

WSR 25-21-123
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
(Developmental Disabilities Community Services)
[Filed October 20, 2025, 4:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-032.

Title of Rule and Other Identifying Information: Chapter 388-845 WAC; amending WAC 388-845-0900, 388-845-0910, 388-845-2370, and 388-845-4005.

Hearing Location(s): On November 25, 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 November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by 5:00 p.m. on November 25, 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 November 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Developmental disabilities community services (DDCS) is enacting these changes to clarify waiver service definitions and service limit language across waivers.

Reasons Supporting Proposal: Under 42 C.F.R. 441.301, DDCS is required to provide assurances to the Centers for Medicare and Medicaid Services (CMS) that it will provide waiver-funded services as approved by CMS. Aligning rules with the approved waiver amendments provides those assurances.

Statutory Authority for Adoption: RCW 71A.12.030 and 42 C.F.R. 441.301.

Statute Being Implemented: RCW 71A.12.120.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, 360-890-2127.

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 Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-890-2127, TTY 711 relay service, email Leila.graves@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).

Scope of exemption for rule proposal:

Is fully exempt.

October 14, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5112.2

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

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide minimum necessary physical adaptations to the client's existing home and existing rooms within the home required by the individual's person-centered service plan needed to:

(a) Ensure the health, welfare, and safety of the individual;
(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home; and
(c) Increase the individual's independence inside or outside the home to allow the individual to physically enter and move within the home.

(2) Examples of environmental adaptations include installing stair lifts, installing ramps and grab bars, widening doorways, modifying the individual's primary bathroom for physical access needs, or installing specialized electrical or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Environmental adaptations are available in all of the DDA HCBS waivers.

(4) Environmental adaptations to the home are not available in provider-owned or provider-leased residential settings.

(5) Adaptations to the home necessary to prevent or repair damage to the structure of the home caused by the participant's behavior, as addressed in the participant's behavior support plan, are available on the children's intensive in-home behavioral support, individual and family services, core, and community protection waivers.

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

WAC 388-845-0910 What limits apply to environmental adaptations?

The following service limits apply to environmental adaptations:

(1) Clinical and support needs for an environmental adaptation must be identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee ((~~r~~)).

(3) Environmental adaptations must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) \$1,500 or less, one bid is required;
(b) More than \$1,500 and equal to or less than \$5,000, two bids are required; or
(c) More than \$5,000, three bids are required.

(4) All bids must include:

(a) The cost of all required permits and sales tax; and
(b) An itemized and clearly outlined scope of work.

(5) DDA may require an occupational therapist, physical therapist, or other professional to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

(6) Environmental adaptations to the home are excluded if they are of general utility without direct benefit to the individual as related to the individual's developmental disability, such as cosmetic improvements to the home, or general home improvements, such as carpeting, roof repair, or central air conditioning.

(7) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to final payment for work.

(8) Environmental adaptations must not be performed while other adaptations or remodeling projects are in process.

(9) Environmental adaptations must not be approved if the existing residence condition is impacted by hazardous mold, asbestos, or home dilapidation.

(10) Location of the home in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

(11) Written consent from the home's landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's home.

(12) Environmental adaptations must not add to the total square footage of the home, convert nonliving space to living space, or create a new room.

(13) The amount of service you may receive is limited to the dollar amounts for aggregate services in your basic plus waiver, CIIBS waiver, or the dollar amount of your annual IFS waiver allocation.

(14) For core and community protection waivers, annual environmental adaptation costs must not exceed \$12,192.

(15) Damage prevention and repairs under the CIIBS, IFS, core, and CP waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original function;

(b) Behaviors of waiver participants that resulted in damage to the home must be identified and addressed in a behavior support plan prior to the repair of damages;

(c) Repairs to personal property such as furniture and appliances are excluded; and

(d) Repairs due to normal wear and tear are excluded.

(16) Noncovered environmental adaptations include:

(a) Building fences and fence repairs;

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans;

(d) Roof repair or siding;

(e) Deck construction or repair; ((and))

(f) Jetted tubs or saunas ((-)); and

(g) Luxury construction materials such as: tile, natural stone, waterfall shower heads, glass shower surrounds, or other similar materials.

(17) Environmental adaptations are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

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

WAC 388-845-2143 What are the limits to specialized evaluation and consultation services? The following limits apply to your receipt of specialized evaluation and consultation:

- (1) You must be enrolled on the community protection waiver.
- (2) Specialized evaluation and consultation support needs must be identified in your DDA assessment and must be documented in your person-centered service plan.
- (3) Specialized evaluation and consultation is limited to services that are:
 - (a) Consistent with waiver objectives of avoiding institutionalization; and
 - (b) Not a covered benefit under the medicaid state plan, including mental health treatment.
- (4) This service must not replace one-on-one, group, or other treatments to address a mental health condition which are covered by the medicaid state plan.
- (5) One-on-one and group skill building that is a component of behavioral health treatment is not covered under specialized evaluation and consultation.

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

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide database due to the following:

- (a) You do not need ICF/IID level of care per WAC 388-845-0070, 388-828-8040, and 388-828-8060; (~~(e)~~)
 - (b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520(~~(-)~~); or
 - (c) You requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.
- (2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:
- (a) DDA's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; (~~(e)~~)
 - (b) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520(~~(-)~~); or
 - (c) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.
- (3) If DDA determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to

appeal any denial of enrollment on a different waiver when DDA determines there is not capacity to enroll you on a different waiver.