

WSR 25-15-074

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

(Home and Community Services)

[Filed July 15, 2025, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-08-030.

Title of Rule and Other Identifying Information: WAC 388-106-0274

Are there limits to the assistive technology I may receive? Modification to subsection (1)(c) subscriptions, data plan charges, and ongoing recurring fees to remove the limitation of "ongoing recurring fees."

Hearing Location(s): On August 26, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than August 27, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on July 23, 2025, by 5:00 p.m. on August 26, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on August 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed removal of this limitation and its anticipated effect is that it will allow for increased access to a wider range of eligible assistive devices/services, some of which may have an ongoing recurring fee, for a client on the community first choice program.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, and 74.39A.400; and 42 C.F.R. 441.500-590.

Statute Being Implemented: RCW 74.08.090, 74.09.520, and 74.39A.400; and 42 C.F.R. 441.500-590.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Victoria Nuesca, Sue Halle, and Peggy Dotson, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2393, 360-764-3561, and 360-407-1563.

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 Victoria Nuesca, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-2393, email victoria.nuesca@dshs.wa.gov.

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).

Explanation of exemptions: The rule is exempt because it is a change to a client benefit and does not impose any costs on small businesses, it relates only to client benefits.

Scope of exemption for rule proposal:

Is fully exempt.

July 11, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5085.1

AMENDATORY SECTION (Amending WSR 23-12-082, filed 6/6/23, effective 7/7/23)

WAC 388-106-0274 Are there limits to the assistive technology I may receive? (1) There are limits to the assistive technology you may receive. Assistive technology excludes:

- (a) Any purchase solely for recreational purposes;
- (b) Items of general utility, meaning they are used by people in the absence of illness, injury, or disability, such as a wood splitter, facial wipes, menstrual supplies, or a slow cooker;
- (c) Subscriptions(~~(7)~~) and data plan charges(~~(7, and ongoing recurring fees)~~);
- (d) Educational software, game applications, or gift cards for educational/game applications;
- (e) Medical supplies and medical equipment, items available as specialized equipment and supplies, or durable medical equipment;
- (f) Specialized clothing or slip-on shoes that are for convenience and not adaptive in nature;
- (g) Exercise equipment;
- (h) Home/environmental modifications;
- (i) Medically necessary items, including but not limited to compression socks/stockings, orthotics, hearing aids, and eyeglasses; and
- (j) Any item that would otherwise be covered under any other payment source, including but not limited to medicare, medicaid, private insurance, or another resource.

(2) In combination with skills acquisition training, assistive technology purchases are limited to a yearly amount determined by the department per fiscal year.

(3) To help decide whether to authorize assistive technology the department may require a treating professional's written recommendation regarding the need for an assistive technology evaluation. The treating professional who makes this recommendation must:

- (a) Have personal knowledge of and experience with the requested assistive technology that is in alignment with their profession; and
- (b) Have evaluated you, reviewed your medical records, have knowledge of your level of functioning, and your ability to use the requested assistive technology or device.

(4) Your choice of assistive technology is limited to the most cost effective option that meets your health and welfare needs.

(5) Replacement of an assistive technology item or piece of equipment is limited to once every two years.