WSR 26-07-021
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Behavioral Health and Habilitation Administration)

[Filed March 9, 2026, 2:22 p.m., effective March 9, 2026, 2:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the 2025 legislative session, the legislature passed SSB 5393, closing the Rainier school by June 30, 2027. This legislation directs that the department of social and health services (DSHS) will not permit "any new long-term admissions" to Rainier school as of July 27, 2025, and no new admissions as of June 30, 2027, except those clients who have return rights as defined in the bill. These rules are necessary to set standard definitions and implement the legislation. DSHS is proceeding with permanent adoption. DSHS filed a CR-101 under WSR 25-15-137 and a CR-102 proposal under WSR 26-07-019.

Citation of Rules Affected by this Order: Amending WAC 388-825-091, 388-825-093, and 388-825-094.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120, 71A.16.010, 71A.16.020, 71A.20.010, 71A.20.020, 71A.20.050, 71A.20.080, and 71A.20.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: SSB 5393 went into effect on July 27, 2025. In order to implement this legislation and keep the language in place while simultaneously proceeding with permanent rule making, emergency rule making is required. This emergency keeps rule language in place while DSHS proceeds with permanent adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 9, 2026.

Katherine I. Vasquez
Rules Coordinator

SHS-5098.7

AMENDATORY SECTION (Amending WSR 19-12-088, filed 6/4/19, effective 7/5/19)

WAC 388-825-091 Am I eligible for ((~~residential habilitation center (RHC) services~~)) intermediate care or nursing facility services at a residential habilitation center (RHC)? (1) If you are ((~~twenty-one~~)) 21 years of age or over, you are eligible to receive services at a residential habilitation center (RHC) ((~~services~~)) if:

(a) You have been determined to meet ((~~DDA~~)) eligibility criteria as defined in chapter 388-823 WAC;

(b) You choose to receive services in ((~~the~~)) an RHC;

(c) ((~~DDA~~)) Behavioral health and habilitation administration (BHHA) has determined that you can be supported safely in an RHC environment and will not pose a danger to other residents of the RHC; and

(d) You need the level of care provided at ((~~the~~)) an RHC, which is either:

(i) Nursing facility level of care under WAC 388-106-0355 for a client admitted to, or seeking admission to, a state-operated nursing facility; or

(ii) Intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care under WAC 388-828-1020 for a client admitted to, or seeking admission to, a state-operated ICF/IID.

(2) If you meet (1)(a) through (d) of this section, the service will be offered at an RHC that has capacity to meet your needs.

((~~(2)~~)) (3) If you are ((~~sixteen~~)) 16 through ((~~twenty~~)) 20 years of age, and meet (1)(a) through (d) ((~~above~~)) of this section you may not be admitted to receive services at a residential habilitation center unless there are no service options available in the community to appropriately meet your needs. Such admission is limited to the provision of a short-term ((~~respite or crisis stabilization services~~)) stay per WAC 388-825-093.

((~~(3)~~)) (4) If you are under age ((~~sixteen~~)) 16 you are not eligible to receive services at a residential habilitation center.

((~~(4)~~)) (5) Admission to a nursing facility at ((~~a~~)) an RHC also requires completion of preadmission screening and resident review (PASRR) requirements as described in chapter 388-97 WAC.

(6) You have a right to return to Rainier RHC if:

(a) You are a long-term resident which means you are a resident of Rainier ICF/IID on July 27, 2025;

(b) You discharged from Rainier RHC to a community setting;

(c) You meet the eligibility requirements in (1)(a) through (d) of this section; and

(d) You submit a request to return within 365 days after your discharge from Rainier RHC; and

(e) Additional requests to return require the approval of the DSHS secretary or designee based on the recommendation of the Rainier RHC interdisciplinary team.

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-093 Can I receive a short-term stay at a residential habilitation center (RHC)? ((~~If there is capacity at a residential habilitation center (RHC), the vacancies may be available for short term stays.~~))

(1) Short-term stays are for the purpose of:

(a) Planned respite to provide a scheduled break in caregiving; or

(b) Crisis stabilization to provide safety and stability when your current living situation puts you at risk of hospitalization or in a hospital without medical need.

(2) Short-term stays are limited ((~~by~~)) to an available ((~~vacancies~~)) vacancy with admission to((~~:~~)):

(a) A state-operated nursing facility for planned respite;

(b) Yakima Valley RHC for planned respite or crisis stabilization;

(c) Effective July 27, 2025, Rainier RHC; or

(d) An intermediate care facility if you are age 16 through 20.

((~~(2) Short term stays must be included in your individual support plan~~))

(3) You must meet eligibility requirements as stated in WAC 388-825-091;

((~~(3) Short term stays~~))

(4) Approval is required by the assistant secretary of the behavioral health and habilitation administration or designee for:

(a) Crisis stabilization; and

(b) Planned respite in excess of ((~~thirty~~)) 30 days in a calendar year. ((~~require approval by the assistant secretary of the developmental disabilities administration or designee; and~~))

((~~(4) You are sixteen years of age or older.~~

~~If you are sixteen through twenty years of age your stay will only be for short-term respite or crisis stabilization purposes.~~))

(5) Effective July 1, 2027, no admissions are permitted at Rainier RHC unless the admission is for return rights as described in WAC 388-825-091(6).

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-094 What is the process to receive services in an RHC? You may request to receive services in an RHC at any time. RHC admissions are not considered permanent.

(1) Your case/resource manager ((~~will~~)) may update your ((~~DDA~~)) assessment as described in chapter 388-828 WAC and gather other information.

(2) Long-term admission to an RHC requires approval by the assistant secretary of the ((~~developmental disabilities~~)) behavioral health and habilitation administration or designee.

(3) You must be ((~~twenty-one~~)) 21 years old or older to be admitted as a long-term resident.

(4) Long-term admission is not permitted at:

(a) Yakima Valley RHC; and

(b) Rainier RHC, except if you have return rights as described in WAC 388-825-091(6).