

WSR 24-17-139
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed August 21, 2024, 7:54 a.m., effective August 21, 2024, 7:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities administration (DDA) is adopting a new chapter of rules on an emergency basis to implement ESSB 5950 (2024), which directs the department of social and health services (DSHS) to "to operate a staff-secure, voluntary, and transitional treatment facility specializing in services for adolescents over the age of 13 who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis." Services must be provided at the property of Lake Burien and be implemented in a way that prioritizes discharge to a less restrictive community-based setting.

The emergency rules will establish service eligibility criteria, responsibilities for involved parties, administrative hearing rights, and more.

Citation of Rules Affected by this Order: New WAC 388-843-0010, 388-843-0015, 388-843-0020, 388-843-0025, 388-843-0100, 388-843-0110, 388-843-0120, 388-843-0160, 388-843-0170, and 388-843-0180.

Statutory Authority for Adoption: RCW 34.05.350 (1)(a), 71A.12.030.

Other Authority: 2023-2025 Supplemental operating budget (ESSB 5950, sections 203 (1)(nn) and 227(44)).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In the 2024 legislative session, the legislature has authorized and directed DSHS/DDA "to operate a staff-secure, voluntary, and transitional treatment facility specializing in services for adolescents over the age of 13 who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis." The legislature has specified that "[t]hese individuals require intensive behavioral supports and may also be in need of behavioral health services."

Currently there are a significant number of children admitted to acute care facilities without medical need to remain. There are also children who have been sent out-of-state, away from their families, for services because no other option was available in Washington state to provide the necessary level of support. These children have an immediate need, which can be met by the youth transitional care facility, for age-appropriate, holistic, cooccurring disorder treatment and therapies.

From January 1, 2024, to present, DDA data show that there were 77 DDA-eligible youth with a diagnosis of intellectual and developmental disabilities, autism spectrum disorder, and a mental health diagnosis under the age of 18 who were hospitalized and unable to discharge due to a lack of appropriate placement or supports as determined by the youth's treating professional. The youth transitional care facility (YTCF) will provide specialized treatment using adap-

tive, evidence-based treatment modalities to meet the needs of this population. YTCF was created to fill the gap in the continuum of care for youth with these cooccurring diagnoses.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: August 20, 2024.

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SHS-5052.2

**Chapter 388-843 WAC
YOUTH TRANSITIONAL CARE FACILITY**

PURPOSE

NEW SECTION

WAC 388-843-0010 What is a youth transitional care facility? A youth transitional care facility is a staff-secure, voluntary, and transitional treatment facility that:

(1) Specializes in services for youth who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis.

(2) Supports youth who require intensive behavioral supports and who may also need behavioral health services.

(3) Provides services in a way that supports the youth to transition to a less restrictive community-based setting.

DEFINITIONS

NEW SECTION

WAC 388-843-0015 What definitions apply to this chapter? Admission team means an interdisciplinary group at a youth transitional care facility who reviews a youth's application and supporting documentation to determine if there is capacity to safely serve the youth at the facility and to establish an admission date.

DCYF means the department of children, youth, and families.

DDA means the developmental disabilities administration within the department of social and health services.

Dedicated review committee means a committee of subject matter experts that reviews a youth's eligibility for specialized treatment at a youth transitional care facility.

Genetic condition means a condition that is the result of variants in the genome and impairs the cognitive or developmental growth or abilities of the youth.

Individualized treatment plan means a detailed plan that documents treatment activities that uses the youth's strengths and protective factors to support treatment activities, therapies, training, and future planning customized to address the youth's needs as a whole person. The individualized treatment plan is continuously reassessed and changed based on the youth's treatment progress and evolving needs.

Neurological condition means a neurological condition that affects the brain, spinal cord, or system, and impairs the cognitive or developmental growth or abilities of the youth.

Neurodevelopmental disorder means types of disorders that influence how the brain functions and alters neurological development, causing difficulties in social, cognitive, and emotional functioning.

Psychiatric diagnosis means a clinically significant condition that affects the person's ability to think, regulate their emotions or behaviors, and represents a dysfunction in psychological, biological, or developmental processes underlying their mental functioning. Clinically trained professionals evaluate conditions and make diagnostic determinations consistent with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5-TR) or the International Classification of Diseases, 10th Edition (ICD-10) or their successors.

Specialized treatment means adapted mental health modalities and habilitative interventions through an interdisciplinary approach to support youth with complex developmental disabilities, intellectual disabilities, or autism spectrum disorder who may also have a mental health or substance use diagnosis.

Youth transitional care facility or facility means the staff-secure and voluntary facility offering specialized treatment and habilitative interventions for eligible youth.

ELIGIBILITYNEW SECTION

WAC 388-843-0020 Who is eligible for specialized treatment at a youth transitional care facility? (1) A youth is eligible for specialized treatment at a youth transitional care facility if the dedicated review committee determines or verifies the youth:

(a) Is DDA-eligible under chapter 388-823 WAC or is assessed to have a diagnosed neurodevelopmental disorder, or another neurological condition or other genetic condition;

(b) Is over age 13 but under age 18;

(c) Has accessed all appropriate and available less restrictive services and the youth's assessed health care needs exceed what is available in the community;

(d) Has a serious psychiatric diagnosis;

(e) Experiences a severity, intensity, and frequency of behavior that:

(i) Significantly impairs the youth's functioning; and

(ii) Prevents the youth from being safely supported in a less restrictive setting; and

(f) Needs and is likely to benefit from specialized treatment due to their complex developmental disabilities, intellectual disabilities, and behavioral health needs.

(2) For the purposes of this section, "appropriate" means a less restrictive service recommended by the youth's treating professional.

(3) The facility will not admit or detain a youth who declines or refuses to be admitted to the facility.

NEW SECTION

WAC 388-843-0025 If a youth is determined eligible for specialized treatment, how will the admission team at the facility determine if they are able to support the youth? (1) The facility's admission team will review the application and supporting documentation to evaluate the youth's treatment needs.

(2) Eligibility for services at a youth transitional care facility does not entitle an individual to services in a youth transitional care facility.

(3) The youth's admission to a transitional care facility is dependent upon each of the following:

(a) Available capacity.

(b) Appropriate staffing to meet the youth's assessed treatment needs.

(c) Determination by a facility that they can safely serve the youth.

(d) Available funding.

RIGHTS AND RESPONSIBILITIESNEW SECTION

WAC 388-843-0100 What is the parent or legal representative's responsibility while a youth is receiving services at a youth transitional care facility? While a youth receives services at a youth transitional care facility, the youth's parent or legal representative must:

- (1) Enroll the youth in the local school district where the facility is located and sign a consent to exchange information;
- (2) Participate in the development and ongoing assessment of the youth's individual educational plan and maintain regular communication with the facility and school representatives;
- (3) Provide consent to administer prescribed psychotropic medications following discussion with treating provider of risks and benefits;
- (4) Attend and participate in:
 - (a) The development of the individualized treatment plan;
 - (b) Treatment team meetings;
 - (c) The DDA annual assessment, if applicable, including the person-centered service plan; and
 - (d) Implementation of the individualized treatment plan when the interdisciplinary team has determined that a parent or a legal representative's involvement is necessary to achieve a youth's treatment goals and facilitate transition to a less restrictive setting;
- (5) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits; and
- (6) Arrange for transportation to and from the facility when Medicaid transportation is not available.

NEW SECTION

WAC 388-843-0110 What are the responsibilities of the department of children, youth, and families while a dependent youth is receiving services at a youth transitional care facility? While a dependent youth receives services at a youth transitional care facility, the department of children, youth, and families (DCYF) must:

- (1) Enroll the youth in the local school district where the facility is located;
- (2) Identify a court-ordered educational liaison who will sign documents for school and participate in meetings, including individual education plan meetings, unless the parent is serving in that capacity;
- (3) Before admission, provide the following documentation of authority to administer psychotropic medications if prescribed:
 - (a) Consent from the youth's parent or legal representative; or

- (b) Court-ordered approval;
- (4) Identify a DCYF representative who is able to make decisions on behalf of the youth to attend medical and dental appointments and provide consents;
- (5) Attend and participate in:
 - (a) The development and implementation of the individualized treatment plan;
 - (b) Treatment team meetings; and
 - (c) The DDA annual assessment, if applicable, including the person-centered service plan;
- (6) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits; and
- (7) Notify DDA before any change to a youth's dependency status.

NEW SECTION

WAC 388-843-0120 What are the responsibilities of a youth transitional care facility when a youth is approved for admission? When a youth is approved for admission to the youth transitional care facility, the facility must:

- (1) Provide adequate staff to meet the youth's assessed treatment needs;
- (2) Develop and implement an individualized treatment plan;
- (3) Maintain regular communication with school representatives and attend school-related meetings;
- (4) Participate in the youth's individualized education program and collaborate with the school, legal representative, and parent or educational liaison to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;
- (5) Maintain regular communication with the youth's legal representative;
- (6) Maintain a youth rights policy in accordance with chapter 71A.26 RCW; and
- (7) Support the youth in maintaining contact with their parent or legal representative.

DISCHARGE AND TERMINATION

NEW SECTION

WAC 388-843-0160 When may a youth transitional care facility discharge a youth? The youth transitional care facility may discharge a youth if the facility determines:

- (1) The youth turns 18;

- (2) The youth or the youth's legal representative requests discharge;
- (3) The youth no longer requires specialized treatment under the direction of a physician;
- (4) The youth has achieved the treatment goals established at admission;
- (5) The youth presents a health or safety risk to the youth or others in the treatment environment; or
- (6) The facility is unable to meet the youth's assessed treatment needs.

ADMINISTRATIVE HEARING RIGHTS

NEW SECTION

WAC 388-843-0170 May a youth or legal representative appeal a DDA decision regarding specialized treatment? If DDA determines a youth is not eligible to receive specialized treatment at a youth transitional care facility, the youth or legal representative can request an appeal through the office of administrative hearings.

NEW SECTION

WAC 388-843-0180 May a youth or legal representative appeal a youth transitional care facility decision for specialized treatment? A youth or legal representative does not have a right to appeal a facility:

- (a) Termination of services due to lack of funding, capacity, or staffing; or
- (b) Determination under WAC 388-843-0160 (3)-(6).