



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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FILED

DATE: January 30, 2025
TIME: 4:29 PM

WSR 25-04-058

Agency: Department of Social and Health Services, Developmental Disabilities Administration (DDA)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-13-015 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____ ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 388-829A-010, What definitions apply to this chapter?, 388-829A-020, What services does an alternative living provider deliver?, 388-829A-040, Who is eligible to receive residential habilitation services from an alternative living provider and what service limits apply?, 388-829A-050, Who may become an alternative living provider?, 388-829A-060, Who may not be contracted as an alternative living provider?, 388-829A-070, Where must the provider deliver services? 388-829A-080, How many hours of residential habilitation services may a client receive from an alternative living provider?, 388-829A-090, May an alternative living provider claim reimbursement for more than one client at a time?, 388-829A-095, Can a provider care for a dependent while delivering services?, 388-829A-110, What minimum skills and abilities must an alternative living provider demonstrate?, 388-829A-115, What are the responsibilities of an alternative living provider?, 388-829A-130, How must providers treat clients of DDA?, 388-829A-140, What are the provider training requirements?, 388-829A-145, How much are alternative living providers paid?, 388-829A-170, What client records must an alternative living provider maintain?, 388-829A-175, What provider records must the provider maintain?, 388-829A-190, What are the requirements for client record entries?, 388-829A-200, How long must an alternative living provider keep client and provider records?, 388-829A-210, May a provider share information about a client?, 388-829A-220, Is an alternative living provider a mandated reporter?, 388-829A-240, What must an alternative living provider do in an emergency?, 388-829A-260, When does DDA reimburse an alternative living provider for transporting a client?, 388-829A-280, Must an alternative living provider be certified?, 388-829A-290, When may DDA deny or withhold payment to an alternative living provider?, 388-829A-300, When does DDA reject a client's choice of alternative living provider?, 388-829A-310, When may a provider terminate services to a client?, (Repeal) 388-829A-005, What is the purpose of this chapter?, 388-829A-030, What type of training and support may the alternative living service provider offer?, 388-829A-100, May an alternative living provider offer personal care or respite services?, 388-829A-120, What values must alternative living providers focus on when implementing the ISP?, 388-829A-150, What training must an alternative living provider complete within the first ninety days of serving the client?, 388-829A-160, What training must an alternative living provider complete after the first year of service?, 388-829A-180, What reports must be submitted to DDD?, 388-829A-230, How must alternative living providers report abuse and neglect?, 388-829A-250, What is an individual support plan (ISP)?, 388-829A-270, What requirements must be met before an alternative living provider transports a client?, 388-829A-320, What are the client's rights if DDD denies, or terminates an alternative living services contract?, and 388-829A-330, Does the provider of alternative living services have a right to an administrative hearing?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 25, 2025	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, 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: No earlier than March 26, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name DSHS Rules Coordinator
Address PO Box 45850, Olympia WA 98504
Email DSHSRPAURulesCoordinator@dshs.wa.gov
Fax 360-664-6185
Other

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant
Phone 360-664-6036
Fax 360-664-6185
TTY 711 Relay Service
Email shelley.tencza@dshs.wa.gov

Beginning (date and time) noon on February 5, 2025

Other

By (date and time) 5:00 p.m. on March 25, 2025

By (date) 5:00 p.m. on March 11, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The primary purpose of the proposed changes is to add agencies as a provider type for alternative living and to create a connection to the new certification rules under development at DDA, which will be codified as new chapter 388-825A WAC. Other changes have been made to update procedures and provider requirements, repeal unnecessary sections, clarify the six-month service limit for clients living with a parent, and more.

Reasons supporting proposal: These changes are necessary to establish DDA-contracted agencies as alternative living providers, to update certification requirements, and update other provider requirements because many sections in chapter 388-829A WAC have not been updated in several years.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.110

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-790-4732
Implementation	Olga Lutsyk	P.O. Box 45310, Olympia, WA 98504-5310	360-764-6155
Enforcement	Olga Lutsyk	P.O. Box 45310, Olympia, WA 98504-5310	360-764-6155

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name

Address

Phone

Fax

TTY

Email

Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name Chantelle Diaz

Address P.O. Box 45310, Olympia WA 98504-5310

Phone 360-630-1684

Fax

TTY 711 Relay service

Email chantelle.diaz@dshs.wa.gov

Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. While the rules do impact small businesses (alternative living providers), the proposed amendments are primarily clarifications that should impose no costs.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

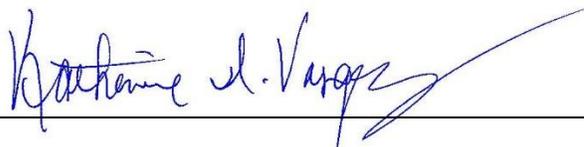
Name
Address
Phone
Fax
TTY
Email
Other

Date: January 30, 2025

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-829A-010 What definitions apply to this chapter? The following definitions apply to this chapter:

~~(("ADSA" means the aging and disability services administration within DSHS and its employees and authorized agents.))~~

"Adult protective services" or "APS" means the investigative body designated by ~~((ADSA))~~ the aging and long-term support administration to investigate suspected cases of abandonment, abuse, financial exploitation, and neglect as defined in 74.34 RCW.

~~(("Alternative living provider" means an independent contractor with a current contract with the division of developmental disabilities to provide alternative living services.))~~

"Agency alternative living" or "agency" means an entity that:

(1) Is contracted as an agency with DDA to provide residential habilitation services under this chapter; and

(2) Has at least two employees who provide residential habilitation services.

~~(("Assistance" means help provided to a client for the purpose of training the client in the performance of tasks the task being trained. Assistance does not include personal care as defined in chapter 388-106 WAC or protective supervision.))~~

~~"Calendar year" means the twelve month period that runs from January 1 through December 31.))~~

"Case manager" means the ~~((division of))~~ developmental disabilities administration case resource manager or social worker assigned to a client.

"Certification evaluation" means a process used by DDA to determine if an applicant or provider complies with the requirements of this chapter and the alternative living contract.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 ~~((+3))~~ and who ~~((also))~~ has been determined DDA-eligible ~~((to receive services by the division under chapter 71A.16 RCW))~~ under chapter 388-823 WAC.

~~(("Competence" means the capacity to do what one needs and wants to do. There are two ways to be competent. A person may be self-reliant and able to do things for themselves or may have the power to identify and obtain the help needed from others.))~~

~~(("DDD" or "the division"))~~ "DDA" means the ~~((division of))~~ developmental disabilities ~~((+DDD))~~ administration within the ~~((DSHS aging and disabilities services administration of the))~~ department of social and health services.

~~(("DDD specialty training" means department approved curriculum to provide information and instruction to meet the special needs of people with developmental disabilities.))~~

"DSHS" or "the department" means the state of Washington department of social and health services and its employees and authorized agents.

~~(("Health and safety" means clients living safely in environments common to other citizens with reasonable supports offered to simultaneously protect their health and safety while promoting community inclusion.))~~

~~"Individual support plan" or "ISP" is a document that authorizes and identifies the DDD paid services to meet a client's assessed needs.~~

~~"Integration" means clients being present and actively participating in the community using the same resources and doing the same activities as other citizens.)~~

~~"((Mandatory)) Mandated reporter" ((means any person working with vulnerable adults required by law to report incidents of abandonment, abuse, neglect, financial exploitation, etc per chapter 74.34)) is defined in RCW 74.34.020.~~

~~("Positive recognition by self and others" means a client being offered assistance in ways which promote the client's status and credibility. Providers offer assistance in ways that are appropriate to the age of the client, typical to other members of the community and contribute to the client's feelings of self worth and positive regard by others.~~

~~"Positive relationships" means clients having friends and family that offer essential support and protection. Friends and family lend continuity and meaning through life and open the way to new opportunities and experiences.~~

~~"Power and choice" means clients experiencing power, control, and ownership of their personal affairs. Expression of personal power and choice are essential elements in the lives of people. Such expressions help people gain autonomy, become self-governing and pursue their own interests and goals.)~~

~~"Provider" means an individual or an agency contracted with the developmental disabilities administration to provide residential habilitation services as an alternative living provider.~~

~~("Regulation" means any federal, state, or local law, rule, ordinance or policy.~~

~~"RCW" means the Revised Code of Washington, which contains all laws governing the state of Washington.~~

~~"Service episode record" or "SER" means documentation by DDD of all client related contacts including contacts during the assessment, service plan, coordination and monitoring of care and termination of services.~~

~~"Support" means provider activities done on the client's behalf such as balancing the checkbook.~~

~~"Unusual incidents" means a change in circumstances or events that concern a client's safety or well-being. Examples may include, an increased frequency, intensity, or duration of any medical conditions, adverse reactions to medication, hospitalization, death, severe behavioral incidents that are unlike the client's ordinary behavior, severe injury, running away, physical or verbal abuse to themselves or others, etc~~

~~"WAC" means the Washington Administrative Code, which are the rules for administering the state laws (RCW.)~~

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-020 What ((are)) services does an alternative living ((services)) provider deliver? ((Alternative)) An alternative living ((services provide)) provider delivers residential habilitation services, which are community-based, individualized ((client training, assistance, and support. These services enable)) instruction to assist a client to learn, improve, or retain social and adaptive skills nec-

essary to live ((as)) independently ((as possible)). Areas of instruction include:

- (1) Establishing or maintaining a residence;
- (2) Home living;
- (3) Community living;
- (4) Health and safety;
- (5) Social activities;
- (6) Protection and advocacy; and
- (7) Other training and support to assist a client to live independently.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-040 Who is eligible to receive residential habilitation services from an alternative living ((services)) provider and what service limits apply? ~~((Clients who))~~ To be eligible to receive residential habilitation services from an alternative living ((services)) provider, a person must:

- (1) Be ((at least eighteen years of age)) age 18 or older;
- (2) ((Live outside of their parent's home or plan to move out of their parent's home in the next six months)) Be determined DDA-eligible under chapter 388-823 WAC;
- (3) Have an assessed need for alternative living residential habilitation services;
- (4) Be authorized by ((DDD)) DDA to receive alternative living residential habilitation services; and
- (5) ((Be able to afford and maintain their own home with their personal financial resources)) If living with a parent, live in the parent's home no more than six months after beginning services with an alternative living provider.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-050 Who ((is eligible to contract with DDD to provide)) may become an alternative living ((services)) provider? (1) ((Before DDD may issue)) To become an alternative living ((contract, the prospective)) provider, a person must:

- ((1)) (a) Be ((twenty-one years of)) age 21 or older;
- ((2)) (b) Have a high school diploma or ((GED)) general education development certificate (GED);
- (c) Meet the minimum skills and abilities described in WAC 388-829A-110;
- ((3) Clear a background check conducted by DSHS, as required by RCW 43.20A.710)) (d) Meet background check requirements under chapter 388-825 WAC;
- ((4) Have an FBI fingerprint-based background check as required by RCW 43.20A.710, if the person has not lived in the state continuously for the previous three years;

~~(5)) (e) Have a Washington state business ((ID number, as an independent contractor)) license; and~~
~~((6) Meet the minimum skills and abilities described in WAC 388-829A-110)) (f) Be certified by DDA under chapter 388-825A WAC.~~
(2) To become a direct support professional employed by an agency, a person must:
(a) Be age 18 or older;
(b) Have a high school diploma or GED;
(c) Meet background check requirements under chapter 388-825 WAC;
(d) Meet the minimum skills and abilities described in WAC 388-829A-110.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-060 Who may not be contracted ((to provide)) as an alternative living ((services)) provider? ~~((DDD may))~~ DDA does not contract with the following to ((provide)) deliver services as an alternative living ((services)) provider:
(1) The client's spouse((-)) ;
(2) ((The client's natural, stepparent or adoptive parents.
~~(3))~~ The client's court-appointed legal representative((-)) ; or
(3) The client's natural, stepparent, or adoptive parent, unless the parent is contracted as an agency, or is employed by an agency.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-070 Where must the provider deliver ((alternative living)) services ((be provided))? ~~(1) ((Alternative living services must be provided in a community setting.~~
~~(2) Clients receiving alternative living services must live independently in a home that is owned, rented or leased by the client or the client's legal representative.~~
~~(3) Alternative living services may be provided in the parent's home for no more than six months, to support a client's transition from the parent's home into the client's own home.~~
~~(4) Alternative living services may not be offered in the provider's home.))~~ The provider must deliver services in:
(a) The home where the client lives; or
(b) The community.
(2) For a client living with a parent who is also the client's provider, services are limited to six months as described in WAC 388-829A-040.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-080 How many hours of residential habilitation services may a client receive from an alternative living ((services may a client receive)) provider? ((Alternative living services)) A client may be authorized ((up to forty)) for no more than 40 hours per month of residential habilitation services from an alternative living provider.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-090 May an alternative living provider claim reimbursement for more than one client at a time? (1) An individual alternative living provider must not claim reimbursement for more than one client per service ((hour)) unit.

(2) An agency must not claim reimbursement for more than one client per direct support professional per service unit.

NEW SECTION

WAC 388-829A-095 Can a provider care for a dependent while delivering services? A provider-whether an individual or an agency-employed direct support professional-must not deliver paid services while caring for a dependent.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-110 What minimum skills and abilities must an alternative living ((procedures)) provider demonstrate? ((Alternative)) An alternative living ((providers)) provider must:

(1) Be able to read, understand, and provide services as outlined in the ((ISP)) client's person-centered service plan;

(2) ((Participate in the development of the client's ISP;

~~(3) Communicate in a language of)~~ Be able to communicate with the client ((served));

~~((4) Accommodate the client's individual preferences;~~

~~(5) Know the community resources such as medical facilities, emergency resources, recreational opportunities;~~

~~(6) Protect the client's financial interests;~~

~~(7) Fulfill reporting requirements as required in this chapter and the alternative living contract;~~

~~(8) Know how and when to contact the client's representative and the client's case manager;~~

- ~~(9) Maintain all necessary license, and certification as required by law (see WAC 388-829A-140, 388-829A-160, and 388-829A-270);~~
~~(10) Successfully complete the training required in this chapter;~~
and
~~(11) Comply with all applicable laws, regulations, policy, and contract requirements.))~~
(3) Have the ability to electronically:
(a) Submit reimbursement claims;
(b) Complete and submit mandatory forms;
(c) Complete mandatory trainings; and
(d) Receive and respond to communications from DSHS within pre-scribed time frames.

NEW SECTION

WAC 388-829A-115 What are the responsibilities of an alternative living provider? An alternative living provider must:

- (1) Deliver services in accordance with the client's plan;
- (2) Know the community resources that will support the client in achieving their plan goals;
- (3) Know the community resources to connect with in case of client emergency;
- (4) Use developmentally appropriate instruction techniques suited to the client's learning style;
- (5) Protect the client's financial interests;
- (6) Follow mandatory reporting requirements under chapter 74.34 RCW;
- (7) Know how and when to contact:
 - (a) The client's case manager;
 - (b) The client's legal representative if the client has one; and
 - (c) Any other collateral contact at the client's request.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-130 ((What rights do clients of DDD have)) How must providers treat clients of DDA? ((Clients of DDD have:

- ~~(1) The same legal rights and responsibilities guaranteed to all other individuals by the United States Constitution and federal and state law;~~
- ~~(2) The right to be free from discrimination because of race, color, national origin, gender, age, religion, creed, marital status, disabled or veteran status, use of a trained service animal or the presence of any physical, mental or sensory handicap.~~
- ~~(3) The right to treatment and habilitation services to foster developmental potential and protect personal liberty in the least restrictive environment;~~
- ~~(4) The right to dignity, privacy, and humane care;~~
- ~~(5) The right to participate in an appropriate program of publicly supported education;~~
- ~~(6) The right to prompt medical care and treatment;~~

- ~~(7) The right to social interaction and participation in community activities;~~
- ~~(8) The right to physical exercise and recreational opportunities;~~
- ~~(9) The right to work and be paid for the work one does;~~
- ~~(10) The right to be free from harm, including unnecessary physical restraint, isolation, excessive medication, abuse, neglect, or financial exploitation;~~
- ~~(11) The right to be free from hazardous or experimental procedures;~~
- ~~(12) The right to freedom of expression and to make decisions about one's life;~~
- ~~(13) The right to complain, disagree with, and appeal decisions made by the provider or DDD; and~~
- ~~(14) The right to be informed of these rights in a language that he or she understands.)~~ Providers must treat clients of DDA with consideration and respect the client's rights under WAC 388-823-1095.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-140 What are the provider training ((must be completed before becoming an alternative living provider)) requirements? ((Before DDD may issue an alternative living contract, the prospective provider must:

- ~~(1) Obtain CPR/first-aid certification;~~
- ~~(2) Successfully complete bloodborne pathogens training with HIV/Aids information; and~~
- ~~(3) Receive contract orientation and client specific training from DDD.)~~

(1) For the purposes of this section "provider" includes:

- (a) An employee of an agency who provides residential habilitation services directly to a client;
- (b) A person who supervises an employee who provides residential habilitation services directly to a client; and
- (c) An individual person contracted to provide residential habilitation services under this chapter.

(2) The provider must meet training requirements under chapter 388-829 WAC.

(3) An alternative living provider must complete training according to the timelines below.

(a) Before delivering services to a client, a provider must:

- (i) Have a valid CPR and first-aid training certificate;
- (ii) Complete six hours of DDA alternative living orientation developed by the department; and
- (iii) Have completed a bloodborne pathogen training that meets requirements under WAC 296-823-12005.

(b) The provider must complete remaining basic training and population-specific training required under chapter 388-829 WAC no more than 120 days after date of hire.

(4) The provider must maintain CPR and first aid certification and keep them current.

NEW SECTION

WAC 388-829A-145 How much are alternative living providers paid?

Alternative living providers are paid a per service unit rate as published by DSHS' management services division. Each service unit is a 15-minute increment.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-170 What ~~((information))~~ client records must an alternative living ~~((providers keep in their records))~~ provider maintain? ~~((Alternative living providers must keep the following information in their records:))~~

~~((Client information))~~ An alternative living provider must maintain the following client records:

- ~~(a)~~ The client's name, address, and telephone number~~((?))~~.
- ~~(b)~~ The name, address, and telephone number of the client's legal representative if the client has one, ~~((health care provider))~~ emergency contacts, and any ~~((of the client's relatives that))~~ other people the client chooses to include~~((?))~~.

- ~~(c)~~ ~~((A copy of the client's most recent ISP;~~
- ~~(d)~~ ~~Copies of any positive behavior support plan or cross systems crisis plan, if applicable; and~~
- ~~(e)~~ A copy of the current plan for alternative living services.

~~(2) Provider Information:~~

- ~~(a)~~ ~~Provider training records (see WAC 388-829A-140 through 388-829A-160);~~

- ~~(b)~~ ~~All written reports submitted to DDD (see WAC 388-829A-180);~~
- ~~(c)~~ ~~Copies of the department approved service verification records, as specified in the provider's alternative living contract;~~
- ~~(d)~~ ~~Signed DDD policy on residential reporting requirements as specified in the alternative living contract; and~~
- ~~(e)~~ ~~Payment records.)~~ Appropriate documents establishing the legal representative's legal authority to act on behalf of the client, if applicable.

- ~~(d)~~ Incident reports.
- ~~(e)~~ Current service and support plans, including the client's:
 - ~~(i)~~ Person-centered service plan;
 - ~~(ii)~~ Alternative living program reports, which includes the alternative living plan and progress reports; and
 - ~~(iii)~~ Other plans provided by DDA if relevant to develop or support the client's alternative living program goals.

(2) Upon request, the provider must submit to DSHS any record required under this section.

NEW SECTION

WAC 388-829A-175 What provider records must the provider maintain? (1) The provider must maintain:

- (a) Provider training records under WAC 388-829A-140;
 - (b) Monthly service verification records signed by the client stating:
 - (i) The number of service hours provided to the client; and
 - (ii) The number of miles traveled with the client while providing services to the client;
 - (c) A copy of the provider's current policies, including a grievance policy;
 - (d) A copy of the provider's current background check;
 - (e) Proof that the provider's business license is current;
 - (f) A copy of the provider's valid driver's license and automobile insurance policy if the provider provides transportation for the client; and
 - (g) Individually signed forms acknowledging each of the following people understand mandatory reporting;
 - (i) Provider;
 - (ii) Administrator;
 - (iii) Owner;
 - (iv) Employee; and
 - (v) Volunteer.
- (2) Upon request, the provider must submit to DSHS any record required under this section.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-190 What are the requirements for ~~((entries in the))~~ client record ~~((maintained by the alternative living provider))~~ entries? (1) ~~((When making entries to the client record, the))~~ The alternative living provider must ensure client record entries made by the provider are:

- (a) Made at the time of or immediately following the event;
~~((Note all record entries in ink or))~~ (b) Made electronically or written legibly in ink;
 - ~~((b) Make entries at the time of or immediately following the occurrence of the event recorded;~~
 - ~~(c) Make entries in legible writing; and~~
 - ~~(d) Sign and date entries in ink.)~~
 - (c) Stored securely; and
 - (d) Kept confidential.
- (2) If a provider makes a mistake on ~~((the))~~ a record, ~~((they))~~ the provider must ~~((keep))~~ ensure both the original and corrected entries are retained.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-200 How long must an alternative living provider keep client and provider records? An alternative living provider must keep ~~((a client's))~~ client and provider records for ~~((a period of))~~ six years.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-210 (~~((Are clients' records considered confidential))~~) May a provider share information about a client? ((Alternative living providers must consider all client record information privileged and confidential.

~~(1) Any transfer or inspection of records, to anyone but DDD, must be authorized by a release of information form that:~~

~~(a) Specifically gives information about the transfer or inspection; and~~

~~(b) Is signed by the client or legal representative.~~

~~(2) A signed release of information is valid for up to one year and must be renewed annually from the signature date.))~~

(1) The provider must keep client records confidential so that only authorized people see their contents.

(2) The provider may release client records:

(a) To the client's healthcare institution;

(b) When required by law; and

(c) To department representatives.

(3) The provider must have authorization to share written, electronic, photographic, or auditory information about the client with an entity other than those in subsection (2) of this section.

(4) The authorization:

(a) Must state the information the provider may share and with whom;

(b) Must be signed by the client;

(c) Must include an expiration date; and

(d) May be revoked by the client at any time.

(5) The provider must allow access to the client to review their records and obtain duplications of their record at a reasonable cost.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-220 ~~((Are))~~ Is an alternative living ((providers mandatory reporters)) provider a mandated reporter? ~~((1) Alternative living providers are mandatory reporters. They must report instances of suspected abandonment, abuse, neglect, or financial exploitation of vulnerable adults as defined in chapter 74.34 RCW.~~

~~(2) Each alternative living provider must comply with DDD residential reporting requirements as specified in their alternative living contract.~~

~~(3) Providers must retain a signed copy of the DDD policy on residential reporting requirements specified in the alternative living contract and submit a signed copy of the policy to DDD.))~~

An alternative living provider, agency administrator, employee, and volunteer is a mandated reporter and must notify adult protective services and law enforcement in accordance with chapter 74.34 RCW.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-240 What must an alternative living ((providers)) provider do in an emergency? (1) ((In)) If an emergency occurs while the provider is delivering paid services to a client, the ((alternative living)) provider must:

((1)) (a) Immediately call 911, in a life threatening emergency;

(b) In a medical emergency, provide first aid or CPR if necessary, unless limited by a physician order for life-sustaining treatment or an advance directive of which the provider is aware; and

(c) Assist client in accessing emergency services for other non-medical and non-life-threatening emergencies.

(2) ((Provide emergency services, then notify)) After the emergency, the provider must:

(a) ((The)) Notify the client's case manager and legal representative if the client has one; and

(b) ((The division of developmental disabilities)) Submit a written incident report to the client's case manager.

((3) Submit a written report to DDD, as required by DDD residential reporting requirements specified in the alternative living contract.)

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-260 ((Are)) When does DDA reimburse an alternative living ((providers responsible to transport)) provider for transporting a client? ((Alternative living providers may provide transportation if specified in the client's ISP.))

DDA reimburses an alternative living provider for transporting a client if:

(1) The DDA case manager has authorized transportation in the client's person-centered service plan;

(2) Transportation is provided to the client to complete activities identified in the alternative living plan;

(3) The provider has a valid driver's license under chapter 46.20 RCW; and

(4) The provider maintains automobile insurance under chapters 46.29 and 46.30 RCW

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-280 ((How will DDD monitor)) Must an alternative living ((services)) provider be certified? ((1) DDD must use the following monitoring process to oversee alternative living services and providers:

(a) Conduct an in-home visit every twelve months;

~~(b) Review all written reports from the provider for compliance with the instruction and support goals specified in the client's ISP; and~~

~~(c) Initial and file all written reports submitted by the provider and document in the service episode record.~~

~~(2) DDD must conduct an annual evaluation of the alternative living program with a sample of alternative living providers and clients who receive services. If the evaluation indicates concerns, a corrective action plan will be developed. The corrective action plan will:~~

~~(a) Outline methods for the provider to comply with the requirements; and~~

~~(b) Provide a time frame for completion of the corrective actions.~~

~~(3) DDD may stop the authorization for payment or terminate the contract if the corrective actions are not completed with the specified timeline.)~~

To provide residential habilitation services as an alternative living provider, a person or an agency must be certified by DDA under chapter 388-825A WAC.

AMENDATORY SECTION (Amending WSR 14-14-029, filed 6/24/14, effective 7/25/14)

WAC 388-829A-290 ~~When may DDA ((decline to authorize))~~ **deny or withhold payment ((or terminate a contract for)) to an alternative living ((services)) provider?**

~~(1) DDA may ((not authorize))~~ **deny** payment ~~((or may terminate a contract for the services of))~~ **to** an alternative living provider ~~((, when that))~~ **if the provider fails to:**

~~((1) Is no longer the client's provider;~~

~~(2) Demonstrates inadequate performance or inability to deliver quality care which is jeopardizing the client's health, safety, or well-being. DDA may terminate the contract based on a reasonable, good faith belief that the client's health, safety, or well-being is in imminent jeopardy;~~

~~(3) Is unable to clear a background check required by RCW 43.20A.710;~~

~~(4) Has been convicted of, or has a pending charge for a crime that is disqualifying under chapter 388-113 WAC;~~

~~(5) Has been subject to a negative action described in WAC 388-825-0640;~~

~~(6) Does not successfully complete the training requirements within the time limits required in this chapter;~~

~~(7) Does not complete the corrective action within the agreed upon time frame; or~~

~~(8) Fails to comply with the requirements of this chapter, or the DDA alternative living contract.)~~

(a) Maintain a valid driver's license and current automobile insurance as required under this chapter if the provider is providing transportation to the client; or

(b) Meet training requirements under WAC 388-829A-140.

(2) DDA may withhold payment to a provider if the provider fails to:

(a) Maintain service verification records;

(b) Timely submit records when requested by DDA; or

(c) Correct a DDA-identified issue of noncompliance within the specified timeline.

(3) DDA must deny payment to an alternative living provider if the provider is decertified under chapter 388-825A WAC.

AMENDATORY SECTION (Amending WSR 14-14-029, filed 6/24/14, effective 7/25/14)

WAC 388-829A-300 ~~When ((must))~~ **does DDA ((deny the))** reject a client's choice of ((an)) alternative living provider? (1) DDA must deny a client's ((request to have a certain)) choice of alternative living provider ((and must not enter into a contract with)) if the person ((when any of the following exist)) is the client's:

~~((1) The person is the client's spouse, as required by 42 C.F.R. 441.360(g))~~ (a) Spouse;

~~((2) The person is the client's natural/step/adoptive parent;))~~

~~((3) The person is the client's court-appointed legal))~~ (b) Legal representative; or

(c) Natural, step, or adoptive parent, unless the person is contracted as, or is employed by, an agency.

~~((4) DDA has a reasonable, good faith belief that the provider will be unable to meet the client's needs. Examples of a provider's inability to meet the client's needs may include:~~

~~(a) Evidence of alcohol or drug abuse;~~

~~(b) A reported history of domestic violence, no-contact orders, or criminal conduct (whether or not the conduct is disqualifying under chapter 388-113 WAC);~~

~~(c) A report from the client's health care provider or another knowledgeable person that the requested provider lacks the ability or willingness to provide adequate support;~~

~~(d) Other employment or responsibilities that prevent or interfere with the provision of required services;~~

~~(e) A reported history of mismanagement of client funds or DSHS contract violations; or~~

~~(f) Excessive commuting distance that would make it impractical to provide services as they are needed and outlined in the client's ISP.))~~

(2) DDA must deny a client's choice of alternative living provider if the provider fails to maintain certification as an alternative living provider.

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-310 ~~((What if the alternative living))~~ When may a provider ((no longer wants to provide)) terminate services to a client? ~~((When an alternative living provider no longer wants to provide services to a client, the provider must:~~

~~(1) Give at least two weeks notice to:~~

~~(a) The client;~~

~~(b) The client's legal representative; and~~

~~(c) DDD.~~

~~(2) If an emergency occurs and services must be terminated immediately, the provider must give immediate notice to DDD, the client and the client's representative.))~~

A provider must not terminate a client's services unless the provider satisfies termination requirements under WAC 388-823-1095.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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|------------------|--|
| WAC 388-829A-005 | What is the purpose of this chapter? |
| WAC 388-829A-030 | What type of training and support may the alternative living service provider offer? |
| WAC 388-829A-100 | May an alternative living provider offer personal care or respite services? |
| WAC 388-829A-120 | What values must alternative living providers focus on when implementing the ISP? |
| WAC 388-829A-150 | What training must an alternative living provider complete within the first ninety days of serving the client? |
| WAC 388-829A-160 | What training must an alternative living provider complete after the first year of service? |
| WAC 388-829A-180 | What written reports must be submitted to DDD? |
| WAC 388-829A-230 | How must alternative living providers report abuse and neglect? |
| WAC 388-829A-250 | What is an individual support plan (ISP)? |
| WAC 388-829A-270 | What requirements must be met before an alternative living provider transports a client? |
| WAC 388-829A-320 | What are the client's rights if DDD denies, or terminates an alternative living services contract? |
| WAC 388-829A-330 | Does the provider of alternative living services have a right to an administrative hearing? |