

Department of Social and Health Services

Olympia, Washington

**Social Services Manual**

Revision # 64

**CATEGORY / INCAPACITY DETERMINATION –PROCESS**

[HTTP://WWW.DSHS.WA.GOV/MANUALS/SOCIALSERVICES/SECTIONS/INCAP\\_B\\_DETERM.SHTML](http://www.dshs.wa.gov/manuals/socialservices/sections/incap_b_determ.shtml)

Issued **January 7, 2010**

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**Summary :** The incapacity process chapter was revised to clarify disability assessment and IARA requirements.

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## **INCAPACITY DETERMINATION - PROCESS**

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Revised June 3, 2009

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### **WAC 388-448-0001 What are the incapacity requirements for general assistance?**

For the purposes of this chapter, "we" and "us" refer to the department of social and health services. "You" means the applicant or recipient. "GA" means the general assistance program. For you to receive general assistance (GA) program benefits, we must determine you are incapacitated.

"Incapacitated" means that you cannot be gainfully employed as a result of a physical or mental impairment that is expected to continue for at least ninety days from the date you apply.

"Physical impairment" means a diagnosable physical illness. "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

1. We determine you are incapacitated if you are:
  - a. Eligible for payments based on Social Security Administration (SSA) disability criteria;
  - b. Eligible for services from the division of developmental disabilities (DDD);
  - c. Diagnosed as having mental retardation based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);
  - d. At least sixty-four years old and seven months;
  - e. Eligible for long-term care services from aging and disability services administration; or
  - f. Approved through the progressive evaluation process (PEP).
2. We consider you to be incapacitated for ninety days after:
  - a. You are released from inpatient treatment for a mental impairment if:
    - i. The release from inpatient treatment was not against medical advice; and
    - ii. There is no break in your participation between inpatient and outpatient treatment of your mental impairment.
  - b. You are released from a medical institution where you received long-term care services from the aging and disability services administration.
  - c. The Social Security Administration stops your Supplemental Security Income payments because you are not a citizen.

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## **CLARIFYING INFORMATION**

1. Persons who meet the criteria of WAC 388-448-0001(1)(a) through (e) are found eligible by the **Social Worker** if there is supporting documentation. When the necessary supporting information is

available, these individuals do not need a PEP decision.

2. A person who is determined to be incapacitated based on these non-PEP criteria is eligible for case management services such as treatment and referral monitoring and SSI Facilitation.
3. Review of incapacity is not necessary for:
  - a. A person over the age of sixty five.
  - b. A person who remains eligible for long-term care services from Aging and Disability Services Administration (ADSA).
4. A person released from a psychiatric facility does not need a PEP decision if the person provides:
  - a. A copy of the psychiatric discharge summary; and
  - b. Proof of current treatment from a mental health center to verify that they meet the requirements of WAC 388-448-0001(2)(a).

**NOTE:** If a person is not in outpatient mental health treatment at the time they apply for GA, a PEP decision must be made.

WAC 388-448-0010

Effective May 1, 2004

### **WAC 388-448-0010 How do we decide if you are incapacitated?**

When you apply for GA program benefits, you must provide medical evidence to us to show that you are unable to work.

If you are gainfully employed at the time of your application for GA, we deny incapacity. "**Gainful employment**" means you are performing, in a regular and predictable manner, an activity usually done for pay or profit.

1. We do not consider work to be gainful employment when you are working:
  - a. Under special conditions that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop we have approved; or
  - b. Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job as verified by your employer.
2. We decide if you are incapacitated when:
  - a. You apply for GA benefits. We may waive this decision if we use the criteria in WAC [388-448-0001](#) except the PEP to determine you are incapacitated;
  - b. You become employed;
  - c. You obtain work skills by completing a training program; or
  - d. We get new information that indicates you may be employable.
3. Unless you meet the other incapacity criteria in WAC [388-448-0001](#), we decide incapacity by

applying the progressive evaluation process (PEP) to the medical evidence that you provide that meets WAC [388-448-0030](#). The PEP is the sequence of seven steps described in WAC [388-448-0035](#) through WAC [388-448-0110](#).

4. You are not eligible for GA benefits if you are incapacitated only because of alcoholism or drug addiction. If you have a physical or mental impairment and you are impaired by alcohol or drug addiction, we decide if you are eligible for general assistance. If you qualify for both GA and the ADATSA Shelter program, you may choose either program.
5. In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

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## WORKER RESPONSIBILITIES

1. Review the referral from financial services and any existing medical documentation. Conduct a Social Services Assessment. A face to face assessment is preferred.
2. Consider if the person meets any of the non-PEP criteria in [WAC 388-448-0001](#).
3. Explain the purpose, eligibility requirements, and benefits of General Assistance (GA) and Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) programs.
4. Per WAC 388-448-0010(4), we decide if persons who have a physical or mental impairment and are impaired by alcohol or drug addiction are eligible for general assistance by following the [Progressive Evaluation Process](#) (PEP). WAC 388-448-0010(4) does not presume that a person is ineligible for GAU. The PEP must be followed to make a decision.
5. If a person is approved by the PEP and is also eligible for ADATSA, the person may choose between programs.
6. Coordinate with a DASA Chemical Dependency Professional to explore program options.
7. Review DSHS 14-050(X), Statement of Health, Education, and Employment with the person.
  - Discuss the medical history with the person.
  - Observations should be documented.
  - Ask the person what they feel needs to happen for them to return to work.
- Explain the purpose of DSHS 18-235(X), SSI Interim Assistance Reimbursement Authorization (IARA). The person must sign and date the IARA when:

8. When the person has applied for SSI, the Social Worker must have the person sign and date an IARA and file it with the Social Security Administration (SSA). See [WAC 388-448-0210](#).

~~When it appears the person may meet SSI criteria, the Social Worker should have the person sign and~~

~~date an IARA~~ a. A GA applicant or recipient has applied for SSI.

b. A GA applicant or recipient appears to meet SSI aged or disabled criteria.

WAC 388-448-0020

Effective May 1, 2004

### **WAC 388-448-0020 Which health professionals can I go to for medical evidence?**

We accept medical evidence from these sources:

1. For a physical impairment, a health professional licensed in Washington state or where the examination was performed:
  - a. A physician, which for GA program purposes, includes:
    - i. Medical doctor (M.D.);
    - ii. Doctor of osteopathy (D.O.);
    - iii. Doctor of optometry (O.D.) to evaluate visual acuity impairments;
    - iv. Doctor of podiatry (D.P.) for foot disorders; and
    - v. Doctor of dental surgery (D.D.S.) or doctor of medical dentistry (D.M.D.) for tooth abscesses or temporomandibular joint (TMJ) disorders.
  - b. An advanced registered nurse practitioner (ARNP) for physical impairments that are within the ARNP's area of certification to treat;
  - c. The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law; or
  - d. A physician assistant when the report is cosigned by the supervising physician.
2. For a mental impairment, professionals licensed in Washington state or where the examination was performed:
  - a. A psychiatrist;
  - b. A psychologist;
  - c. An advanced registered nurse practitioner certified in psychiatric nursing; or
  - d. At our discretion:
    - i. A person identified as a mental health professional within the regional support network mental health treatment system provided the person's training and qualifications at a minimum include having a Master's degree and two years of mental health treatment experience; or
    - ii. The physician who is currently treating you for a mental impairment.
3. **"Supplemental medical evidence"** means information from a health professional not listed in subsection (1) or (2) of this section and who can provide supporting medical evidence for

impairments identified by any of the professionals listed in subsections (1) or (2) of this section. We include as supplemental medical evidence sources:

- a. A health professional who has conducted tests on or provides on-going treatment to you, such as a physical therapist, chiropractor, nurse, physician assistant;
- b. Workers at state institutions and agencies who are not health professionals and are providing or have provided medical or health-related services to you; or
- c. Chemical dependency professionals (CDPs) when requesting information on the effects of alcohol or drug abuse.

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## CLARIFYING INFORMATION

1. Supplemental Medical Evidence may be used to help better understand the person's incapacities and make well-informed incapacity decisions. **Supplemental Medical Evidence does not replace Objective Medical Evidence (OME)**. OME must still be obtained for the Progressive Evaluation Process.
2. During an ADATSA assessment, the Chemical Dependency Professional (CDP) may suspect that the person has mental health or physical issues that could get in the way of the person participating in ADATSA treatment or that are not related to their addiction. Follow these procedures for handling requests for evaluations from assessment entities:
  - a. The CDP should refer the client back to the CSO to apply for GA.
  - b. The CSO Social Worker should evaluate the request and consult with the CDP if necessary. The Social Worker should process the GA application with the appropriate evaluation unless there is a clear and convincing reason otherwise.

WAC 388-448-0030

Effective May 1, 2004

### WAC 388-448-0030 What medical evidence do I need to provide?

You must provide medical evidence that clearly explains if you have an impairment and how that impairment prevents you from being capable of gainful employment. Medical evidence must be in writing and be clear, objective and complete.

1. Objective evidence means:
  - a. For physical impairment:
    - i. Laboratory test results;

- ii. Pathology reports;
  - iii. Radiology findings including results of X rays and computer imaging scans;
  - iv. Clinical finding, including but not limited to ranges of joint motion, blood pressure, temperature or pulse; and observations from physical examination; or
  - v. Hospital history and physical reports and admission and discharge summaries; or
  - vi. Other medical history and physical reports.
- b. For mental impairment:
- i. Examination results including:
    - A. Clinical interview observations, including mental status exam results and interpretation; and
    - B. Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).
  - ii. Testing results, if any, including:
    - A. Description and interpretation of tests of memory, concentration, cognition or intelligence; or
    - B. Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.
2. To be complete, medical evidence must include:
- a. Diagnosis for the impairment;
  - b. A clear description of how the impairment relates to your ability to perform the work-related activities listed in [WAC 388-448-0010](#) (5) including signs and observations of drug or alcohol abuse and whether any limitations on ability to perform work-related activities would continue after sixty days of abstinence from use of drugs or alcohol;
  - c. Facts in addition to objective evidence to support the medical provider's opinion that you are unable to be gainfully employed, such as proof of hospitalization; and
  - d. Based on an examination done within the ninety days of the date of application or the forty-five days prior to the month of incapacity review.
3. When making an incapacity decision, we do not use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.
4. If you cannot get medical evidence without cost to you and you meet the eligibility conditions other than incapacity in [WAC 388-400-0025](#), we pay the costs to obtain objective evidence based on our published payment limits and designated fee schedules.
5. We decide incapacity based solely on the objective information we receive. We are not obligated to accept a decision that you are incapacitated or unemployable made by another agency or person.

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## WORKER RESPONSIBILITIES

1. The provider's opinions must be based on objective medical information. Objective medical information typically includes:
  - Laboratory test results.
  - Radiology reports (x-rays and computer scans).
  - Clinical findings such as range of motion or mental status examination.
  - History and physical reports.
  - Admission and discharge summaries.
2. Current medical evidence is a report based on an examination performed within 90 days of the date of application. Medical evidence more than 90 days old is acceptable when it is:
  - Intelligence testing scores from a Wechsler Adult Intelligence Scale (WAIS) administered after age 18.
  - Medical evidence used by DDDS (Division of Disability Determination Services) to approve a NGMA (non-grant medical assistance) decision that is still in effect where the medical information was obtained no longer than 12 months ago.
  - For a person more than 50 years old, objective findings of a chronic, deteriorating condition based on an exam within the last 12 months.
3. **Obtain medical documentation from existing records before ordering any new evaluations.** When existing records are not current or complete, authorize payment for an additional exam, diagnostic tests, or functional evaluation from acceptable sources of primary evidence. The client is responsible for providing medical evidence of incapacity.
  - If there is no existing health provider, assist the person in obtaining medical documentation from a choice of providers when possible.
  - If the person is very impaired, offer to make the appointment for the person and remind them of the appointment as needed.
4. Use DSHS 14-150 or 14-150a to obtain medical evidence.
5. Review all medical evidence for consistency among objective medical findings, severity ratings, functional capacity, and duration.
6. **The medical evidence must include diagnosis, prognosis, duration, and effect.** Diagnostic uncertainty in the form of a provisional diagnosis is n't acceptable when ~~it is not~~ based solely on symptoms. Such "rule out (R/O)" diagnoses are only acceptable for initial decisions, not for reviews, and must be for an incapacitating condition. **Incapacity (GA) cannot-can't be approved in order**

to obtain medical evidence of a potentially incapacitating condition.

- **Diagnosis** is the identification of the nature of the disease based on objective observation of signs, symptoms and laboratory findings.
- **Prognosis** is a prediction of the probable development and outcome of a disease and the prospect of recovery from a disease.
- **Duration** is an estimate of the length of time the impairment is expected to remain at the current level.
- **Effect** is description of how an impairment interferes with a person's ability to function in work-related activities.

7. A medical report or evaluation must be signed and dated by the medical provider. - Copies of chart notes do not require a signature.

5-8. Consult with the medical evidence provider when existing medical evidence is incomplete or inconclusive. If that does not provide sufficient information to proceed with the PEP, you may take the following actions:

4.a. Refer the person for another evaluation or consultation.

2.b. Refer to [reference sources](#).

c. Contact the Medical Consultant for assistance in interpreting test results or other findings if necessary.

3. Note: -Don't authorize reimbursement for medical evidence that is inconsistent or does not contain objective medical evidence.

6-9. Use procedures in [Medical Evidence Reimbursements](#) and the [Social Service Payment System \(SSPS\) Manual](#) to pay for medical reports and evidence. Always use SSPS code 6220 to pay for medical services when you plan to refer the person for GAX and/or SSI facilitation.

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## MEDICAL CONSULTANT REFERRALS

Physicians employed as Medical Consultants by the Health & Recovery Services Administration (HRSA) are available to assist CSO Social Workers. The physicians are:

- Dr. Sam Salama, (360) 725-1596
- Dr. Eric Houghton, (360) 725-1586

These Medical Consultants assist by:

- Advising Social Workers and medical providers about suitability and payment for diagnostic

procedures.

- Interpreting medical evidence, including putting medical terms into layman's language and explaining the results of laboratory tests.
- Communicating with local medical professionals to help them understand the program's medical evidence requirements.

Requests need to be as specific as possible. Use DSHS 13-537(X), Medical Consultant Referral, as a cover letter and send referrals to:

Health & Recovery Services Administration  
**Medical Consultants, Attention: Doris**  
Mail Stop: 45506  
P.O. Box 45506  
Olympia, WA 98504-5506  
Fax: (360) 586-1471

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## DECISION OVERVIEW

1. When medical evidence is not received by the 40th day of application:

- ~~2~~.a. If the person has lost contact or has not followed through with the request to provide medical evidence, use DSHS 14 118(X), Incapacity Decision to deny incapacity, or
- ~~3~~.b. Notify financial services that medical evidence is delayed beyond the control of the department or the person.
- ~~4~~.c. Follow the Progressive Evaluation Process (PEP) as described in [Section C. - Progressive Evaluation Process](#). The **effective date of eligibility** is the date all medical evidence necessary to determine eligibility is received or the 45th day of application, whichever is earlier.
- ~~2~~.d. Use DSHS 14-118(X), Incapacity Decision to notify financial services of an incapacity approval or denial. Include the specific reason for denial and the relevant WAC reference on the form so that the person receives adequate notice of termination.

<b>NOTE:</b> If you change the severity rating given by the provider and the result is a denial of benefits, you <b>must</b> explain this on the DSHS 14-118 so the client receives adequate information regarding the denial. That is, you must state that you lowered the severity rating and your <b>clear and convincing reasons</b> for lowering the rating. You must fully document your clear and convincing reasons for any change (lower or higher) to the severity rating given by the provider in ICMS.
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5. ~~After~~ **At every** approval an review, complete the DSHS 14-332(X) Disability Assessment to decide whether to:

- Refer for GAX.
- Provide SSI facilitation.
- Use SSPS service code 6220 to pay for medical evidence.

6. If the Disability Assessment indicates (either the 14-332 or as part of PEP Step 8) a GAX and/or SSI facilitation referral is necessary, refer the person immediately after processing the decision.

**NOTE:** If the person is not referred for GAX or SSI facilitation at the time of the initial approval, you should consider a referral at every review and at any time you obtain information indicating the person may be eligible for those programs and benefits.

**7. ADATSA:** Enter the appropriate ADATSA referral information in the ADATSA screen in ICMS. When you receive DSHS 14-311(X), Assessment Center Summary, from the assessment center you must use DSHS 14-118A(X), ADATSA Incapacity Decision, to notify financial services of the approval or denial of ADATSA services. **Clients who are determined for GAU may receive chemical dependency treatment through Treatment Expansion following the [Protocols](#) for Treatment Expansion Clients.**

**8. Discuss treatment requirements and referrals directly with the person and explain how to access services.** Follow up this discussion with a written notice of requirements.

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## REFERENCE RESOURCES

Along with medical dictionaries, the following references are needed when making incapacity determinations.

### ONLINE REFERENCE SOURCES:

- [Merck Manual of Diagnosis and Therapy](#), published by Merck Research Laboratories. This is a standard medical reference.
- [Dictionary of Occupational Titles](#) (DOT), published by the [U.S. Department of Labor](#). This publication was last revised in 1991 and will not be updated. This two volume resource contains job listings and the strength and education needed to perform each job.
- [O\\*NET](#) replaces the DOT. The O\*NET database file is available for free download from the [National O\\*NET Consortium](#). Both sites are accessible from links on [DOL/ETA O\\*NET](#).
- [Disability Evaluation Under Social Security](#), U.S. Department of Health and Human Services. Also known as "The Listings", this book describes Social Security Administration disability criteria.

## PRINT REFERENCE SOURCES:

- **Physicians' Current Procedural Terminology**, published by the American Medical Association. This book describes each of the CPT codes and standard medical practice for different levels of service.
  - **Diagnostic and Statistical Manual of Mental Disorders**, published by the American Psychiatric Association. This is the standard reference for mental disorders.
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## LINKS

### ~~DASA (ADATSA and Treatment Expansion)~~

- ~~[Division of Alcohol and Substance Abuse \(DASA\)](#)~~
- ~~[DASA Treatment Expansion](#)~~
- ~~[Protocols for Treatment Expansion Clients](#)~~
- ~~[DASA Green Book \(Directory of Certified Chemical Dependency Services in Washington State\)](#)~~

### ~~General Assistance~~

- ~~[GAU](#)~~
- ~~[ESA Policy Review Page \(Blue Page\)](#)~~

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Modification Date: June 3, 2009

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