~~((for a physical))~~ disability. Examples include weighted clothing, clothing designed for tactile defensiveness, or reinforced clothing. Specialized clothing must be recommended by a ~~((qualified professional, such as a podiatrist, physical therapist, or behavior specialist))~~ an appropriate health professional. This recommendation must take into account that the health professional has examined you, reviewed your medical records, and conducted an assessment.

(3) Prior approval by regional administrator or designee is required.

(4) DDA does not cover vitamins or supplements.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0235 What are copays for medical and therapeutic services? (1) Copays are fixed fees that subscribers to a medical plan must pay to use specific medical or therapeutic services covered by the plan. These services must have been deemed medically necessary by your health care professional.

(2) Medical and therapeutic copays may be a reimbursable expense through a developmental disabilities administration (DDA) individual and family services family reimbursement contract.

(3) ~~((The copays must be for your medical or therapeutic needs.~~
~~(4)-))~~ DDA does not cover vitamins or supplements.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0250 What are transportation services? (1) Transportation services ~~((is))~~ are per diem or mileage reimbursement to a provider for your transportation.

(2) The developmental disabilities administration (DDA) may reimburse a provider for transportation services if:

(a) The transportation is to or from a state-funded individual and family services (IFS) program service;

(b) The transportation need is identified in your person-centered service plan (PCSP);

(c) The provider is not contracted to receive transportation reimbursement; and

(d) ~~((All))~~ No other transportation options ~~((have been exhausted))~~ are available.

(3) The provider of transportation services must be ~~((an individual))~~ a person or agency ~~((contracted))~~ with a DDA ~~((to provide transportation))~~ transportation services contract.

(4) Transportation services may be a reimbursable expense through a DDA contract.

(5) The following limits apply to transportation services:

(a) Transportation services does not cover the purchase or lease of a vehicle; and

(b) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(6) Per diem costs may be reimbursed, utilizing the state rate, ~~((to access medical services))~~ if you and one family member must travel over ~~((one hundred fifty))~~ 150 miles one way to access medical services.

(7) DDA may reimburse you for air ambulance costs due to an emergency - up to your state-funded IFS annual allocation - if you have ~~((exhausted))~~ accessed all other resources such as ~~((your))~~ private insurance and medicaid.

NEW SECTION

WAC 388-832-0316 What is assistive technology? (1) Assistive technology consists of items, equipment, or product systems, not related to a client's physical health, that are used to directly support the client to:

- (a) Increase, maintain, or improve functional capabilities;
- (b) Improve client safety; or
- (c) Increase social engagement in the community.

(2) Assistive technology also includes supports to directly assist the client to select, acquire, and use the technology.

(3) Assistive technology includes the following:

- (a) The evaluation of the client's needs, including a functional evaluation of the client in the client's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (c) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for the client and if appropriate, the client's family; and
- (f) Training or technical assistance for professionals, including people providing education and rehabilitation services, employers, or other people who provide services to, employ, or are otherwise involved in the assistive technology related life functions of people with disabilities.

(4) Clinical and support needs for assistive technology must be identified in your DDA assessment and documented in your person-centered service plan.

(5) DDA requires a professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

- (a) The professional has personal knowledge of and experience with the requested assistive technology; and
- (b) The professional has recently evaluated you, reviewed your medical records, and conducted an evaluation of the equipment and determined its effectiveness in meeting your identified need.

(6) If the technology is related to expressive or receptive communication or other complex support needs, the recommendation under subsection (5) of this section must be from a credentialed professional evaluating your needs within their scope of practice.

(7) Assistive technology requires prior approval by the DDA regional administrator or designee.

NEW SECTION

WAC 388-832-0317 What is community engagement? (1) Community engagement connects a client to activities, resources, events, and services in the community that the client is interested in exploring. It is intended to assist the client with fully accessing their community and reducing isolation.

(2) Community engagement is limited to the support needs identified in your DDA assessment and documented in your person-centered service plan.

(3) The dollar amount in your individual and family services annual allocation limits the amount of community engagement you may receive.

(4) Community engagement is limited to the community where you live.

NEW SECTION

WAC 388-832-0318 What is remote support? (1) Remote support is supervision, coaching, and consultation from a contracted remote support provider to a client from a distant location.

(2) The provider uses HIPAA-compliant technology and secure data storage to support the client to increase or maintain their independence and safety in their home and community when not engaged in other DDA-paid services or informal supports.

(3) Remote support includes equipment as needed to deliver the supervision, coaching, and consultation. Equipment may include one or more of the following components:

- (a) Motion-sensing system;
- (b) Radio frequency identification;
- (c) Video calling via assistive technology;
- (d) Live audio feed; and
- (e) Web-based monitoring systems.

(4) Remote support must never be used to restrict a client's access to their home, community, or to limit the client's bodily autonomy.

(5) Before DDA authorizes remote support, a backup plan must be established and documented in the client's person-centered service plan.

(6) The need for remote support must be identified in the client's person-centered service plan.

(7) Remote support cannot pay for internet, data plans, or wi-fi access.

(8) Remote support requires prior approval by the regional administrator or designee.

(9) The dollar amount in your individual and family services annual allocation limits the amount of remote support you may receive.

NEW SECTION

WAC 388-832-0319 What is specialized habilitation? (1) Specialized habilitation services provide community-based and individualized support to reach an identified habilitative goal in the person-centered service plan.

(2) Services must assist a client to learn or maintain skills in the following areas:

- (a) Self-empowerment;
- (b) Safety awareness;
- (c) Self-advocacy;

- (d) Interpersonal effectiveness and effective social communication;
 - (e) Coping strategies for everyday life changes; and
 - (f) Managing daily tasks and acquiring adaptive skills.
- (3) Specialized habilitation must promote inclusion in the community.
- (4) Specialized habilitation is limited to addressing a maximum of three goals at a time.
- (5) Specialized habilitation support needs must be identified in your DDA assessment and specialized habilitation must be documented in your person-centered service plan.
- (6) Specialized habilitation must not exceed your individual and family services annual allocation.

NEW SECTION

WAC 388-832-0321 What is staff and family consultation? (1)

Staff and family consultation is assistance to families or direct service providers to help them meet the individualized and specific needs of a participant as outlined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation is consultation and guidance to a staff member or family member about one or more of the following:

- (a) Assistive technology safety;
- (b) Augmentative communication systems;
- (c) Basic and advanced instructional techniques;
- (d) Consultation with potential referral resources;
- (e) Diet and nutritional guidance;
- (f) Disability information and education;
- (g) Environmental consultation;
- (h) Health and medication monitoring to track and report to the healthcare provider;
- (i) Parenting skills;
- (j) Positioning and transfer; and
- (k) Strategies for effectively and therapeutically interacting with the client.

(3) To provide staff and family consultation, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (a) Audiologist;
- (b) Certified American Sign Language instructor;
- (c) Certified dietician;
- (d) Counselor registered or certified in accordance with chapter 18.19 RCW;
- (e) DDA-contracted specialized habilitation provider;
- (f) Licensed practical nurse;
- (g) Marriage and family therapist;
- (h) Mental health counselor;
- (i) Nutritionist;
- (j) Occupational therapist;
- (k) Physical therapist;
- (l) Professional advocacy organization;
- (m) Psychiatrist;
- (n) Psychologist;

(o) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;

(p) Registered nurse;

(q) Sex offender treatment provider;

(r) Social worker;

(s) Speech-language pathologist; or

(t) Teacher certified under chapter 181-79A WAC.

(4) Staff and family consultation is limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(5) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation.

(6) The dollar amounts in your state-only individual and family services program allocation limit the amount of staff and family consultation you may receive.

(7) Individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been reportedly assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's DDA assessment and person-centered service plan; and

(ii) Addressed in the participant's behavior support plan or therapeutic plan.

(8) Staff and family consultation does not provide training or consultation necessary to meet a provider's or staff's contractual licensing or certification requirements or to complete the necessary functions of their job.

NEW SECTION

WAC 388-832-0322 What is supported parenting? (1) Supported parenting services are professional services offered to clients who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, childcare, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills around the child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Clinical and support needs for supported parenting services are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(5) The dollar amount of your individual and family services annual allocation limits the amount of supported parenting services you are authorized to receive.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0333 What limits apply to state-funded IFS program services? The following limits apply to the state-funded individual and family services (IFS) program:

- (1) State-funded IFS program services are limited to available funding.
- (2) A state-funded IFS program service must address an unmet need identified in your person-centered service plan (PCSP).
- (3) Any item reimbursed with state funds under the IFS program must not duplicate or replace items provided to you under private insurance or medicaid.
- (4) State-funded IFS program services are authorized only after you have requested and have been denied other resources (~~(available to you)~~) through private insurance, school, the division of vocational rehabilitation, child development services, medicaid, including personal care and community first choice, and other supports.
- (5) All state-funded IFS program service payments must be agreed to by you and the developmental disabilities administration (DDA) and documented in your PCSP.
- (6) To receive reimbursement for goods or services purchased for a DDA client, the purchaser must have ~~((a))~~ an individual and family services family reimbursement contract with DDA.
- (7) DDA does not pay for treatment that is experimental or investigational under WAC 182-531-0550.
- (8) DDA does not cover vitamins or supplements.
- (9) Your choice of qualified providers and services may be limited to the most cost-effective option that meets your assessed need.
- (10) ~~((Services must not be provided after a client's death.~~
- ~~((11))~~ DDA's authorization period begins when you have agreed to be in the state-funded IFS program and your PCSP is effective as described in chapter 388-845 WAC.
- ~~((12))~~ (11) If you have not accessed a state-funded IFS program service at least once per plan year, DDA will disenroll you from the state-funded IFS program and notify you of the change.
- ~~((13))~~ (12) The state-funded IFS program must not pay for psychological evaluations or testing, or DNA testing.
- ~~((14))~~ (13) You may receive state-funded IFS program services in a recognized out-of-state bordering city on the same basis as in-state services. Recognized bordering cities include:
 - (a) Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho ~~((r))~~ i and
 - (b) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0355 What is an emergency service? (1) ~~((Emergency services are respite care, nursing services, or positive behavior support and consultation))~~ An emergency service is any service under WAC 388-825-058, except state supplementary payments, that DDA may authorize in response to a single incident, situation, or short-term crisis.

(2) You may be eligible for emergency services if ~~((you are age three or older, live with your family, and))~~:

~~((a) You lose your caregiver due to caregiver hospitalization or death;~~

~~(b) There are changes in your caregiver's mental or physical status resulting in your caregiver's inability to perform effectively for you; or~~

~~(c) There are significant changes in your emotional or physical condition that require emergency services.)~~

(a) You are not currently authorized for the state-funded individual and family services (IFS) program or a home and community-based services waiver;

(b) The need is critical to the health or safety of you or your caregiver; and

(c) You and your family have no other resource to meet the need or your resources do not cover all of the expense.

(3) ~~((The))~~ DDA must not authorize payment for a provider ~~((of the service you require to meet your emergent need must meet the))~~ unless the provider meets provider qualifications ~~((required to contract for that specific service under:))~~ for that service.

~~((a) WAC 388-832-0155 for respite;~~

~~(b) WAC 388-832-0285 for positive behavior support and consultation; and~~

~~(c) WAC 388-845-1705 for nursing.~~

~~(4) Funds are provided for a limited period not to exceed ninety days.~~

~~(5) All requests are reviewed and approved or denied by the regional administrator or designee.~~

~~(6) If you or a family situation requires more than ninety days of emergency services, the developmental disabilities administration (DDA) will review DDA services to determine if your need can be met through other services.)~~

~~((7))~~ (4) You may receive an emergency service before completing a DDA assessment, ((however the regional administrator or designee may request a DDA assessment for you at any time)) if it is a one-time service.

(5) The cost of your emergency services must not exceed the IFS level four annual allocation under WAC 388-828-9140.

AMENDATORY SECTION (Amending WSR 09-11-054, filed 5/13/09, effective 6/13/09)

WAC 388-832-0366 What limitations apply to emergency services?

(1) Emergency services may be granted to ~~((individuals and families who are on the IFS waitlist and))~~ a client and their family if they have an emergent need.

(2) Funds are provided for a limited period not to exceed ~~((ninet-ty))~~ 90 days.

(3) All requests are reviewed and approved or denied by the regional administrator or designee.

AMENDATORY SECTION (Amending WSR 18-14-002, filed 6/20/18, effective 7/21/18)

WAC 388-832-0470 What are my appeal rights under the state-funded individual and family services program? (1) You have the right to an administrative hearing under chapter 388-825 WAC.

(2) If the developmental disabilities administration (~~((DDA))~~) ends your state-funded individual and family services (~~((IFS))~~) program services, you will receive written notice of the decision explaining your administrative hearing rights.

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

WAC 388-845-0220 What services are available under the community protection waiver? (1) The following services are available under the community protection waiver:

SERVICE	YEARLY LIMIT
Assistive technology Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support and consultation)) Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies Specialized evaluation and consultation Speech, hearing, and language services Staff and family consultation Transportation	Determined by the person-centered service plan
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|---|
| WAC 388-825-083 | Is there a comprehensive list of waiver and state-only DDA services? |
| WAC 388-832-0265 | What is training and counseling? |
| WAC 388-832-0280 | What is positive behavior support and consultation? |
| WAC 388-832-0335 | What is a one-time award? |
| WAC 388-832-0367 | What if the client or family situation requires more than ninety days of emergency service? |
| WAC 388-832-0369 | Do I need to have a DDD assessment before I receive an emergency service? |
| WAC 388-832-0370 | What are community service grants? |
| WAC 388-832-0375 | How does a proposal for a community service grant project qualify for funding? |
| WAC 388-845-0500 | What is positive behavior support and consultation? |
| WAC 388-845-0505 | Who is a qualified provider of positive behavior support and consultation? |
| WAC 388-845-0510 | Are there limits to the positive behavior support and consultation you may receive? |