



DEVELOPMENTAL DISABILITIES ADMINISTRATION  
Olympia, Washington

---

TITLE: WAIVER SERVICES FOR CHILDREN AND YOUTH 4.30  
SUBJECT TO A DEPENDENCY ACTION

---

Authority: [42 U.S.C. 1396a](#) State Plans for Medical Assistance  
[42 C.F.R. 441.301](#) Contents of Request for a Waiver  
[Title 45 C.F.R.](#) Public Welfare  
[Title 71A RCW](#) Developmental Disabilities  
[Chapter 13.34 RCW](#) Juvenile Court Act- Dependency and Termination  
of Parent-Child Relationship  
[Chapter 388-823 WAC](#) Developmental Disabilities Administration and  
Eligibility Determination  
[Chapter 388-845 WAC](#) DDA Home and Community Based Service Waivers

References: [DDA Policy 5.02](#) Necessary Supplemental Accommodation

### **BACKGROUND**

In 2023, The Washington State legislature directed the Developmental Disabilities Administration to open all five of their home and community-based services waivers to eligible children or youth who are also subject to a dependency action. These children or youth are dually served by DDA and the Department of Children Youth and Families or a tribal child welfare agency. In response, DDA and DCYF worked to establish a way to communicate effectively and successfully for the benefit of these children or youth.

### **PURPOSE**

This policy establishes procedures for managing the cases of waiver-eligible children and youth who are also subject to a dependency action, including shelter care, through Washington State or tribal child welfare court involvement.

## SCOPE

This policy applies to DDA field staff who authorize waiver services for eligible DDA clients and DDA-contracted and state-operated providers of home and community-based services (HCBS).

## DEFINITIONS

**Client** means a person who has a developmental disability as defined in [RCW 71A.10.020](#) and has been determined DDA-eligible under [Chapter 388-823 WAC](#).

**CRM** means a DDA case resource manager, caseworker, or social service specialist.

**DDA assessment** means the standardized assessment tool under [Chapter 388-828 WAC](#) used by DDA to measure the support needs of people with developmental disabilities.

**Department of Children, Youth, and Families (DCYF)** means the lead agency for Washington state child welfare services that support children and families to build resilience and health, and to improve educational outcomes. DCYF is the legal decision maker for all children and youth (dependents) placed in out-of-home care by the court through DCYF. DCYF Licensing Division is the licensing entity for contracted children's residential habilitation providers.

**Dependency action** means a court action taken under the authority of [RCW 13.34.030](#) or a similar tribal court action. The court process begins with filing a dependency petition and can result in a court determining a child or youth to be dependent. The dependency action process assigns legal authority to the court and delegated entities to support children and youth. The child or youth remains dependent until the dependency action is dismissed by the court when permanency is achieved.

**Dependent** means a child or youth for whom the court has entered an [order of dependency](#) determining that the child or youth is dependent under [RCW 13.34.030](#) or a similar tribal court action.

**Developmental Disabilities Administration (DDA)** is the administration supporting people with intellectual and developmental disabilities within the Washington State Department of Social and Health Services.

**Extended foster care (EFC)** means residential and other support services that DCYF provides to youth who were dependent at age 18 and choose to participate in EFC and continued foster care services until the age of 21. These services include: placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

**Home and Community-Based Service (HCBS) Waivers** means federal waivers, approved by the Centers for Medicare and Medicaid Services (CMS) under section 1915(c) of the Social Security Act as an alternative to admission to an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).

**In-home dependency** means a child or youth who is subject to a dependency order and remains in the home of their parent or guardian. This most often occurs if a court determines a dependency is needed but the child or youth is not placed out-of-home during the dependency action. If the child or youth was placed out of home, they returned home before the order of dependency was filed.

**Legal representative** means a parent of a client if the client is under age 18 and parental rights have not been terminated or relinquished, a court-appointed guardian if a decision is within the scope of the guardianship order, or any other person authorized by law to act for the client.

**Out-of-home placement** is a DCYF term that means a placement in a foster family home or group care facility or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed under [Chapter 74.15 RCW](#) or [RCW 74.14C.010](#). Out-of-home placement also refers to a child or youth placed via shelter care order or dependency order under [Chapter 13.34 RCW](#).

**Shelter care** means court hearings that occur when a child or youth is taken into custody pursuant to a court order issued under [RCW 13.34.050](#) or when child protective services is notified that a child or youth is taken into custody pursuant to [RCW 26.44.050](#) or [26.44.056](#). Shelter care can lead to a child or youth becoming dependent.

**Title 11 guardian** means a person appointed by the court to make decisions with respect to the personal affairs of an individual under the authority of [Chapter 11.130 RCW](#).

**Title 13 guardian** means a person appointed by the court to make decisions with respect to the personal affairs of an individual under the authority of [Chapter 13.36 RCW](#). Title 13 guardianships apply to minors and terminate when the minor turns age 18.

**Trial return home** means the period of time where a parent or guardian takes over the parental responsibilities of the child or youth when the court placement has changed from out-of-home to in-home. Trial return home lasts a minimum of six months or until the court decides oversight is no longer needed. Trial return home most often means a child or youth returns to the care and custody of the parent or guardian; however, children or youth may access children's residential habilitation during this period. DCYF retains jurisdiction to access records and information regarding the child or youth without express permission of the parent or guardian

during the trial return home period and should continue to be included in decision making conversations.

### POLICY

#### A. The CRM must:

1. Follow established DDA policies when working with dependent children and youth who are subject to a dependency action. .
2. Collaborate with DCYF or tribal child welfare agency and a child or youth's legal representative.
3. Obtain signatures from the identified legal representative on all relevant DDA forms to ensure continued processing of initial and ongoing eligibility or requests for waiver services.
4. Update signatures when there is a change to a legal representative, which may occur at any point in the DDA plan year.

Note: The legal representative may change when a child or youth: returns home to parent or guardian from a court-ordered out-of-home placement; is adopted; enters a Title 11 or Title 13 guardianship; or turns 18.

#### B. Legal Representative

1. DCYF or a tribe is the legal representative when a child or youth is under age 18 and is placed in out-of-home care through a dependency action. This role is usually fulfilled by the DCYF or tribal caseworker and includes the ability to make routine and emergency healthcare decisions for the child or youth.
  - a. When a child or youth is placed in out-of-home care, DDA must request the relevant shelter care or dependency court order. The CRM must:
    - i. Verify DCYF or a tribe has the authority to make decisions on behalf of the child or youth; and
    - ii. Upload the court order into the Records Management Tool. (It is only necessary to obtain court paperwork once.)

- 
- b. For a dependent child or youth who resides with their parent or legal guardian, the parent or legal guardian is the legal representative.
    - i. If the child or youth is placed in-home via a trial return home, DDA does not need to obtain a consent from the parent or guardian before sharing information with DCYF as DCYF retains jurisdiction to obtain information.
    - ii. Before DDA shares information with DCYF regarding a child or youth subject to an in-home dependency, the CRM must obtain a signed consent from the parent or guardian.
    - iii. If a child or youth is subject to a tribal child welfare action, the CRM must request and review the court order to determine:
      - A) What authority the tribal court grants the tribal child welfare worker.
      - B) If a consent is needed from the child or youth's parent or guardian before sharing information with the tribe.
    - iv. The CRM must work with their supervisor to request consult with a DDA Assistant Attorney General when needed.
2. When DCYF or a tribe is the legal representative for a child or youth, they have the authority to make routine and emergency health care decisions for children and youth.
- a. DDA service options that include a residence or are overnight are not considered routine and require one of the following types of consent.
    - i. Parental consent is obtained via parent signature on the person-centered service plan (PCSP) and any other care plans developed by the residential provider.
    - ii. The legal representative obtains authority via a court order that allows them to consent to the residential service option and then provides a copy of the court order to the CRM.

- 
- b. DDA service options that require additional consent include [residential habilitation for dependent youth](#), [enhanced respite services](#), [intensive habilitation services](#), dedicated respite, and any service at a residential habilitation center (RHC).
    3. When a child or youth is subject to a dependency action through DCYF or tribal child welfare program, the CRM must:
      - a. Work with the legal representative to explain all available services.
      - b. Obtain all required DDA paperwork signed by the legal representative who also acts as the decision maker when choosing providers to deliver approved DDA waiver services.

Note: DCYF may delegate the responsibility of identifying a DDA waiver service provider to the child or youth's foster parent or DCYF out-of-home caregiver.
      - c. Provide copies of DDA paperwork to the legal representative who is responsible for sharing information with appropriate parties.
    4. When DDA supports a client enrolled in extended foster care, the CRM must:
      - a. Work with the youth, who is their own legal representative, unless a court determines the youth requires a Title 11 guardianship.
      - b. Obtain a consent to release information from the youth or their guardian to share information with DCYF or the tribe.
      - c. Collaborate with DCYF or tribal case workers as team members to support decision making and cross-agency service planning.
  - C. In addition to the processes identified in [Chapter 388-828 WAC](#) and [Chapter 388-845 WAC](#), when supporting a child or youth subject to a dependency action who requests or receives DDA HCBS, the CRM must confirm:
    1. The child or youth's legal and placement status and setting type with DCYF or tribal child welfare; and
    2. The current DCYF or tribal child welfare services and supports the child or youth is receiving.
-

**PROCEDURES**

## A. DDA Assessment

1. When supporting a child or youth subject to a dependency action, the CRM must invite the DCYF or tribal case worker to participate in the DDA assessment.
2. DCYF or the tribe may delegate the responsibility to the child or youth's out-of-home caregiver or out-of-home provider when responding to the DDA assessment and communicating unmet needs.

B. When completing a DDA assessment, waiver request, or prior approval request for waiver services for a child or youth subject to a dependency action, the following information is required in addition to the requirements of [Chapter 388-828 WAC](#) and [Chapter 388-845 WAC](#):

1. The child or youth's current legal status (shelter care, in-home pre-fact finding, or dependent);
2. The child or youth's current legal placement (in-home placement [with a parent or guardian] or out-of-home placement);
3. Setting type (e.g., foster home, kinship placement, Qualified Residential Treatment Program) and anticipated length of time the child or youth will be in the current placement setting if known;
4. The current DCYF or tribal child welfare services and supports the child or youth is receiving;
5. [DCYF case plan](#) or similar tribal case plan as it relates to the child or youth;
6. Any active administrative approval requests granted through DCYF ([DCYF 05-210, Administrative Approvals for Child Welfare](#)). (This form is available internally only.)

## C. Change in DCYF Placement

1. The CRM must maintain an accurate residency address and setting in CARE for the dependent child or youth. This information must be confirmed at every annual assessment and plan review, and when applicable, quarterly team meetings.

2. The CRM must assess if a change in placement affects service or waiver eligibility and may warrant an amendment to the PCSP or an interim or significant change assessment.

D. Escalation Process

DDA and DCYF have agreed to resolve issues and challenges at the lowest level possible. Concerns should be escalated in the following manner until there is mutual resolution:

1. CRM supervisor to DCYF caseworker supervisor.
2. DDA regional children's transition coordinator to the DCYF regional lead, the mental health/developmental disability program consultant, or both.
3. DDA field service administrator to DCYF area administrator.
4. DDA regional administrator to DCYF deputy regional administrator or regional administrator, with support from the DDA foster youth cross-system program manager or DCYF developmental disabilities program manager when needed.
5. Agency leadership
  - a. Directors.
  - b. Assistant secretary.
  - c. Department secretary.

E. Provider Expectations

DDA does not reimburse providers for participating in a dependency action, unless authorized for transition funds under [DDA Policy 6.02](#), *Rates and Other Covered Costs for Supported Living, Group Training Homes, and Group Homes*.

EXCEPTIONS

Any exception to this policy must have the prior written approval of the Deputy Assistant Secretary.

SUPERSESSION

None.



---

TITLE:

WAIVER SERVICES FOR CHILDREN AND YOUTH  
SUBJECT TO A DEPENDENCY ACTION

4.30

---

Approved:   
Deputy Assistant Secretary  
Developmental Disabilities Administration

Date: March 1, 2025