



RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: February 07, 2025

TIME: 3:16 PM

WSR 25-05-020

Agency: Department of Social and Health Services' Developmental Disabilities Administration

Effective date of rule:

Emergency Rules

- ☒ Immediately upon filing.
☐ Later (specify) _____

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

- ☐ Yes ☒ No If Yes, explain:

Purpose: DDA is enacting these changes on an emergency basis to implement changes to DDA's home and community-based services (HCBS) waivers as approved by the Centers for Medicare and Medicaid Services (CMS).

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 388-845-0113, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0820, 388-845-1150, 388-845-1870, 388-845-1880, 388-845-1890, 388-845-2005, 388-845-2205, 388-845-2210

Suspended:

Statutory authority for adoption: RCW 34.05.350

Other authority: RCW 71A.12.380(1), 42 CFR 441.301

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: Enacting these rules on an emergency basis is necessary in order to implement home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services (CMS). Aligning rules with approved waiver amendments provides assurances required under 42 CFR 441.301.

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Federal statute:	New	_____	Amended	_____	Repealed	_____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	_____	Amended	<u>14</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New Amended Repealed

The number of sections adopted on the agency’s own initiative:

New Amended Repealed

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New Amended 14 Repealed

The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed
Pilot rule making:	New	Amended	Repealed
Other alternative rule making:	New	Amended	Repealed

Date Adopted: February 7, 2025	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0113 When may I receive waiver services through teleservice? (1) Teleservice is a remote service delivery method that uses a HIPAA-compliant technology system approved by DDA.

(2) The following services may be delivered through teleservice:

(a) Assistive technology;

(b) Community engagement;

(c) Individual supported employment;

~~((e))~~ (d) Individualized technical assistance;

(e) Life skills;

~~((d))~~ (f) Music therapy;

~~((e))~~ (g) Occupational therapy;

~~((f))~~ (h) Peer mentoring;

~~((g))~~ (i) Person-centered plan facilitation;

~~((h))~~ (j) Physical therapy;

~~((i) Positive behavior support and consultation until August 31, 2023,))~~

(k) Residential habilitation;

~~((j))~~ (l) Specialized evaluation and consultation;

~~((k) Specialized habilitation,))~~

~~((l))~~ (m) Speech, hearing, and language services;

~~((m) Supported employment;~~

~~(n) Supported parenting; and))~~

(n) Stabilization - crisis diversion bed;

(o) Stabilization - life skills;

(p) Stabilization - staff and family consultation;

~~((e))~~ (q) Staff and family consultation((-)) ; and

(r) Supported parenting.

(3) A waiver service may be delivered through teleservice if:

(a) The waiver participant chooses that service delivery method and acknowledges the teleservice agreement through signature on the person-centered service plan;

(b) DDA determines through the person-centered planning process that the waiver service can be adequately provided remotely based on the reason for the service request;

(c) There is no risk to the waiver participant's health or safety as a result of the waiver service being provided remotely; and

(d) The waiver participant's person-centered service plan indicates each waiver service that will be provided through teleservice.

(4) For each waiver service that occurs regularly over the course of the plan year and is being delivered remotely, the service must be delivered in-person at least one time per plan year.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

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:	Total costs must not exceed \$6,192 per year per participant
<u>Assistive technology</u>	
((Assistive technology)) Extermination of cimex lectularius (bedbugs)	
Community engagement Environmental adaptations	
<u>Life skills</u>	
Occupational therapy Physical therapy Remote support Skilled nursing Specialized equipment and supplies ((Specialized habilitation)) Speech, hearing, and language services Staff and family consultation Transportation Wellness education	
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)) <u>Life skills</u> Staff and family consultation	Limits determined by the person-centered service plan
Respite care	Limits determined by DDA assessment
Risk assessment	Limits determined by DDA

SERVICE	YEARLY LIMIT
Community engagement	\$6,000 per year for emergency assistance funding
Environmental adaptations	
Occupational therapy	
Physical therapy	
<u>Remote support</u>	
Specialized equipment and supplies	
Speech, hearing, and language services	
Skilled nursing	
Staff and family consultation	
Therapeutic adaptations	
Transportation	

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

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

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
Assistive technology 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 Specialized evaluation and consultation Speech, hearing, and language services Staff and family consultation Transportation	Determined by the person-centered service plan
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> 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).

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 <u>Life skills</u> Nurse delegation Specialized clothing Specialized equipment and supplies ((Specialized habilitation)) Staff and family consultation Transportation Vehicle modifications	\$15,000 per year for any combination of services
Respite care	Limits determined by the DDA assessment.
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation	Limits determined by the person-centered service plan
Risk assessment	Limits determined by DDA
Environmental adaptations (Accessibility and repairs) ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation Vehicle modifications	\$6,000 per year for emergency assistance funding
Equine therapy Music therapy Peer mentoring Person-centered plan facilitation	\$5,000 per year for any combination of services
Therapeutic adaptations	Limited to a single, one-time authorization not to exceed \$15,000 every five waiver years

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

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 <u>Life skills</u> Nurse delegation Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy Remote support Respite care Skilled nursing Specialized clothing Specialized equipment and supplies ((Specialized habilitation)) Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan
Therapeutic adaptations	Limited to a one-time authorization every five years and limited to funds available in the client's annual allocation
Risk assessment	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> 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 = \$1,560;
- (b) Level 2 = \$2,340;
- (c) Level 3 = \$3,120; or
- (d) Level 4 = \$4,680.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

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 30 days and must not exceed \$6,000 per 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) Remote support;
- (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)~~) Life skills;
- (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 388-845-1150 What are stabilization services? (1) Stabilization services assist persons who are experiencing a crisis.

(2) Stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers.

(3) A participant may be eligible for stabilization services if:

(a) A behavioral health professional and DDA has determined the participant is at risk of institutionalization or hospitalization; and

(b) The participant needs short-term:

(i) ~~((Specialized habilitation))~~ Life skills;

(ii) Staff and family consultation; or

(iii) Crisis diversion beds.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1870 What are ~~((specialized habilitation))~~ life skills services? (1) ~~((Specialized habilitation))~~ Life skills services provide community-based and individualized support with the intent of reaching an identified habilitative goal in the person-centered service plan.

(2) Service must assist a client to learn or maintain skills in categories of:

(a) Self-empowerment;

(b) Safety awareness and self-advocacy;

(c) Interpersonal effectiveness and effective social communication;

(d) Coping strategies for everyday life changes; and

(e) Managing daily tasks and acquiring adaptive skills.

(3) ~~((Specialized habilitation))~~ Life skills services must promote inclusion in the community.

(4) ~~((Specialized habilitation))~~ Life skills services are available on the basic plus, IFS, core, and CIIBS waivers.

(5) ~~((Specialized habilitation))~~ Life skills services, when authorized as a stabilization service, is available on all five HCBS waivers.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1880 Who are qualified providers of ~~((specialized habilitation))~~ life skills services? To provide ~~((specialized habilitation))~~ life skills services, a provider must be contracted with DDA for this service, have one year of experience working with people with a developmental or intellectual disability, and be one of the following:

(1) A certified life skills coach;

(2) An individual with a bachelor's, master's, or doctoral degree in social work, sociology, psychology, education, child development, gerontology, nursing, or other related field; or

(3) An individual enrolled and supervised in a university internship program for social work, sociology, psychology, education, child development, gerontology, sociology, or nursing.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

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

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

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

(3) ((Specialized habilitation)) Life skills must not exceed:

(a) \$6,192 within your total basic plus aggregate budget;

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

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

(4) ((Specialized habilitation)) Life skills 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) Life skills may be provided in a small group up to four if the clients have the same person-centered goal, and the group work addresses each client's current goal.

(6) ((Specialized habilitation)) Life skills must not be authorized for a client receiving residential habilitation, unless the client is receiving the service from a companion home provider.

((+6)) (7) Habilitation plans must be documented as formal plans as outlined in the provider's contract.

((+7) Specialized habilitation)) (8) Life skills, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

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) Certified music therapist (for CIIBS only);
- (18) Psychiatrist;
- (19) Professional advocacy organization;
- (20) DDA-contracted (~~((specialized habilitation))~~) life skills provider; or
- (21) Teacher certified under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2205 Who is qualified to provide transportation services? The provider of transportation (~~((services can be an individual or agency))~~) must be an entity contracted with DDA (~~((whose contract includes))~~) to provide transportation (~~((in the statement of work))~~).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2210 Are there ~~((limitations))~~ limits to the transportation services you can receive? The following ~~((limitations))~~ limits 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))~~ (3) This service does not cover the purchase or lease of vehicles.

((+6)) (4) Reimbursement for provider travel time is ~~((not))~~ included ~~((in this service))~~ for nonmedical transportation from a transportation company only.

((+7)) (5) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

((+8)) (6) 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)) (7) 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.