

WSR 24-01-116

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 19, 2023, 11:00 a.m., effective January 19, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The developmental disabilities administration amended these rules to align with amendments to home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services. Major changes include adding a priority group for waiver enrollment; adding a new provider type for stabilization services; and adding signature options for person-centered service plans. When effective, these permanent rules supersede emergency rules on these sections filed under WSR 23-22-009.

Citation of Rules Affected by this Order: Amending WAC 388-845-0045, 388-845-1105, 388-845-1505, and 388-845-3062.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120; 42 U.S.C. 1396n(c).

Adopted under notice filed as WSR 23-22-001 on October 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 19, 2023.

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SHS-4988.3

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver, DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

- (a) Priority populations as identified and funded by the legislature.
- (b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.
- (c) Persons identified as a risk to the safety of the community.
- (d) Persons currently receiving services through state-only funds.
- (e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.
- (f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).
- (g) Persons exiting the Washington department of children, youth, and families foster care or aging out of dependency.
- (3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1105 Who is a qualified provider of stabilization services - crisis diversion bed? Providers of stabilization services - crisis diversion beds must be:

- (1) ~~((DDA))~~ Department-certified residential agencies per chapter 388-101 WAC;
- (2) ~~((Other department licensed or certified agencies; or (3-)) State-operated agencies ((-)); or~~
- (3) Other agencies licensed by the department of children, youth, and families under chapter 110-145 WAC and contracted with DDA to provide services under chapter 388-833 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver? Providers of residential habilitation services for participants in the core waiver must be one of the following:

- (1) ~~((Individuals))~~ An individual contracted with DDA to provide ~~((residential support))~~ services as a ~~((("))~~ companion home ~~((("))~~ provider under chapter 388-829C WAC;
- (2) ~~((Individuals))~~ An individual or agency contracted with DDA to provide ~~((training))~~ services as an ~~((("))~~ alternative living provider ~~((("))~~ under chapter 388-829A WAC;
- (3) ~~((Agencies))~~ An agency contracted with DDA and certified per chapter 388-101 WAC;
- (4) A state-operated living ~~((alternatives))~~ alternative (SOLA); or
- (5) A licensed and contracted:
- (a) Group care ~~((facilities and))~~ facility or staffed residential ~~((homes))~~ home under chapter 110-145 WAC;
- (b) Child foster ~~((homes))~~ home under chapter 110-148 WAC; or
- (c) Child placing ~~((agencies))~~ agency under chapter 110-147 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3062 Who is required to sign the person-centered service plan and how can it be signed? (1) If you do not have a legal representative, you must sign the person-centered service plan.

(2) If you have a legal representative, your legal representative must sign the person-centered service plan.

(3) If you need assistance to understand your person-centered service plan, DDA will follow the steps outlined in WAC 388-845-3056(~~(1) and (3)~~).

(4) You choose how to sign your person-centered service plan - such as, with a pen, or with an electronic or voice signature.