



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

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STATE OF WASHINGTON  
FILED

DATE: December 27, 2022

TIME: 11:39 AM

WSR 23-02-022

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

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) December 28, 2022

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** These changes to chapter 388-845 WAC are necessary to implement amendments to DDA's home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service from all waivers except the Community Protection waiver; amend the definition of the specialized evaluation and consultation service; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

**Citation of rules affected by this order:**

- New: WAC 388-845-2141, 388-845-2142, and 388-845-2143  
 Repealed: WAC 388-845-0501 and 388-845-0506  
 Amended: WAC 388-845-0001, 388-845-0005, 388-845-0010, 388-845-0045, 388-845-0050, 388-845-0070, 388-845-0110, 388-845-0111, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0415, 388-845-0425, 388-845-0500, 388-845-0505, 388-845-0510, 388-845-0515, 388-845-0800, 388-845-0805, 388-845-0810, 388-845-0820, 388-845-0900, 388-845-0940, 388-845-1030, 388-845-1040, 388-845-1163, 388-845-1190, 388-845-1192, 388-845-1195, 388-845-1197, 388-845-1660, 388-845-1810, 388-845-1865, 388-845-1890, 388-845-2000, 388-845-2005, 388-845-2010, 388-845-2130, 388-845-2210, 388-845-2260, 388-845-2290, 388-845-3080, 388-845-4000, and 388-845-4005  
 Suspended:

**Statutory authority for adoption:** RCW 71A.12.030, RCW 71A.12.120

**Other authority:** 42 C.F.R. 441.301, Section 1915(c) of the Social Security Act

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- 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:** Filing these amendments on an emergency basis is necessary to ensure federal compliance and maintain federal funding for the state. This is the second emergency filing on these sections and is necessary to keep the rules effective until DDA completes the permanent rulemaking process. The department filed a CR 101 preproposal under WSR 22-18-073.

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	<u>3</u>	Amended	<u>46</u>	Repealed	<u>2</u>
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

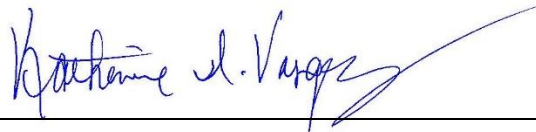
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>3</u>	Amended	<u>46</u>	Repealed	<u>2</u>

**Date Adopted:** December 14, 2022

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



**WAC 388-845-0001 Definitions.** "Aggregate services" means a combination of services subject to the dollar limits in the basic plus waiver and CIIBS waiver.

"Allocation" means the amount of individual and family services (IFS) waiver funding available to a client for a maximum of ~~((twelve))~~ 12 months.

"Behavior support plan" means a plan written by a professionally trained behavioral health or similar provider to address behavioral health intervention needs.

"CARE" means comprehensive assessment and reporting evaluation.

"Client" means a person who has a developmental disability under RCW 71A.10.020(5) and has been determined eligible to receive services from the administration under chapter 71A.16 RCW.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool under chapter 388-828 WAC, used by DDA to measure the support needs of people with developmental disabilities.

"Department" means the department of social and health services (DSHS).

"Evidence-based treatment" means the use of physical, mental, and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives: Spouse or registered domestic partner; natural, adoptive or step~~((—))~~parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your family live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"General utility" describes something used by people in the absence of illness, injury, or disability.

"HCBS waiver" is a home and community based services waiver program under section 1915(c) of the Social Security Act.

"Home" means present place of long-term residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under ~~((eighteen))~~ 18 years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney-at-law, a person's attorney-in-fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his or her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State-funded services" means services that are funded entirely with state dollars.

"You" means the client or participant.

"Waiver year" means the (~~twelve~~) 12-month period starting from the initial or annual plan effective date in the client's person-centered service plan.

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

**WAC 388-845-0005 What are home and community based services (HCBS) waivers?** (1) Home and community based services (HCBS) waivers are services approved by the Centers for Medicare and Medicaid Services (CMS) under section 1915(c) of the Social Security Act as an alternative to intermediate care facility for the individuals with intellectual disabilities (ICF/IID).

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require the services provided in an ICF/IID as defined in chapters 388-835 and 388-837 WAC.

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

**WAC 388-845-0010 What is the purpose of HCBS waivers?** The purpose of HCBS waivers is to provide services in the community to individuals with ICF/IID level of need to prevent their placement in an ICF/IID.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled?** When there is capacity on a waiver (~~and available funding for new waiver participants~~), DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).

(3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0050 How do I request to be enrolled in a waiver?**

(1) You can contact DDA and request to be enrolled in a waiver or to enroll in a different waiver at any time.

(2) If you are assessed as meeting ICF/IID level of care as defined in WAC 388-845-0070 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

(3) For the children's intensive in-home behavioral support (CIIBS) waiver only, if you are assessed as meeting both ICF/IID level of care and CIIBS eligibility as defined in WAC 388-845-0030 and chap-

ter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0070 What determines if I need ICF/IID level of care?** DDA determines if you need ICF/IID level of care based on your need for waiver services. To reach this decision, DDA uses the DDA assessment as specified in chapter 388-828 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0110 What are the limits to the waiver services you may receive?** The following limits apply to the waiver services you may receive:

(1) A service must be available in your waiver and address an unmet need identified in your person-centered service plan.

(2) Stabilization services may be added to your person-centered service plan after the services have been provided.

(3) Waiver services are limited to services required to prevent placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(4) The daily cost of your waiver services must not exceed the average daily cost of care in an ICF/IID.

(5) Waiver services must not replace or duplicate other available paid or unpaid supports or services. Before DDA will cover a service through waiver services, you must first request and be denied all applicable covered benefits through private insurance, medicare, the medicaid state plan, and other resources.

(6) Waiver funding must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0050.

(7) For the individual and family services (IFS) waiver, basic plus waiver, and children's intensive in-home behavioral support waiver, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

(8) Your choice of qualified providers and services is limited to the most cost-effective option that meets your unmet need identified in your person-centered service plan.

(9) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care (~~and personal care~~) during vacations of not more than (~~thirty~~) 30 consecutive days.

(10) You may receive services in a recognized out-of-state bordering city under WAC 182-501-0175.

(11) Other out-of-state waiver services require an approved exception to rule before DDA will authorize payment.

(12) Waiver services do not cover:

(a) Copays;

(b) Deductibles;

- (c) Dues;
- (d) Membership fees; or
- (e) Subscriptions.

(13) Waiver services do not cover a product unless the product is:

- (a) The most basic model of the product available that can meet your health and safety need related to your intellectual or developmental disability;
- (b) The least restrictive means for meeting that need; and
- (c) Requested by you.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0111 Are there limitations regarding who can provide services?** The following limitations apply to providers for waiver services:

- (1) Your spouse must not be your paid provider for any waiver service.
- (2) If you are under age (~~(eighteen)~~) 18, your natural, step, or adoptive parent must not be your paid provider for any waiver service.
- (3) If you are age (~~(eighteen)~~) 18 or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:
  - ~~((a) Personal care;))~~
  - ~~((b))~~ (a) Transportation to and from a waiver service;
  - ~~((e))~~ (b) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or
  - ~~((d))~~ (c) Respite care if you and the parent who provides the respite care live in separate homes.
- (4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:
  - (a) Transportation to and from a waiver service; and
  - (b) Respite per WAC 388-845-1605 through 388-845-1620.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0210 What services are available under the basic plus waiver?** The following services are available under the basic plus waiver:

SERVICE	YEARLY LIMIT
AGGREGATE SERVICES: <u>Assistive technology</u> Extermination of cimex lectularius (bedbugs) Community engagement Environmental adaptations Occupational therapy Physical therapy <del>((Positive behavior support and consultation</del> Skilled nursing Specialized equipment and supplies Specialized habilitation Speech, hearing, and language services Staff and family consultation Transportation Wellness education	Total costs must not exceed <del>((six thousand one hundred ninety-two dollars))</del> <u>\$6,192</u> per year per participant
Therapeutic adaptations	Limited to a single one-time authorization every five years and limited to funds available in the client's aggregate and emergency funding
EMPLOYMENT SERVICES: Individual technical assistance Supported employment Community inclusion	Limits determined by DDA assessment and employment status  Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by <del>((a))</del> the person-centered service plan
Respite care	Limits determined by DDA assessment
Risk assessment	Limits determined by DDA



SERVICE	YEARLY LIMIT
Community engagement	(( <del>Six thousand dollars</del> ) \$6,000 per year for emergency assistance funding)
Environmental adaptations	
Occupational therapy	
Physical therapy	
(( <del>Positive behavior support</del> ))	
Specialized equipment and supplies	
Speech, hearing, and language services	
Skilled nursing	
Staff and family consultation	
Transportation	

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0215 What services are available under the core waiver?** (1) The following services are available under the core waiver:

SERVICE	YEARLY LIMIT
<u>Assistive technology</u>	Determined by the person-centered service plan
Extermination of cimex lectularius (bedbugs)	
Community engagement	
Community transition	
Environmental adaptations	
Occupational therapy	
Physical therapy	
(( <del>Positive behavior support and consultation</del> ))	
Residential habilitation	
Risk assessment	
Skilled nursing	
Specialized equipment and supplies	
<u>Specialized habilitation</u>	
Speech, hearing, and language services	
Staff and family consultation	
<u>Supported parenting</u>	
Transportation	
Wellness education	

SERVICE	YEARLY LIMIT
<del>((Specialized habilitation</del>	<del>Limited to four thousand dollars per waiver year))</del>
EMPLOYMENT SERVICES: Individualized technical assistance Supported employment	Limits determined by DDA assessment and employment status
Community inclusion	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan
Respite care	Limits determined by DDA assessment

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0220 What services are available under the community protection waiver?** (1) The following services are available under the community protection waiver:

SERVICE	YEARLY LIMIT
<u>Assistive technology</u> Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy Positive behavior support and consultation Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies <u>Specialized evaluation and consultation</u> Speech, hearing, and language services	Determined by the person-centered service plan

SERVICE	YEARLY LIMIT
Staff and family consultation Transportation	
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver?** (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Environmental adaptations Nurse delegation Specialized clothing Specialized equipment and supplies Specialized habilitation Staff and family consultation Transportation Vehicle modifications	<del>((Fifteen thousand dollars))</del> \$15,000 per year for any combination of services
Respite care	Limits determined by the DDA assessment.
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan
<del>((Risk assessment Positive behavior support</del>	<del>Limits determined by DDA))</del>

SERVICE	YEARLY LIMIT
Environmental adaptations (Accessibility and repairs) Specialized habilitation Staff and family consultation Vehicle modifications	<del>((Six thousand dollars))</del> \$6,000 per year for emergency assistance funding
Music therapy Equine therapy Peer mentoring Person-centered plan facilitation	<del>((Five thousand dollars))</del> \$5,000 per year for combination of services
Therapeutic adaptations	Limited to a single, one-time authorization not to exceed <del>((fifteen thousand dollars))</del> \$15,000 every five waiver years

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver?** (1) The following services are available under the individual and family services (IFS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Community engagement Environmental adaptations Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy <del>((Positive behavior support and consultation))</del> Respite care Skilled nursing Specialized clothing Specialized equipment and supplies	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan

SERVICE	YEARLY LIMIT
Specialized habilitation Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education	
Therapeutic adaptations	Limited to a one-time authorization every five years and limited to funds available in the client's <del>((aggregate and emergency services))</del> <u>annual allocation</u>
Risk assessment	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = ~~((one thousand two hundred dollars))~~ \$1,560;
- (b) Level 2 = ~~((one thousand eight hundred dollars))~~ \$2,340;
- (c) Level 3 = ~~((two thousand four hundred dollars))~~ \$3,120; or
- (d) Level 4 = ~~((three thousand six hundred dollars))~~ \$4,680.

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

**WAC 388-845-0415 What is assistive technology?** Assistive technology consists of items, equipment, or product systems, not related to a client's physical health, that are used to increase, maintain, or improve functional capabilities of waiver participants, increase safety, or increase social engagement in the community, as well as supports to directly assist the participant to select, acquire, and use the technology. Assistive technology is available ~~((in the CIIBS and IFS))~~ on all DDA HCBS waivers, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the participant in the participant's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for the participant and(~~or~~) if appropriate, the participant's family; and

(6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise involved in the assistive technology related life functions of individuals with disabilities.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0425 Are there limits to the assistive technology you may receive?** The assistive technology you may receive has the following limits:

(1) Assistive technology is limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(2) Clinical and support needs for assistive technology must be identified in your DDA assessment and documented in the person-centered service plan.

(3) DDA requires a treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation of your use of the equipment and determined its effectiveness in meeting your identified need.

(4) Assistive technology exceeding \$550 requires prior approval by the DDA regional administrator or designee.

(5) DDA may require a written second opinion from a DDA-selected professional.

(6) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

(7) Assistive technology excludes any item that is for recreational or diversion purposes such as a television, cable, or DVD player.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0500 What is positive behavior support and consultation?** (1) Positive behavior support and consultation is (~~available on all of the DDA HCBS waivers. A participant is eligible for positive behavior support and consultation if the participant is:~~

~~(a) Under age 21 and currently authorized to receive positive behavior support and consultation for the support of behavioral health or autism treatment when unable to access through the medicaid state plan; or~~

~~(b) On the community protection waiver and requires behavior support to address sexual aggression, arson, or assaultive behaviors which make the client eligible for the community protection waiver)) a service available only on the community protection waiver. Effective September 1, 2022, this service is no longer available on any other waiver.~~

(2) Positive behavior support and consultation includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, and development and implementation of a positive behavior support plan).

(3) Effective September 1, 2022, positive behavior support and consultation is available to a community protection waiver participant if the participant:

(a) Is currently authorized to receive positive behavior support and consultation; and

(b) Is receiving positive behavior support and consultation for the sexual aggression, arson, or assaultive behaviors that make the participant eligible for the community protection waiver.

(4) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

**WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation?** Under the ~~((basic plus, core,))~~ community protection (CP) waiver, ~~((and individual and family services (IFS) waivers,))~~ the provider of positive behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered, or certified as a:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselor registered or certified under chapter 18.19 RCW;
- ~~((11) Polygrapher;))~~ or

~~((12))~~ (11) State-operated positive behavior support agency qualified to provide behavioral health stabilization services.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0510 Are there limits to the positive behavior support and consultation you may receive?** (1) Clinical and support needs for positive behavior support and consultation must be identified in your DDA assessment and documented in the person-centered service plan.

(2) DDA determines the amount of positive behavior support and consultation you may receive based on your needs and information from your treating professional.

~~(3) ((The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services (IFS) waiver limit the amount of service unless provided as a stabilization service.))~~ Positive behavior support and consultation is closed to new enrollment effective September 1, 2022.

(4) DDA must not authorize positive behavior support and consultation for service dates on or after September 1, 2023.

(5) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

~~((4))~~ (6) DDA may require a second opinion from a DDA-selected provider.

~~((5) Positive behavior support and consultation requires prior approval by the DDA regional administrator or designee for the following waivers:~~

~~(a) Basic plus;~~

~~(b) Core;~~

~~(c) Children's intensive in-home behavior support (CIIBS); and~~

~~(d) IFS.)~~

~~((6) Positive behavior support and consultation services are limited to services:~~

~~(a) Consistent with waiver objectives of avoiding institutionalization; and~~

~~(b) That are not a covered benefit under the medicaid state plan.)~~

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0515 What is extermination of bedbugs?** (1) Extermination of cimex lectularius (bedbugs) is professional extermination of bedbugs.

(2) DDA covers professional extermination of bedbugs in your primary residence if you:



- (a) (~~Receive residential habilitation services~~) Live with a non-relative primary caregiver; or
- (b) Live in a private house or apartment for which you are financially responsible.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0800 What is emergency assistance funding?** Emergency assistance funding is a temporary increase of (~~ninety~~) 90 days or less to the yearly basic plus or CIIBS waiver aggregate dollar limit when additional waiver aggregate services under WAC 388-845-0820 are required to avoid placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

**WAC 388-845-0805 Who is a qualified provider of emergency assistance funding?** The provider of the service you need to meet your emergency must meet the provider qualifications for that service.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0810 How do I qualify for emergency assistance funding?** You qualify for emergency assistance funding only if you have used all of your CIIBS or basic plus aggregate funding and your current situation meets one of the following criteria:

- (1) You involuntarily lose your present residence for any reason either temporary or permanent;
- (2) You lose your present caregiver for any reason, including death;
- (3) There are changes in your caregiver's mental or physical status resulting in the caregiver's inability to perform effectively for the individual; or
- (4) There are significant changes in your emotional or physical condition that requires a temporary increase in the amount of a waiver service.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0820 Are there limits to your use of emergency assistance funding?** All of the following limits apply to the emergency assistance funding you may receive.

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan to determine the need for emergency assistance.

(2) Payment authorizations are reviewed every (~~thirty~~) 30 days and must not exceed (~~six thousand dollars~~) \$6,000 per (~~twelve~~) 12 months based on the effective date of your current person-centered service plan.

(3) Emergency assistance funding is limited to the following aggregate services when on the basic plus waiver:

- (a) Community engagement;
- (b) Environmental adaptations;
- (c) Occupational therapy;
- (d) Physical therapy;
- (e) Positive behavior support and consultation;
- (f) Skilled nursing;
- (g) Specialized equipment and supplies;
- (h) Speech, hearing, and language services;
- (i) Staff and family consultation, which excludes individual and family counseling;
- (j) Transportation; and
- (k) Therapeutic adaptations.

(4) Emergency assistance funding is limited to the following services when on the CIIBS waiver:

- (a) Environmental adaptations;
- (b) Specialized habilitation;
- (c) Staff and family consultation; and
- (d) Vehicle modifications.

(5) Emergency assistance funding may be used for interim services until:

- (a) The emergency situation has been resolved;
- (b) You are transferred to alternative supports that meet your assessed needs; or
- (c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0900 What are environmental adaptations?** (1) Environmental adaptations provide minimum necessary physical adaptations to the 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, 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) Only the children's intensive in-home behavioral support (~~((CIIBS) and~~), individual and family services(~~((IFS))~~), core, and community protection waivers may include 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.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-0940 Are there limits to the equine therapy I may receive?** The following limits apply to your receipt of equine therapy:

(1) Support needs for equine therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires your behavior specialist's written recommendation regarding your need for the service. This recommendation must take into account that the service is expected to complement the existing behavior support plan to address behavior support needs.

~~((3) Equine therapy requires prior approval by the DDA regional administrator or designee.))~~

~~((4))~~ (3) DDA may require a second opinion by the department-selected provider.

~~((5))~~ (4) Equine therapy services must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per ~~((plan))~~ waiver year.

~~((6))~~ (5) Equine therapy services must not be used to provide hippotherapy, which is an occupational therapy service.

~~((7))~~ (6) The department reserves the right to terminate the authorization for equine therapy services if there is not a demonstrable improvement in behavior as documented by the contracted equine therapist or other treatment provider.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

**WAC 388-845-1030 What are individualized technical assistance services?** Individualized technical assistance services:

- (1) Provide short-term, professional expertise to identify and address barriers to employment services or community inclusion; and
- (2) Are available in addition to supports received through supported employment services and community inclusion for an individual who has not yet achieved his or her goal.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

**WAC 388-845-1040 Are there limits to the individualized technical assistance services you may receive?** (1) The developmental disabilities administration (DDA) may authorize a maximum of ~~((three))~~ six months of individualized technical assistance services at a time, not to exceed six months in the ~~((plan))~~ waiver year.

(2) Individualized technical assistance services are available on the basic plus, core, and community protection waivers.

(3) Individualized technical assistance services are available only to ~~((individuals))~~ clients who are receiving supported employment or community inclusion services ~~((, unless approved by the regional administrator or his or her designee))~~.

(4) Individualized technical assistance services are limited to additional hours under WAC 388-828-9355 and 388-828-9360.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-1163 Are there limits to the music therapy I may receive?** The following limits apply to your receipt of music therapy:

(1) Support needs for music therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires your behavior specialist's written recommendation regarding your need for the service. This recommendation must take into account that music therapy is expected to complement the existing behavior support plan to address behavior support needs.

~~((3) Music therapy requires prior approval by the DDA regional administrator or designee.))~~

~~((4))~~ (3) DDA may require a second opinion by a department-selected provider.

~~((5))~~ (4) Music therapy must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per year.

~~((6))~~ (5) The department reserves the right to terminate the service authorization for music therapy if there is not a demonstrable improvement in behavior as documented by the certified music therapist or other treatment provider.

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

**WAC 388-845-1190 What is peer mentoring?** (1) Peer mentoring is a form of mentorship that takes place between a person who has lived through an experience (peer mentor) and a person who is new to that experience (mentee). Peer mentors use their experience to inform, support, and train mentees to successfully navigate new experiences related to or impacted by their disability.

(2) A peer mentor may provide support and guidance to a waiver participant and the participant's family.

(3) A peer mentor may connect a waiver participant to local community services, programs, and resources and answer participant questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS and CIIBS waivers.

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

**WAC 388-845-1192 What limits apply to peer mentoring?** (1) Support needs for peer mentoring are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) DDA does not contract with a peer mentor to mentor a member of the mentor's own family.

(3) A waiver participant's peer mentoring services are limited to the participant's annual IFS waiver allocation.

(4) A CIIBS waiver participant's peer mentoring services are limited to the funding available in their CIIBS funding allocation under WAC 388-845-0225.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1195 What is person-centered plan facilitation?** (1) Person-centered plan facilitation is an approach to forming life plans that is centered on the individual. It is used as a life planning process to enable individuals with disabilities to increase personal self-determination. Person-centered plan facilitation is available in the IFS and CIIBS waivers.

(2) Person-centered plan facilitation typically includes:

(a) Identifying and developing a potential circle of people who know and care about the individual;

(b) Exploring what matters to the waiver participant by listening to and learning from the person;

(c) Developing a vision for a meaningful life, as defined by the waiver participant, which may include goals for education, employment, housing, relationships, and recreation;

(d) Discovering capacities and assets of the waiver participant, and his or her family, neighborhood, and support network;

- (e) Generating an action plan; and
- (f) Facilitating follow-up meetings to track progress toward goals.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-1197 What limitations are there for person-centered plan facilitation?** (1) Support needs for person-centered planning facilitation are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Person-centered plan facilitation may include follow up contacts with the waiver participant and his or her family to consult on plan implementation.

(3) ~~((The dollar amounts for the waiver participants' annual allocation in the IFS waiver limit the amount of person-centered plan facilitation service the individual is authorized to receive.))~~ An IFS waiver participant's person-centered plan facilitation is limited to the participant's annual allocation.

(4) A CIIBS waiver participant's person-centered plan facilitation is limited to the funding available in their CIIBS funding allocation under WAC 388-845-0225.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

**WAC 388-845-1660 Are there limits to the risk assessment you may receive?** (1) Clinical and support needs for a risk assessment are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) A risk assessment must meet requirements under WAC ~~((246-930-320))~~ 388-831-0060.

(3) A risk assessment requires prior approval by the DDA regional administrator or designee.

(4) The cost of a risk assessment does not count toward the:

- (a) Dollar limit for aggregate services in the basic plus waiver;
- (b) Annual allocation in the individual and family services waiver; or

(c) ((Monthly average cost limit)) Aggregate budget amounts available in the children's intensive in-home behavior support waiver.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-1810 Are there limits to the specialized equipment and supplies you may receive?** The following limits apply to the specialized equipment and supplies you may receive:

(1) Habilitative support needs for specialized equipment and supplies are limited to those identified in your DDA person-centered assessment and documented in your person-centered service plan.

(2) Specialized equipment and supplies over \$550 require prior approval by the DDA regional administrator or designee (~~for each authorization~~).

(3) When your medical professional recommends specialized equipment and supplies for you, DDA may require a second opinion by a DDA-selected provider.

(4) Items must be of direct medical or remedial benefit to you or required to prevent institutionalization and necessary as a result of your disability.

(5) Items requested to address a sensory integration need must have an accompanying therapeutic plan written by a current treating professional.

~~((5))~~ (6) Medications, first aid supplies, antiseptic supplies, personal hygiene products, supplements, and vitamins are excluded.

~~((6))~~ (7) The dollar amounts for aggregate services in your basic plus or CIIBS waiver limit the amount of service you may receive.

~~((7))~~ (8) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

~~((8))~~ (9) Items excluded from specialized equipment and supplies include:

(a) Items of general utility; and

(b) Nonspecialized recreational or exercise equipment, including but not limited to trampolines, treadmills, swing sets, and hot tubs.

~~((9))~~ (10) Specialized equipment and supplies 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 18-14-001, filed 6/20/18, effective 7/21/18)

**WAC 388-845-1865 Are there limits to your receipt of specialized clothing?** (1) The following limits apply to specialized clothing you may receive:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(b) DDA requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

(c) DDA may require a second opinion from a DDA-selected provider.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

(3) For the CIIBS waiver, the dollar amount for your aggregate services limits the amount of service you may receive.

~~((3))~~ (4) You must receive prior approval from the DDA regional administrator or designee to receive specialized clothing.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-1890 Are there limits to the specialized habilitation I may receive?** The following limits apply to your receipt of specialized habilitation:

(1) Specialized habilitation is limited to address a maximum of three goals at a time.

(2) Specialized habilitation support needs must be identified in your DDA assessment and specialized habilitation must be documented in your person-centered service plan.

(3) Specialized habilitation must not exceed:

~~((a) Four thousand dollars of your basic plus aggregate funding;))~~

~~((b))~~ (a) Your IFS annual allocation in combination with other waiver services; or

~~((c) Fifteen thousand dollars))~~ (b) \$15,000 within your total CIIBS aggregate budget and ~~((six thousand dollars))~~ \$6,000 emergency assistance funding when eligible per WAC 388-845-0800 and 388-845-0820.

(4) Specialized habilitation does not cover education, vocational, skills acquisition training through community first choice, behavioral health, ABA, skilled nursing, occupational therapy, physical therapy, or speech, language, and hearing services that are covered benefits through the medicaid state plan, including early and periodic screening, diagnosis, and treatment, and part B special education services.

(5) Specialized habilitation must not be authorized to clients enrolled in residential habilitation.

(6) Habilitation plans must be documented as formal plans as outlined in the provider's contract.

(7) Specialized habilitation, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-2000 What is staff and family consultation?** (1) Staff and family consultation is assistance, not covered by the medicaid state plan, to families or direct service providers to help them meet the individualized and specific needs of a participant as outlined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation is available in all DDA HCBS waivers.

(3) Staff and family consultation is consultation and guidance to a staff member or family member about one or more of the following:

(a) Health and medication monitoring to track and report to healthcare provider;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;



- (d) Consultation with potential referral resources;
- (e) Augmentative communication systems;
- (f) Diet and nutritional guidance;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental consultation;
- (j) Assistive technology safety;
- (k) Parenting skills; and
- ~~((k) An existing plan of care; and)~~
- (l) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-2005 Who is a qualified provider of staff and family consultation?** To provide staff and family consultation, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech-language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American Sign Language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- ~~((17) Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;)~~
- ~~((18))~~ (17) Certified music therapist (for CIIBS only);
- ~~((19))~~ (18) Psychiatrist;
- ~~((20))~~ (19) Professional advocacy organization;
- (20) DDA-contracted specialized habilitation provider; or
- (21) Teacher certified under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-2010 Are there limits to the staff and family consultation you may receive?** (1) Staff and family consultation are

limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation.

(3) The dollar amounts for aggregate service in your basic plus or CIIBS waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of staff and family consultation you may receive.

(4) (~~Under the basic plus waiver, i~~) Individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's person-centered service plan; and

(ii) Addressed in the participant's positive behavior support plan or therapeutic plan.

(5) Staff and family consultation does not provide training or consultation necessary to meet a provider's or staff's contractual licensing or certification requirements or to complete the necessary functions of their job.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-2130 What are supported parenting services?** (1)

Supported parenting services are professional services offered to participants who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, child care, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills around the child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Supported parenting services are offered in the Core and IFS waivers.

NEW SECTION

**WAC 388-845-2141 What is specialized evaluation and consultation?** (1)

Specialized evaluation and consultation is direct, individualized, habilitative skill building support in the areas of sex education, fire safety, social skills training, and understandings of laws, rights, and responsibilities.

(2) Supports are provided in order to support a client to reduce the likelihood of:

(a) Fire setting; or

(b) Sexual or physical assault in the home and community.

(3) Supports must be used to promote safe engagement and participation in the community.

(4) Supports may be provided in an individual or group setting and includes a special needs evaluation to identify client goals and the specific support needs in order to reach those goals.

(5) Services must assist a client to learn to maintain skills using individual or group supports, treatment team participation, and plan writing.

(6) Specialized evaluation and consultation is available on the community protection waiver.

#### NEW SECTION

**WAC 388-845-2142 Who are qualified providers of specialized evaluation and consultation services?** All specialized evaluation and consultation providers must be contracted with DDA and:

(1) Be licensed, registered, or certified in Washington state according to the standards of their approved profession in Title 18 RCW and Title 246 WAC; or

(2) Have a bachelor's degree or higher in social services and at least three years of prior experience working with individuals with developmental disabilities who engage in challenging behaviors.

#### NEW SECTION

**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.

(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.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

**WAC 388-845-2210 Are there limitations to the transportation services you can receive?** The following limitations apply to transportation services:

(1) Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.

(3) Transportation does not include the purchase of a bus pass.

(4) Reimbursement for provider mileage requires prior authorization by DDA and is paid according to contract.

(5) This service does not cover the purchase or lease of vehicles.

(6) Reimbursement for provider travel time is not included in this service.

(7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

(9) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.

~~((10) If your individual waiver personal care provider uses his or her own vehicle to provide transportation to you for essential shopping and medical appointments as a part of your personal care service, your provider may receive up to one hundred miles per month in mileage reimbursement. If you work with more than one individual personal care provider, your limit is still a total of one hundred miles per month. This cost is not counted toward the dollar limitation for aggregate services in the basic plus waiver.))~~

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-2260 What are vehicle modifications?** (1) Vehicle modifications are adaptations or alterations to a vehicle required in order to accommodate the unique needs of the participant, enable full integration into the community, and ensure the health, welfare, and safety of the participant or the safety of a caregiver.

(2) Vehicle modifications over \$550 require prior approval from the DDA regional administrator or designee.

(3) Examples of vehicle modifications include:

(a) Manual hitch-mounted carrier and hitch for all wheelchair types;

(b) Wheelchair cover;

(c) Wheelchair strap-downs;

(d) Portable wheelchair ramp;

(e) Accessible running boards and steps;

(f) Assist poles and grab handles((-)) ;

(g) Power activated carrier for all wheelchair types;

(h) Permanently installed wheelchair ramps;

(i) Repairs and maintenance to vehicular modifications as needed for client safety; and

(j) Other access modifications.

AMENDATORY SECTION (Amending WSR 16-05-053, filed 2/11/16, effective 3/13/16)

**WAC 388-845-2290 Who are qualified providers of wellness education?** The wellness education provider must have the ability and resources to:

(1) Receive and manage client data in compliance with all applicable federal ((HIPPA)) HIPAA regulations, state law and rules, and ensure client confidentiality and privacy;

(2) Translate materials into the preferred language of the participant;

(3) Ensure that materials are targeted to the participant's assessment and person-centered service plan;

(4) Manage content sent to participants to prevent duplication of materials;

(5) Deliver newsletters and identify any undeliverable client/representative addresses prior to each monthly mailing and manage any returned mail in a manner that ensures participants receive the monthly information; and

(6) Contract with AL TSA or DDA to provide this service.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?**

(1) If you are on the basic plus waiver and your assessed need for services exceeds the maximum permitted, DDA will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available nonwaiver services not included in the basic plus waiver other than natural supports;

(c) Authorize emergency assistance funding up to ((~~six thousand dollars~~)) \$6,000 per year if your needs meet the definition of emergency assistance funding in WAC 388-845-0800.

(2) If emergency assistance funding and other efforts are not sufficient to meet your needs, you will be offered:

(a) An opportunity to apply for an alternate waiver that has the services you need;

(b) Priority for placement on the alternative waiver when there is capacity to add people to that waiver;

(c) Placement in an ICF/IID.

(3) If none of the options in subsections (1) and (2) ((~~above~~)) in this section is successful in meeting your health and welfare needs, DDA may terminate your waiver eligibility.

(4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDA services but access to state-only funded DDA services is limited by availability of funding.

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

**WAC 388-845-4000 What are my appeal rights under the waiver?** In addition to your appeal rights under WAC 388-825-120, you have the right to appeal the following decisions:

(1) Disenrollment from a waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.

(2) A denial of your request to receive ICF/IID services instead of waiver services; or

(3) A denial of your request to be enrolled in a waiver, subject to the limitations described in WAC 388-845-4005.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**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; or

(b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(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; or

(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.

(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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-845-0501      What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?

WAC 388-845-0506

Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?