



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 29, 2023

TIME: 12:42 PM

WSR 23-18-034

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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). Substantive changes remove the prohibition to receive employment services and community inclusion services concurrently and remove "consecutive" to align with RCW 71A.12.290. These permanent rules supersede emergency rules currently enacted on these sections.

Citation of rules affected by this order:

New:
Repealed:
Amended: WAC 388-845-0603, 388-845-0610, and 388-845-2110
Suspended:

Statutory authority for adoption: RCW 71A.12.030

Other authority: RCW 71A.12.120 and 71A.12.290

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-14-001 on 6/21/2023 (date).
Describe any changes other than editing from proposed to adopted version: WAC 388-845-0603(2)(a) was revised to remove the requirement that the employment support services were received from DDA. This change aligns with RCW 71A.12.290 and would allow for greater variety in supported employment experience (e.g., out-of-state employment support services).

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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	Repealed	___

Date Adopted: August 29, 2023

Name: Lisa Yanagida

Title: DSHS Chief of Staff

Signature:



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

WAC 388-845-0603 Who is eligible to receive community inclusion services? You are eligible for community inclusion services if you are enrolled in the basic plus or core waivers and:

- (1) You are (~~sixty-two~~) 62 or older; or
- (2) You meet age requirements under WAC 388-845-2110(1) and:

(a) You have participated in (~~developmental disabilities administration (DDA)~~) supported employment services for at least nine (~~consecutive~~) months; or

(b) DDA has determined that you are exempt from the nine-month (~~DDA~~) supported employment service requirement because:

(i) Your medical or behavioral health records document a condition that prevents you from completing nine (~~consecutive~~) months of (~~DDA~~) supported employment services; or

(ii) You were referred to and were available for (~~DDA~~) supported employment services, but the service was not delivered within (~~ninety~~) 90 days of the referral.

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

WAC 388-845-0610 Are there limits to community inclusion services you may receive? (~~(1) You must not receive community inclusion services if you are receiving prevocational or supported employment services.~~

~~(2))~~ The maximum hours of community inclusion services you may receive are determined by the developmental disabilities administration (~~DDA~~) assessment under WAC 388-828-9310.

AMENDATORY SECTION (Amending WSR 22-01-216, filed 12/22/21, effective 1/22/22)

WAC 388-845-2110 Are there limits to the supported employment services you may receive? The following limits apply to your receipt of supported employment services:

(1) To receive supported employment services, you must be age:

(a) (~~Twenty~~) 20 and graduating from high school before your July or August (~~twenty-first~~) 21st birthday(~~+~~);

(b) (~~Twenty-one~~) 21 and no longer eligible to enroll in high school; or

(c) (~~Twenty-two~~) 22 or older.

(2) Payment for (~~individual~~) supported employment services excludes the supervisory activities rendered as a normal part of the business setting.

~~(3) (You will not be authorized to receive supported employment services in addition to community inclusion services.~~

~~(4))~~ Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC

388-828-9325 and might not equal the number of hours you spend on the job or in job related activities.