

WSR 22-08-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed April 5, 2022, 1:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-24-017.

Title of Rule and Other Identifying Information: WAC 388-823-0510
What constitutes substantial limitation due to autism?

Hearing Location(s): On May 10, 2022, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98501. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are held virtually, see the DSHS website for the most current information.

Date of Intended Adoption: No earlier than May 11, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on May 10, 2022.

Assistance for Persons with Disabilities: Contact Shelley Tencza, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on April 26, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is proposing amendments to this section to expand the list of professionals from whom DDA accepts a statement that a person's autism prevents the person from completing a full-scale intellectual quotient test.

Reasons Supporting Proposal: This change prevents disruption in service for current DDA clients whose statement from a professional does not meet currently enacted requirements. A more comprehensive list of qualified professionals will also assist applicants for DDA services. This change reduces the potential impact to hospitals, law enforcement agencies, and behavioral health institutes by preserving the person's current living situation in the community. DDA eligibility and access to DDA services support both the client and the care system by providing predictable, stable services. Enacting this emergency rule prevents potential harm brought by disruption to services, or inability to access services.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.10.020, 71A.16.020.

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

Name of Proponent: DSHS, DDA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1500; Implementation and Enforcement: Will Nichol, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1583.

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 360-407-1500, fax 360-407-0955, TTY 1-800-833-6388, email chantelle.diaz@dshs.wa.gov.

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(4) because the rules do not affect small businesses.

Explanation of exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

April 4, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4905.3

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

WAC 388-823-0510 What constitutes substantial limitation due to autism? (1) To establish substantial limitation due to autistic disorder diagnosed under the DSM-IV-TR, you must have an adaptive skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) To establish substantial limitation due to autism spectrum disorder diagnosed under the DSM-5 you must:

(a) Have an adaptive-skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to WAC 388-823-0740 and WAC 388-823-0750; and

(b) Have either:

(i) A full-scale intellectual quotient (FSIQ) score more than one standard deviation below the mean as described in WAC 388-823-0720 and subject to WAC 388-823-0720 and WAC 388-823-0730; or

(ii) A written statement from a (~~professional~~) qualified (~~to administer intellectual tests stating~~) professional that your autism prevents you from completing (~~the~~) FSIQ testing. "Qualified professional" means:

(A) Board-certified neurologist;

(B) Board-certified psychiatrist;

(C) Licensed psychologist;

(D) Licensed physician associated with an autism center, developmental center, or center of excellence;

(E) Board-certified developmental and behavioral pediatrician; or

(F) Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

[Statutory Authority: RCW 71A.12.030, 71A.12.020 and 71A.16.020. WSR 21-13-164, § 388-823-0510, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0510, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020,

71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0510, filed 6/1/05, effective 7/2/05.]