

WSR 23-12-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed June 6, 2023, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-18-073.

Title of Rule and Other Identifying Information: WAC 388-845-0001
Definitions, 388-845-0005 What are home and community based services
(HCBS) waivers?, 388-845-0010 What is the purpose of HCBS waivers?,
388-845-0030 Do I meet criteria for HCBS waiver-funded services?,
388-845-0041 What is DDA's responsibility to provide your services un-
der the DDA HCBS waivers administered by DDA?, 388-845-0045 When there
is capacity to add people to a waiver, how does DDA determine who will
be enrolled?, 388-845-0050 How do I request to be enrolled in a waiv-
er?, 388-845-0070 What determines if I need ICF/IID level of care?,
388-845-0100 What determines which waiver I am assigned to?,
388-845-0105 What criteria determine assignment to the community pro-
tection waiver?, 388-845-0110 What are the limits to the waiver serv-
ices you may receive?, 388-845-0111 Are there limitations regarding
who can provide services?, 388-845-0113 When may I receive waiver
services through teleservice?, 388-845-0210 What services are availa-
ble under the basic plus waiver?, 388-845-0215 What services are
available under the core waiver?, 388-845-0220 What services are
available under the community protection waiver?, 388-845-0225 What
services are available under the children's intensive in-home behavio-
ral support (CIIBS) waiver?, 388-845-0230 What services are available
under the individual and family services (IFS) waiver?, 388-845-0415
What is assistive technology?, 388-845-0425 Are there limits to the
assistive technology you may receive?, 388-845-0500 What is positive
behavior support and consultation?, 388-845-0501 What is included in
positive behavior support and consultation for the children's inten-
sive in-home behavioral support (CIIBS) waiver?, 388-845-0505 Who is a
qualified provider of positive behavior support and consultation?,
388-845-0506 Who is a qualified provider of positive behavior support
and consultation for the children's intensive in-home behavioral sup-
port (CIIBS) waiver?, 388-845-0510 Are there limits to the positive
behavior support and consultation you may receive?, 388-845-0515 What
is extermination of bedbugs?, 388-845-0525 Are there limits to the ex-
termination of bedbugs services I may receive?, 388-845-0650 What is
community engagement?, 388-845-0660 Are there limits to the community
engagement you may receive?, 388-845-0800 What is emergency assistance
funding?, 388-845-0805 Who is a qualified provider of emergency assis-
tance funding?, 388-845-0810 How do I qualify for emergency assistance
funding?, 388-845-0820 Are there limits to your use of emergency as-
sistance funding?, 388-845-0900 What are environmental adaptations?,
388-845-0910 What limits apply to environmental adaptations?,
388-845-0940 Are there limits to the equine therapy I may receive?,
388-845-0945 What is remote support?, 388-845-0950 Who are qualified
providers of remote support?, 388-845-0955 Are there limits to the re-
mote support I may receive?, 388-845-1030 What are individualized
technical assistance services?, 388-845-1040 Are there limits to the
individualized technical assistance services you may receive?,
388-845-1163 Are there limits to the music therapy I may receive?,
388-845-1190 What is peer mentoring?, 388-845-1192 What limits apply

to peer mentoring?, 388-845-1195 What is person-centered plan facilitation?, 388-845-1197 What are the limits for person-centered plan facilitation?, 388-845-1600 What is respite care?, 388-845-1607 Can someone who lives with you be your respite provider?, 388-845-1620 Are there limits to the respite care you may receive?, 388-845-1660 Are there limits to the risk assessment you may receive?, 388-845-1800 What are specialized equipment and supplies?, 388-845-1805 Who are the qualified providers of specialized equipment and supplies[?], 388-845-1810 Are there limits to the specialized equipment and supplies you may receive?, 388-845-1865 Are there limits to your receipt of specialized clothing?, 388-845-1870 What are specialized habilitation services?, 388-845-1880 Who are qualified providers of specialized habilitation services?, 388-845-1890 Are there limits to the specialized habilitation I may receive?, 388-845-2000 What is staff and family consultation?, 388-845-2005 Who is a qualified provider of staff and family consultation?, 388-845-2010 Are there limits to the staff and family consultation you may receive?, 388-845-2130 What are supported parenting services?, 388-845-2141 What is specialized evaluation and consultation?, 388-845-2142 Who are qualified providers of specialized evaluation and consultation services?, 388-845-2143 What are the limits to specialized evaluation and consultation services?, 388-845-2150 Who is a qualified provider of therapeutic adaptations?, 388-845-2155 Are there limits to the therapeutic adaptations I may receive?, 388-845-2200 What are transportation services?, 388-845-2205 Who is qualified to provide transportation services?, 388-845-2210 Are there limitations to the transportation services you can receive?, 388-845-2260 What are vehicle modifications?, 388-845-2270 Are there limits to your receipt of vehicle modification services?, 388-845-2283 How are my wellness educational materials selected?, 388-845-2285 Are there limits to wellness education?, 388-845-2290 Who are qualified providers of wellness education?, 388-845-3055 What is a person-centered service plan?, 388-845-3056 What if you need assistance to understand your person-centered service plan?, 388-845-3065 How long is your plan effective?, 388-845-3075 What if your needs change?, 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?, 388-845-4000 What are my appeal rights under the waiver?, and 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver?

Hearing Location(s): On August 8, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Hearings are being held virtually. Please see the department of social and health services (DSHS) website for the most current information.

Date of Intended Adoption: Not earlier than August 9, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6085, by 5:00 p.m. on August 8, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules coordinator, phone 360-664-6036, fax 360-664-6085, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 25, 2023.

Reasons Supporting Proposal: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service

from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; amend the definition of community engagement; add teleservice as a service delivery method; add remote supports to multiple waivers; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.120.

Statute Being Implemented: RCW 71A.12.290.

Rule is necessary because of federal law, 42 C.F.R. 441.301

(c) (6).

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 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. For businesses delivering services under chapter 388-845 WAC, common costs by rule amendments would be the result of changed provider qualifications, such as requiring a license or training. No new trainings or licenses are required.

Former positive behavior support providers who choose to deliver behavioral health services through fee-for-service medicaid or managed care organizations may incur costs associated with contracting and billing for those separate state plan benefits. The contracting and billing costs are not required by the amendments to this chapter. Thus, providers should incur no costs in complying with these amendments.

May 31, 2023

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 23-14 issue of the Register.