

WSR 25-22-076
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 31, 2025, 4:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-075.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-447-0005 What evidence do we consider to determine incapacity?, and 388-449-0010 What evidence do we consider to determine disability?

Hearing Location(s): On December 9, 2025, at 10:00 a.m., virtually via Teams or call in. See the 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 December 10, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning November 5, 2025, at noon, by December 9, 2025, 5:00 p.m.

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 November 25, 2025, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments will clarify which health care professionals can be considered as a supplemental or treating medical source and updates the chemical dependency professional title to be consistent with current certification language.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 41.05.021, 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.100, 74.09.035, 74.09.530, and 74.62.030.

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: Evelyn Acopan, P.O. Box 45470, Olympia, WA 98504-5470, 360-397-4845.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5) (b) (vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

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(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5) (b) (vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:
Is fully exempt.

October 28, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5115.1

AMENDATORY SECTION (Amending WSR 18-05-075, filed 2/20/18, effective 3/23/18)

WAC 388-447-0005 What evidence do we consider to determine incapacity? (1) To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include the following:

- (a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:
- (i) Medical doctor (MD);
 - (ii) Doctor of osteopathy (DO);
 - (iii) Doctor of optometry (OD) for visual disorders;
 - (iv) Doctor of podiatry (DP) for foot and ankle disorders;
 - (v) Physician assistant (PA) for impairments within their licensed scope of practice;
 - (vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;
 - (vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice;
 - (viii) Qualified speech-language pathologist, for purposes of establishing speech or language impairments;
 - (ix) Doctor of dental surgery (DDS) or doctor of medical dentistry (DMD) for tooth abscesses or temporomandibular joint (TMJ) disorders; and
 - (x) Chief of staff of a U.S. Department of Veterans Affairs medical center, or their designee, as authorized in federal law.
- (b) For a mental impairment, a health professional licensed in Washington state or where the examination was performed:
- (i) Psychiatrist;
 - (ii) Psychologist;
 - (iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;
 - (iv) Physician assistant (PA) for impairments within their licensed scope of practice;
 - (v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning;
 - (vi) Clinical social worker;
 - (vii) Mental health professional (MHP); and
 - (viii) Physician treating you for a mental impairment.

(2) "Supplemental medical evidence" means information from a licensed or certified health professional who can provide supporting documentation for impairments established by an "acceptable medical source" listed in subsection (1) of this section. "Supplemental medical evidence" sources include, but are not limited to:

- (a) Naturopath;
- (b) Chiropractor;
- (c) Physical therapist; and

(d) (~~Chemical dependency professional (CDP)~~) Substance use disorder professional (SUDP) when requesting information on the effects of substance use disorders.

(3) "Other evidence" means information from sources not listed in subsections (1) and (2) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical source" in subsection (1) of this section. Sources of "other evidence" may include public and private agencies, schools, family members, friends, caregivers, and employers.

AMENDATORY SECTION (Amending WSR 18-05-075, filed 2/20/18, effective 3/23/18)

WAC 388-449-0010 What evidence do we consider to determine disability?

(1) To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include the following:

(a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

- (i) Medical doctor (MD);
- (ii) Doctor of osteopathy (DO);
- (iii) Doctor of optometry (OD) for visual disorders;
- (iv) Doctor of podiatry (DP) for foot and ankle disorders;
- (v) Physician assistant (PA) for impairments within their licensed scope of practice;

(vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice; and

(viii) Qualified speech-language pathologist, for purposes of establishing speech or language impairments.

(b) For a mental impairment, a health professional licensed in Washington state or where the examination was performed:

- (i) Psychiatrist;
- (ii) Psychologist;

(iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(iv) Physician assistant (PA) for impairments within their licensed scope of practice; and

(v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning.

(2) We accept medical evidence of how your impairment(s) affect your ability to function from "treating medical sources" once a diagnosis of a medically determinable impairment has been established by

an "acceptable medical source" listed in subsection (1) of this section. "Treating medical sources" must be licensed or certified to provide healthcare and include, but are not limited to:

- (a) Physician treating you for a mental impairment;
- (b) Clinical social worker;
- (c) Mental health professional (MHP);
- (d) Naturopath;
- (e) Chiropractor;
- (f) Physical therapist; and
- (g) (~~Chemical dependency professional (CDP)~~) Substance use disorder professional (SUDP) when requesting information on the effects of substance use disorders.

(3) "Other evidence" means information from sources not listed in subsections (1) and (2) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical source" in subsection (1) of this section. Sources of "other evidence" may include public and private agencies, schools, family members, friends, caregivers, and employers.