

**WSR 24-24-092
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 3, 2024, 8:31 a.m., effective December 10, 2024]

Effective Date of Rule: December 10, 2024.

Purpose: The developmental disabilities administration (DDA) is adopting new sections of rule on an emergency basis to implement E2SSB 5440 (2023), which directs the department of social and health services to develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability to available wraparound services and supports in community-based settings.

Citation of Rules Affected by this Order: New WAC 388-848-0010, 388-848-0015, 388-848-0020, 388-848-0030, 388-848-0040, 388-848-0050, 388-848-0060, 388-848-0070, 388-848-0080, 388-848-0090, 388-848-0100, 388-848-0110, 388-848-0120, 388-848-0130, 388-848-0140, 388-848-0150, 388-848-0160, 388-848-0170, 388-848-0180, 388-848-0250, 388-848-0260, and 388-848-0270.

Statutory Authority for Adoption: RCW 34.05.350 (1)(a).

Other Authority: RCW 10.77.060 (see E2SSB 5440).

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: Enacting these rules on an emergency basis is necessary in order to implement the program established under E2SSB 5440, which is intended for people in need of immediate support after being deemed incompetent or nonreformable in order to inform those individuals of services available and ensure preservation of their health and safety by providing necessary services as quickly as possible. This is the fourth emergency filing on these sections and is necessary to keep the rules enacted until DDA can complete the permanent rule-making process. DDA is progressing through the permanent process and plans to repeat external review because many new sections have been added, making the rules substantively different from the first external review. This fourth emergency filing is also substantively different from the third emergency filing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 22, Amended 0, Repealed 0.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 22, 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 22, Amended 0, Repealed 0.

Date Adopted: December 2, 2024.

Katherine I. Vasquez

SHS-5019.9

**Chapter 388-848 WAC
CIVIL TRANSITIONS PROGRAM**

PURPOSE

NEW SECTION

WAC 388-848-0010 What is the civil transitions program? (1) The civil transitions program is a voluntary program for people referred to the developmental disabilities administration by the behavioral health administration as a result of a determination that the person is not competent to stand trial under RCW 10.77.084 and not likely restorable due to a diagnosis of intellectual or developmental disability.

(2) If a person is referred to the civil transitions program and is awaiting a restoration decision, DDA must offer the person an opportunity to apply for a DDA eligibility determination under chapter 388-823 WAC. Conditional services are not available to the person while awaiting a restoration decision.

NEW SECTION

WAC 388-848-0015 What is state-operated community residential transitions (SOCR-T)? State-operated community residential transitions (SOCR-T) is a provider of voluntary, short-term habilitation and transition services for clients of the developmental disabilities administration who have been found not competent to stand trial and not likely restorable under RCW 10.77.084 due to a diagnosis of intellectual or developmental disability.

DEFINITIONS

NEW SECTION

WAC 388-848-0020 What definitions apply to this chapter? The following definitions apply to this chapter:

"Case manager" means the developmental disabilities administration case resource manager assigned to a client.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined eligible by DDA to receive services under chapter 388-823 WAC.

"Community first choice" or "CFC" is a Medicaid state plan program as defined in chapter 388-106 WAC.

"Conditional services" means supportive housing services and community first choice services that may be available to a participant on an interim basis while awaiting a DDA-eligibility determination. Conditional services are limited to funds allocated for the program's purpose.

"Conditionally eligible" means a status assigned to a civil transitions program participant while the person awaits a DDA eligibility determination.

"Developmental disability" is defined in RCW 71A.10.020.

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

"Legal representative" means a court-appointed guardian if a decision is within the scope of the guardianship order, or any other person authorized by law to act for the client.

"Medication administration" means the direct application of a medication or device by ingestion, inhalation, injection, or any other means, whether self-administered by a client, or administered by an authorized health care provider.

"Medication assistance" means assistance with self-administration of medication rendered by a nonpractitioner to a client in accordance with chapter 69.41 RCW.

"Participant" means a person receiving services through the civil transitions program.

"Support" means assistance a client receives based on needs identified in the person-centered service plan.

"Supportive housing" means wraparound housing stability services or a combination of rental assistance and wraparound housing stability services administered by DDA and intended to stabilize and support participants to live successfully in the community.

"Supportive housing agreement" means a contract between the participant and the supportive housing provider that sets rules and expectations for living in the home, participating in wraparound housing stability services, or both.

"Termination" means an action taken by DDA that ends DDA eligibility, DDA services, or both.

"Wraparound housing stability services" means support that helps a participant by:

- (1) Navigating community resources by supporting the person to:

- (a) Prepare for and transition to a permanent service option;
 - (b) Identify and obtain community services based on their support needs; and
 - (c) Obtain and maintain services in their community of choice.
- (2) Providing guidance to help the participant maintain tenancy once housing is secured.

PROGRAM ELIGIBILITY AND REFERRAL

NEW SECTION

WAC 388-848-0030 Who is eligible to enroll in the civil transitions program? To be eligible for enrollment in the civil transitions program, a person must:

- (1) Be determined not competent to stand trial and not likely restorable under RCW 10.77.084 due to an intellectual or developmental disability;
- (2) Be referred to the developmental disabilities administration by the behavioral health administration; and
- (3) Be one of the following:
 - (a) Not a current DDA client and apply for a DDA eligibility determination under chapter 388-823 WAC no more than 30 days after enrolling in the civil transitions program;
 - (b) A current DDA client who is not eligible for residential habilitation services under chapter 388-845 WAC; or
 - (c) A current DDA client who is eligible for residential habilitation services under chapter 388-845 WAC or residential services from an adult family home but is awaiting a service provider.

NEW SECTION

WAC 388-848-0040 How does a civil transitions program provider determine if they can safely meet a participant's needs? (1) To determine whether they can safely meet a participant's needs, the civil transitions program provider reviews participant information, such as:

- (a) The participant's referral packet;
 - (b) Information gathered from the participant, collateral contacts, or case manager; and
 - (c) Composition of participants currently supported in the provider's shared housing.
- (2) If the civil transitions program provider determines it is likely unsafe for the person to share a home with other vulnerable adults, the provider will determine if a single-person housing option is appropriate and available.

NEW SECTION

WAC 388-848-0050 Who may receive civil transitions program services from a state-operated community residential transitions (SOCR-T) provider? A client may receive civil transitions program services from a state-operated community residential transitions (SOCR-T) provider if:

- (1) The client is referred to the developmental disabilities administration by the behavioral health administration under civil transitions criteria;
- (2) The client is determined DDA-eligible under chapter 388-823 WAC; and
- (3) The provider determines:
 - (a) That the client does not pose a risk to the health or safety of other participants, SOCR-T staff; and
 - (b) They can safely meet the client's needs within available funding.

NEW SECTION

WAC 388-848-0060 What services are available to a civil transitions program participant? (1) A participant who is not a DDA client upon program enrollment may request supportive housing services while awaiting an eligibility determination under chapter 388-823 WAC and is considered conditionally eligible.

(2) A participant who is not a DDA client upon program enrollment may request community first choice services under chapter 388-106 WAC while awaiting an eligibility determination under chapter 388-823 WAC.

(3) A participant who is a DDA client will be referred to DDA services for which the client may be eligible. If the client is unable to access residential habilitation services, the client may request:

- (a) Supportive housing;
- (b) Wraparound housing stability support; or
- (c) Services from a state-operated community residential transitions provider.

NEW SECTION

WAC 388-848-0070 Are there limits to how long a participant may receive conditional services? (1) If a participant is found ineligible for DDA services, the participant may receive conditional services for no more than six months from the first date of service.

(2) From a contracted provider, a participant who is a DDA client may receive:

- (a) Supportive housing and wraparound housing stability services through the civil transitions program for up to six months; and
- (b) Community first choice services as long as the client meets eligibility criteria under WAC 388-106-0277.

(3) From a state-operated community residential transitions provider, a participant who is a DDA client may receive habilitation and transition services for up to six months.

(4) DDA may extend supportive housing services or habilitation and transition services beyond six months, not to exceed 365 days, for a participant who is a DDA client if:

- (a) The participant is in the process of transitioning to residential habilitation services or CFC residential services; and
- (b) Appropriated funds are available.

NEW SECTION

WAC 388-848-0080 Are civil transitions program services available everywhere in Washington state? Civil transitions program services are limited to areas of Washington state with qualified state-operated or contracted providers.

NEW SECTION

WAC 388-848-0090 How long after DDA received a referral may a person enroll in the civil transitions program? (1) After DDA contacts a person referred to the civil transitions program, the person has up to 90 days to enroll. For the purpose of this section, enrollment occurs on the earlier of:

- (a) Submission of an eligibility application; or
 - (b) Authorization of a conditional service.
- (2) If DDA receives a referral without contact information for the person, DDA will keep the referral active for 90 days.
- (3) If DDA receives a referral with contact information for the person but is unable to contact them, DDA will keep the referral active for 90 days from final attempt to make contact.
- (4) If the person declines DDA services, DDA will keep the referral active for 90 days from the date the person declines.

NEW SECTION

WAC 388-848-0100 What if a person is referred to the civil transitions program multiple times? (1) DDA offers an intake and eligibility application to a person each time the person is referred to the civil transitions program.

(2) If the person has already been determined ineligible, under WAC 388-823-0015, DDA will process intake and eligibility requests if new information is available.

(3) Regardless of DDA eligibility, a person can request conditional services for up to six months.

(4) If the person has already received civil transitions program services and services were terminated under WAC 388-848-0250(3) or (4), an updated referral, including information about new charges and previous civil transitions program service terminations, is required.

NEW SECTION

WAC 388-848-0110 What if a participant withdraws from conditional services and then requests to resume services? (1) If a participant withdraws from conditional community first choice services before establishing DDA eligibility, the participant has 30 days to request to resume services. For the purposes of this subsection, "withdraw" means the participant formally requests to end the services.

(2) If a participant withdraws from conditional supportive housing services, the participant has 30 days to request to resume services. Services will be subject to availability. For the purposes of this subsection, "withdraw" means the participant:

- (a) Formally requests to end the service;
- (b) Declines to renew an expired supportive housing agreement; or
- (c) Leaves the home for more than 72 consecutive hours without communication or a plan to return to the home.

(3) If a participant withdraws from habilitation and transition services, a new referral must be submitted in order to resume services. Services will be subject to availability. For the purposes of this subsection, "withdraw" means the participant:

- (a) Formally requests to end the service;
- (b) Declines to renew an expired household health and safety agreement; or
- (c) Is missing and DDA is unable to locate the participant.

PARTICIPANT AGREEMENTSNEW SECTION

WAC 388-848-0120 Must a participant sign a supportive housing agreement? To receive supportive housing services from a contracted provider, an eligible participant must sign and adhere to a supportive housing agreement.

NEW SECTION

WAC 388-848-0130 Must a participant sign a household health and safety agreement? To receive habilitation and transition services from a state-operated community residential transitions provider, a participant must sign and adhere to a household health and safety agreement.

PROVIDER REQUIREMENTSNEW SECTION

WAC 388-848-0140 Who can apply to become a provider of wrap-around housing stability services? To apply to become a provider of wraparound housing stability services, a person or entity must be one of the following DDA-contracted providers in good standing:

- (1) An alternative living provider under chapter 388-829A WAC;
- (2) A community engagement provider under WAC 388-845-0655;
- (3) A foundational community supports provider under chapter 182-559 WAC; or
- (4) A supported living, group home, or group training home provider under chapters 388-101 and 388-101D WAC.

NEW SECTION

WAC 388-848-0150 Is a provider a mandated reporter? (1) A provider supporting a participant in the civil transitions program is a mandated reporter under chapter 74.34 RCW.

(2) In addition to mandatory reports to agents under chapter 74.34 RCW, the provider must also report to DDA an incident involving a participant that includes an allegation of abuse, improper use of restraint, neglect, personal or financial exploitation, or abandonment.

STATE-OPERATED COMMUNITY RESIDENTIAL TRANSITIONS (SOCR-T)NEW SECTION

WAC 388-848-0160 What services does state-operated community residential transitions (SOCR-T) provide? (1) State-operated community residential transitions (SOCR-T) provides the following:

- (a) Functional assessment and positive behavior support;
- (b) Wraparound housing stability services;
- (c) Services assigned to SOCR-T in the client's person-centered service plan;
- (d) Healthcare supports, including:
 - (i) Medication assistance and administration;
 - (ii) Delegated nursing tasks under WAC 246-840-910 through 246-840-970;

- (iii) Assisting the client with healthcare appointments, including scheduling;
 - (iv) Transportation to, and participation in, medical appointments as necessary; and
 - (v) Assisting the client to understand and follow their healthcare plans and recommendations.
- (2) SOCR-T must provide the following to participants in the program:
- (a) Daily meals and snacks;
 - (b) Toiletries and personal care items;
 - (c) Bedding;
 - (d) Access to laundry services;
 - (e) Access to a telephone;
 - (f) Community access; and
 - (g) Transportation to necessary appointments and activities.

NEW SECTION

- WAC 388-848-0170 What are the responsibilities of state-operated community residential transitions (SOCR-T)?** (1) State-operated community residential transitions (SOCR-T) must meet the requirements of:
- (a) Each client's person-centered service plan (PCSP) when the PCSP identifies the service provider as responsible; and
 - (b) Each client's individual instruction and support plan.
- (2) SOCR-T must:
- (a) Have a designated administrator;
 - (b) Ensure that clients have immediate access to staff, or the means to contact staff, at all times;
 - (c) Provide adequate staff to meet the needs of clients as identified in their PCSPs; and
 - (d) Retain each client's records for six years after date of discharge.

NEW SECTION

- WAC 388-848-0180 What home safety requirements must be met by state-operated community residential transitions (SOCR-T)?** (1) State-operated community residential transitions (SOCR-T) must ensure that the following home safety requirements are met for each client unless otherwise specified in the client's person-centered service plan:
- (a) A safe and healthy environment;
 - (b) Accessible telephone equipment and a list of emergency contact numbers;
 - (c) An evacuation plan developed and practiced with the client;
 - (d) Unblocked door and window for emergency exit;
 - (e) A safe storage area for flammable and combustible materials;
 - (f) An operating smoke detector, with a light alarm for clients with hearing impairments;
 - (g) An accessible flashlight or other safe accessible light source in working condition; and
 - (h) Basic first-aid supplies.

(2) Unless otherwise specified in the client's person-centered service plan, SOCR-T must assist clients in regulating household water temperature as follows:

(a) Maintain water temperature in the household no higher than 120 degrees Fahrenheit;

(b) Check water temperature when the client first moves into the household and at least once every three months from then on; and

(c) Regulate water temperature for clients who receive 24-hour support, and for other clients as specified in the individual support plan.

(3) SOCR-T must keep records that indicate that requirements under this section are met for each client.

TERMINATING AND STOPPING SERVICES

NEW SECTION

WAC 388-848-0250 When may DDA terminate a participant's supportive housing services? DDA may terminate a participant's supportive housing services if:

(1) The participant has acquired housing or is receiving residential habilitation services through DDA;

(2) The participant no longer needs the service;

(3) The participant does not adhere to conditions of the supportive housing agreement;

(4) The participant fails to follow applicable rules, laws, or court orders; or

(5) Legislative funding for the civil transitions program is no longer available.

NEW SECTION

WAC 388-848-0260 When may DDA terminate a participant's community first choice services? If a participant is determined not DDA-eligible, the participant may receive community first choice services for no more than six months from the first date of service.

NEW SECTION

WAC 388-848-0270 When may state-operated community residential transitions (SOCR-T) decide to stop providing services? (1) State-operated community residential transitions (SOCR-T) may decide to stop providing services if SOCR-T determines and documents:

(a) The client has acquired housing or is receiving residential habilitation services through DDA;

- (b) The client does not adhere to conditions of the health and safety agreement; or
- (c) That the client's behavior jeopardizes:
 - (i) The client's health or safety; or
 - (ii) The health or safety of staff or other clients the provider supports.
- (2) The notice of the provider's decision must include:
 - (a) The reason for the decision; and
 - (b) The effective date of the decision.
- (3) At least 72 hours before the effective date of the decision, the provider must notify:
 - (a) The client;
 - (b) The client's legal representative, if applicable;
 - (c) The client's DDA case manager; and
 - (d) The relevant program manager.