
SECOND SUBSTITUTE HOUSE BILL 2008

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Taylor, Fitzgibbon, Peterson, Ramel, Santos, Sells, Shewmake, Valdez, Ryu, Macri, Berg, Bateman, Ormsby, Frame, Davis, Lekanoff, and Pollet)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to eliminating the use of intelligence quotient
2 scores in determining eligibility for programs and services for
3 individuals with developmental disabilities; amending RCW 71A.16.020;
4 reenacting and amending RCW 71A.10.020; adding a new section to
5 chapter 71A.10 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that requiring
8 intelligence quotient testing to determine if a person has an
9 intellectual or developmental disability is expensive, inaccessible
10 to marginalized communities, complicated to receive, and time
11 consuming for families already struggling to care for their child
12 with an intellectual or developmental disability. Further, the
13 legislature finds that intelligence quotient testing does not
14 accurately indicate whether a person needs support to be personally
15 and socially productive, which is the goal of the developmental
16 disabilities administration outlined in RCW 71A.10.015. Therefore,
17 the legislature finds that requiring intelligence quotient testing in
18 assessing whether a person has an intellectual or developmental
19 disability is not an appropriate diagnostic tool and eliminating the
20 use of intelligence quotient scores has been a goal of the
21 legislature for more than 40 years.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 71A.10
2 RCW to read as follows:

3 (1) Beginning July 1, 2025, the department may not use
4 intelligence quotient scores in determining eligibility or
5 substantial limitation for developmental disability-related services
6 for any programs or services for individuals with developmental
7 disabilities except as provided in subsection (2) of this section.
8 The department shall maintain eligibility for any persons previously
9 determined eligible for services in whole or in part because of an
10 intelligence quotient score and may not require such persons to meet
11 any new eligibility requirements established in response to the
12 discontinuation of the use of intelligence quotient scores. The
13 department may continue to use a diagnosis from qualifying
14 diagnosticians and adaptive functioning assessments to determine
15 eligibility and substantial limitation.

16 (2) An intelligence quotient score may be used to establish a
17 presumption of eligibility for developmental disability programs and
18 services.

19 (3) Beginning July 1, 2025, when the department has capacity and
20 funding to enroll additional individuals in its Medicaid waivers, it
21 must prioritize individuals who have been determined eligible for
22 paid services but were not receiving them as of June 30, 2025.

23 **Sec. 3.** RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and
24 amended to read as follows:

25 As used in this title, the following terms have the meanings
26 indicated unless the context clearly requires otherwise.

27 (1) "Assessment" means an evaluation is provided by the
28 department to determine:

29 (a) If the individual meets functional and financial criteria for
30 medicaid services; and

31 (b) The individual's support needs for service determination.

32 (2) "Community residential support services," or "community
33 support services," and "in-home services" means one or more of the
34 services listed in RCW 71A.12.040.

35 (3) "Crisis stabilization services" means services provided to
36 persons with developmental disabilities who are experiencing
37 behaviors that jeopardize the safety and stability of their current
38 living situation. Crisis stabilization services include:

1 (a) Temporary intensive services and supports, typically not to
2 exceed sixty days, to prevent psychiatric hospitalization,
3 institutional placement, or other out-of-home placement; and

4 (b) Services designed to stabilize the person and strengthen
5 their current living situation so the person may continue to safely
6 reside in the community during and beyond the crisis period.

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

9 (5) "Developmental disability" means a disability attributable to
10 intellectual disability, cerebral palsy, epilepsy, autism, or another
11 neurological or other condition of an individual found by the
12 secretary to be closely related to an intellectual disability or to
13 require treatment similar to that required for individuals with
14 intellectual disabilities, which disability originates before the
15 individual attains age eighteen, which has continued or can be
16 expected to continue indefinitely, and which constitutes a
17 substantial limitation to the individual. By ~~((January 1, 1989))~~ June
18 30, 2025, the department shall promulgate rules which define
19 neurological or other conditions in a way that ~~((is not limited to))~~
20 does not include intelligence quotient scores as ~~((the sole))~~ a
21 determinant of these conditions, and notify the legislature of this
22 action.

23 (6) "Eligible person" means a person who has been found by the
24 secretary under RCW 71A.16.040 to be eligible for services.

25 (7) "Habilitative services" means those services provided by
26 program personnel to assist persons in acquiring and maintaining life
27 skills and to raise their levels of physical, mental, social, and
28 vocational functioning. Habilitative services include education,
29 training for employment, and therapy.

30 (8) "Legal representative" means a parent of a person who is
31 under eighteen years of age, a person's legal guardian, a person's
32 limited guardian when the subject matter is within the scope of the
33 limited guardianship, a person's attorney-at-law, a person's
34 attorney-in-fact, or any other person who is authorized by law to act
35 for another person.

36 (9) "Notice" or "notification" of an action of the secretary
37 means notice in compliance with RCW 71A.10.060.

38 (10) "Residential habilitation center" means a state-operated
39 facility for persons with developmental disabilities governed by
40 chapter 71A.20 RCW.

1 (11) "Respite services" means relief for families and other
2 caregivers of people with disabilities, typically not to exceed
3 ninety days, to include both in-home and out-of-home respite care on
4 an hourly and daily basis, including twenty-four hour care for
5 several consecutive days. Respite care workers provide supervision,
6 companionship, and personal care services temporarily replacing those
7 provided by the primary caregiver of the person with disabilities.
8 Respite care may include other services needed by the client,
9 including medical care which must be provided by a licensed health
10 care practitioner.

11 (12) "Secretary" means the secretary of social and health
12 services or the secretary's designee.

13 (13) "Service" or "services" means services provided by state or
14 local government to carry out this title.

15 (14) "Service request list" means a list of eligible persons who
16 have received an assessment for service determination and their
17 assessment shows that they meet the eligibility requirements for the
18 requested service but were denied access due to funding limits.

19 (15) "State-operated living alternative" means programs for
20 community residential services which may include assistance with
21 activities of daily living, behavioral, habilitative, interpersonal,
22 protective, medical, nursing, and mobility supports to individuals
23 who have been assessed by the department as meeting state and federal
24 requirements for eligibility in home and community-based waiver
25 programs for individuals with developmental disabilities. State-
26 operated living alternatives are operated and staffed with state
27 employees.

28 (16) "Supported living" means community residential services and
29 housing which may include assistance with activities of daily living,
30 behavioral, habilitative, interpersonal, protective, medical,
31 nursing, and mobility supports provided to individuals with
32 disabilities who have been assessed by the department as meeting
33 state and federal requirements for eligibility in home and community-
34 based waiver programs for individuals with developmental
35 disabilities. Supported living services are provided under contracts
36 with private agencies or with individuals who are not state
37 employees.

38 (17) "Vacancy" means an opening at a residential habilitation
39 center, which when filled, would not require the center to exceed its
40 biennially budgeted capacity.

1 **Sec. 4.** RCW 71A.16.020 and 1988 c 176 s 402 are each amended to
2 read as follows:

3 (1) A person is eligible for services under this title if the
4 secretary finds that the person has a developmental disability as
5 defined in RCW 71A.10.020(~~((2))~~).

6 (2) The secretary may adopt rules further defining and
7 implementing the criteria in the definition of "developmental
8 disability" under RCW 71A.10.020(~~((2))~~). Beginning July 1, 2025,
9 neither the eligibility criteria nor the evidence to show substantial
10 limitation may require the use of intelligence quotient scores as a
11 determinant of developmental disability. An intelligence quotient
12 score may be used to establish a presumption of eligibility for
13 developmental disability programs and services. The department shall
14 maintain eligibility for any persons previously determined eligible
15 for services in whole or in part because of an intelligence quotient
16 score and may not require such persons to meet any eligibility
17 requirements established in response to the discontinuation of the
18 use of intelligence quotient scores.

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