

WSR 23-01-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed December 14, 2022, 12:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-16-066.

Title of Rule and Other Identifying Information: WAC 388-829B-200 What definitions apply to this chapter?, 388-829B-300 Who may DDA enroll in the enhanced case management program?, 388-829B-400 How often must the case manager visit the enhanced case management program client?, and 388-829B-600 May a client appeal an enrollment decision for the enhanced case management program?

Hearing Location(s): On January 24, 2023, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. 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 being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than January 25, 2023.

Submit Written Comments to: DSHS Rules Coordinator, 1115 Washington Street S.E., Olympia, WA 98504, email DSHSRPAURulesCoordinator@DSHS.wa.gov, fax 360-664-6185, by 5:00 p.m., January 24, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email tenczsa@dshs.wa.gov, by January 10, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these amendments is to expand enhanced case management program (ECMP) capacity as directed by the legislature and clarify appeal rights regarding enrollment onto the ECMP caseload.

Reasons Supporting Proposal: These amendments will comply with direction from the legislature, will help identify clients who might be at increased risk of abuse and neglect, and will serve an increased number of clients on the enhanced case management caseload. This chapter is how the developmental disabilities administration (DDA) enrolls a client on the caseload, how often the case resource manager must visit the client, and when DDA may disenroll a client from the caseload.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.320; and chapter 43.382 RCW.

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: Heather Lum, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1526.

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. RCW 34.05.328 (5)(b)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party. Clients and others have no obligations under the chapter that could be violated.

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).

Is exempt under RCW 34.05.328 (5)(b)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party.

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. ECMP is a program that offers clients increased contact with a case manager. There are no costs to clients or contracted providers.

Scope of exemption for rule proposal:

Is fully exempt.

December 14, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4954.4

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-200 What definitions apply to this chapter? The following definitions apply to this chapter.

~~("CARE assessment" means an inventory and evaluation of a client's strengths and limitations based on an in-person interview in the client's home or place of residence.)~~

"Caregiver" means a person contracted with the developmental disabilities administration (DDA) to provide ~~((medicaid or waiver))~~ personal care ~~((,))~~ services or respite care ~~((, or attendant care services))~~.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 ~~((+5))~~ and has been determined eligible to receive services by DDA under chapter 71A.16 RCW.

"Collateral contact" means a person or agency that is involved in the client's life, such as a legal guardian, family member, provider, or friend.

"DDA assessment" means an inventory and evaluation, under chapter 388-828 WAC, of a client's strengths and limitations based on an interview with the client. For the purposes of this chapter, the DDA assessment includes the "DDA assessment details."

"Independent supports" means an adult, other than the client's paid caregiver, who observes the care a client receives from their paid caregiver.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-200, filed 3/19/18, effective 4/19/18.]

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-300 Who may DDA enroll in the enhanced case management program? The developmental disabilities administration (DDA) may enroll a client in the enhanced case management program if the client ~~((is largely dependent on a paid caregiver in the client's home))~~ is currently assessed to be eligible for medicaid personal care or community first choice (CFC) services in their home under chapter 388-106 WAC and meets criteria under subsection (1), (2), or (3) of this section.~~((÷))~~

(1) The client's DDA assessment indicates that the home environment may jeopardize the client's health or safety.

~~((1))~~ (2) The client's ((CARE)) DDA assessment indicates the client:

(a) ((Is not always able to supervise their)) Has difficulty communicating their needs and wants to their caregiver or inform someone when their needs are not being met;

(b) Has ((communication barriers)) a limited ability to advocate for themselves or express themselves, and has few documented collateral contacts; and

(c) Lacks additional, independent supports that regularly help the client monitor the care being provided in their home.~~((; or~~

~~(2) The client lives with the paid caregiver and:~~

~~(a) The client has been the subject of an adult protective services or child protective services referral in the past year; or~~

~~(b))~~ (3) DDA has concerns that the ((home environment or)) quality of care may jeopardize the client's health or safety((-)) for reasons such as:

(a) The client has been the subject of an adult protective services referral in the past year;

(b) The client has been the subject of a child protective services referral in the past year;

(c) The client's DDA assessment indicates the client is underweight;

(d) The client's DDA assessment indicates that the primary caregiver is age 65 or older or states that they are "very stressed," and the caregiver states that the caregiving situation is at "serious risk of failure" or there is concrete evidence of reduced care; or

(e) The client has experienced a destabilizing event, such as a loss of a primary caregiver, hospitalization, or victimization.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-300, filed 3/19/18, effective 4/19/18.]

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-400 How often must the case manager visit the enhanced case management program client? (1) The client's case manager must visit each enhanced case management program client at least once every four months at the client's home, including unannounced visits as needed. Each required visit must not occur more than four months apart.

(2) An unannounced visit may replace a scheduled visit.

~~(3) ((If a client declines a visit, announced or unannounced, the case manager must document the declined visit in the enhanced case management program section in the comprehensive assessment reporting and evaluation (CARE) tool.~~

~~(4))~~ If the case manager is unable to meet with the client for a ((required)) visit, the case manager must:

~~(a) ((s))~~ Schedule a follow-up visit as soon as possible and no later than ((thirty)) 30 days((-)); and

(b) Document that the visit did not occur.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-400, filed 3/19/18, effective 4/19/18.]

NEW SECTION

WAC 388-829B-600 May a client appeal an enrollment decision for the enhanced case management program? A client does not have a right to appeal:

(1) A decision whether or not to enroll on the enhanced case management program; or

(2) A decision to transfer off the enhanced case management program.

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