



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: July 08, 2024

TIME: 8:12 AM

WSR 24-15-010

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) July 11, 2024

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 adopting new sections of rule on an emergency basis to implement Engrossed Second Substitute Senate Bill 5440 (2023), which directs DSHS to develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability to available wraparound services and supports in community-based settings. Additional subsections were added to the chapter between the initial emergency filing and this subsequent emergency filing.

Citation of rules affected by this order:

New: WAC 388-848-0010, 388-848-0020, 388-848-0030, 388-848-0040, 388-848-0050, 388-848-0060, 388-848-0090, 388-848-0100, 388-848-0110, 388-848-0120, 388-848-0130, 388-848-0150, 388-848-0160, 388-848-0170, and 388-848-0180

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 34.05.350(1)(a) and RCW 71A.12.030

Other authority: RCW 10.77.060 (See ESSSB 5440)

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 the program established under ESSSB 5440, which is intended for people in need of immediate support after being deemed incompetent or nonreformable in order to inform those individuals of services available and ensure preservation of their health and safety by providing necessary services as quickly as possible. This is the second emergency filing on these sections and is necessary to keep the rules enacted until DDA can complete the permanent rulemaking process. DDA is progressing through the permanent process, see WSR 24-07-045. The draft rules are currently at external review for comment.

**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	15	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 15 Amended ____ Repealed ____

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

New ____ Amended ____ Repealed ____

The number of sections adopted using:

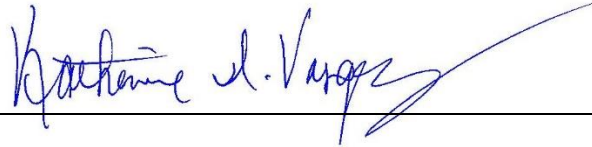
Negotiated rule making: New ____ Amended ____ Repealed ____
Pilot rule making: New ____ Amended ____ Repealed ____
Other alternative rule making: New 15 Amended ____ Repealed ____

Date Adopted: July 8, 2024

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



**Chapter 388-848 WAC
CIVIL TRANSITIONS PROGRAM**

PURPOSE

NEW SECTION

WAC 388-848-0010 What is the civil transitions program? The civil transitions program is a voluntary program for people referred to the developmental disabilities administration by the behavioral health administration as a result of a determination that the person is not competent to stand trial under RCW 10.77.084 and not likely restorable due to a diagnosis of intellectual or developmental disability.

DEFINITIONS

NEW SECTION

WAC 388-848-0020 What definitions apply to this chapter? The following definitions apply to this chapter:

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined eligible by DDA to receive services under chapter 388-823 WAC.

"Community first choice" or "CFC" is a Medicaid state plan program as defined in chapter 388-106 WAC.

"Conditional services" means supportive housing services and community first choice services that may be available to a participant on an interim basis while awaiting a DDA-eligibility determination. Conditional services are limited to funds allocated for the program's purpose.

"Conditionally eligible" means a status assigned to a civil transitions program participant while the person awaits a DDA eligibility determination.

"Developmental disability" is defined in RCW 71A.10.020.

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

"Participant" means a person receiving services through the civil transitions program.

"Supportive housing" means a combination of rental assistance and wraparound services administered by DDA and intended to stabilize and support participants to live successfully in the community.

"Supportive housing agreement" means a contract between the participant and the supportive housing provider that sets rules and expectations for living in the home.

"Termination" means an action taken by DDA that ends DDA eligibility, DDA services, or both.

"Wraparound services" means support that helps a participant by:

- (1) Preparing for and transitioning to housing;
- (2) Providing guidance to help the participant maintain tenancy once housing is secured; and
- (3) Navigating community resources.

PROGRAM ELIGIBILITY AND REFERRAL

NEW SECTION

WAC 388-848-0030 Who is eligible to enroll in the civil transitions program? To be eligible for enrollment in the civil transitions program, a person must:

(1) Be determined not competent to stand trial and not likely restorable under RCW 10.77.084 due to an intellectual or developmental disability;

(2) Be referred to the developmental disabilities administration by the behavioral health administration; and

(3) Be one of the following:

(a) Not a current DDA client and apply for a DDA eligibility determination under chapter 388-823 WAC no more than 30 days after enrolling in the civil transitions program;

(b) A current DDA client who is not eligible for residential habilitation services under chapter 388-845 WAC; or

(c) A current DDA client who is eligible for residential habilitation services under chapter 388-845 WAC or residential services from an adult family home but is awaiting a service provider.

NEW SECTION

WAC 388-848-0040 How does a supportive housing provider determine if they can safely meet a participant's needs? To determine whether they can safely meet a participant's needs, the supportive housing provider reviews participant information, such as:

- (1) The participant's referral packet;

- (2) Information gathered from the participant, collateral contacts, or case manager; and
- (3) Composition of participants currently supported in the provider's shared housing.

NEW SECTION

WAC 388-848-0050 Is a single-person housing option available for a participant? (1) If a participant requests supportive housing, a single-person housing option may be available when the original charge that made the participant eligible for the civil transitions program involved:

- (a) Arson;
- (b) A sexualized crime;
- (c) Felony assault; or
- (d) Murder.

(2) If the charge is sexual in nature or for a crime that resulted in the death of another person, DDA will review the charge to determine if it is safe for the person to share a home with other vulnerable adults or if a single-person housing option is appropriate and available.

NEW SECTION

WAC 388-848-0060 How long after DDA receives a referral may a person enroll in the civil transitions program? (1) After DDA contacts a person referred to the civil transitions program, the person has up to 90 days to enroll. For the purpose of this section, enrollment occurs on the earlier of:

- (a) Submission of an eligibility application; or
- (b) Authorization of a conditional service.

(2) If DDA is unable to contact the person, DDA will keep the referral active for 90 days.

(3) If the person declines DDA services, DDA will keep the referral active for 90 days.

NEW SECTION

WAC 388-848-0090 What services are available to a civil transitions program participant? (1) A participant who is not a DDA client upon program enrollment may request supportive housing services while awaiting an eligibility determination under chapter 388-823 WAC and is considered conditionally eligible.

(2) A participant who is not a DDA client upon program enrollment may request community first choice services under chapter 388-106 WAC while awaiting an eligibility determination under chapter 388-823 WAC.

(3) A participant who is a DDA client will be referred to DDA services for which the client may be eligible. If the client is unable

to access residential habilitation services, the client may request supportive housing.

NEW SECTION

WAC 388-848-0100 Are supportive housing services available everywhere in Washington state? Supportive housing services are limited to areas of Washington state with contracted providers and support services available. A participant does not have a right to supportive housing services through the civil transitions program in any area of their choosing.

NEW SECTION

WAC 388-848-0110 Must a participant sign a supportive housing agreement? To receive supportive housing services, an eligible participant must sign a supportive housing agreement.

NEW SECTION

WAC 388-848-0120 Are there limits to how long a participant may receive conditional services? (1) If a participant is found ineligible for DDA services, the participant may continue to receive conditional services up to 90 days after the date the participant is found ineligible.

(a) If the participant has not acquired housing during the 90 days under subsection (1) of this section, DDA may approve up to 90 additional days of conditional services.

(b) If the participant is found ineligible for DDA services, the participant may receive conditional services for a maximum of six months after the start date of services.

(2) A participant who is a DDA client may receive:

(a) Supportive housing services through the civil transitions program for up to one year if appropriated funds are available; and

(b) Community first choice services as long as the client meets eligibility criteria under WAC 388-106-0277.

(3) DDA may extend supportive housing services beyond one year for a participant who is a DDA client if:

(a) The participant is in the process of transitioning to residential habilitation services or CFC residential services; and

(b) Appropriated funds are available.

SERVICE TERMINATION

NEW SECTION

WAC 388-848-0130 When may DDA terminate a participant's supportive housing services? DDA may terminate a participant's supportive housing services if:

- (1) The participant has acquired housing or is receiving residential habilitation services through DDA;
- (2) The participant no longer needs the service;
- (3) The participant does not follow conditions of the supportive housing agreement;
- (4) The participant fails to follow applicable rules, laws, or court orders; or
- (5) Legislative funding for the civil transitions program is no longer available.

NEW SECTION

WAC 388-848-0150 When may DDA terminate a participant's community first choice services? DDA may terminate a participant's community first choice services if the participant is determined not DDA-eligible. The termination is effective the date supportive housing services end under WAC 388-848-0120.

PROVIDER REQUIREMENTS

NEW SECTION

WAC 388-848-0160 Who can apply to become a wraparound services provider? To apply to become a wraparound services provider, a person or entity must be one of the following DDA-contracted providers in good standing:

- (1) An alternative living provider under chapter 388-829A WAC;
- (2) A community engagement provider under WAC 388-845-0655;
- (3) A foundational community supports provider under chapter 182-559 WAC; or

(4) A supported living, group home, or group training home provider under chapters 388-101 and 388-101D WAC.

NEW SECTION

WAC 388-848-0170 Is a provider a mandatory reporter? (1) A provider supporting a participant in the civil transitions program is a mandatory reporter under chapter 74.34 RCW.

(2) In addition to mandatory reports to agents under chapter 74.34 RCW, the provider must also report to DDA an incident involving a participant that includes an allegation of abuse, improper use of restraint, neglect, personal or financial exploitation, or abandonment.

ADMINISTRATIVE HEARING RIGHTS

NEW SECTION

WAC 388-848-0180 Does a participant have a right to an administrative hearing? A participant has a right to an administrative hearing in accordance with chapter 388-02 WAC and WAC 388-825-120 through 388-825-165.