



# RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 03, 2018

TIME: 9:16 AM

WSR 18-02-093

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

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) January 4, 2018

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

- Yes
  - No
- If Yes, explain:

**Purpose:** The department is amending WAC 388-845-1615 and 388-845-1620 as part of the Developmental Disabilities Administration's waiver renewal process. These emergency rules reflect the changes approved by the Centers for Medicare and Medicaid Services (CMS) in August 2017. As part of this subsequent emergency rule filing, DDA is combining these amendments filed under WSR 17-19-004 with the emergency rules filed under WSR 17-21-070, which are also part of the CMS-approved waiver amendments. This emergency filing cancels and supersedes both WSR 17-19-004 and WSR 17-21-070.

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

New: WAC 388-845-0515, WAC 388-845-0520, WAC 388-845-0525

Repealed: WAC 388-845-1200, WAC 388-845-1205, WAC 388-845-1210, WAC 388-845-1840, WAC 388-845-1845, WAC 388-845-1850

Amended: WAC 388-845-0110, WAC 388-845-0210, WAC 388-845-0215, WAC 388-845-0220, WAC 388-845-0225, WAC 388-845-0230, WAC 388-845-0425, WAC 388-845-0500, WAC 388-845-0501, WAC 388-845-0505, WAC 388-845-0506, WAC 388-845-0510, WAC 388-845-0603, WAC 388-845-0700, WAC 388-845-0820, WAC 388-845-0910, WAC 388-845-1000, WAC 388-845-1015, WAC 388-845-1150, WAC 388-845-1615, WAC 388-845-1620, WAC 388-845-1650, WAC 388-845-1655, WAC 388-845-1660, WAC 388-845-1700, WAC 388-845-1710, WAC 388-845-1865, WAC 388-845-1900, WAC 388-845-2000, WAC 388-845-2010, WAC 388-845-2170

Suspended: None

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

**Other authority:**

**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:** DDA must not authorize waiver services unless they are part of a waiver application approved by CMS. CMS has approved DDA's waiver applications. These emergency rules are necessary to provide the services approved by CMS and for DDA to receive federal funding.

**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	<u>3</u>	Amended	<u>31</u>	Repealed	<u>6</u>

**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	___	Repealed	___
-----	-----	---------	-----	----------	-----

**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>31</u>	Repealed	<u>6</u>

**Date adopted:** January 2, 2018

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



**WAC 388-845-0110** What are ~~((there limitations))~~ the limits to the waiver services you ~~((can))~~ may receive? ~~((There are limita- tions))~~ The following limits apply to the waiver services ~~((. Those are))~~ 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))~~ ~~((The need for a service must be identified and authorized in your person-centered service plan/individual support plan.~~

~~((3))~~ Behavioral health stabilization services may be added to your person-centered service ~~((plan/individual support))~~ plan after the services ~~((are))~~ have been provided.

~~((4))~~ (3) Waiver services are limited to services required to prevent ICF/IID placement.

~~((5))~~ (4) The daily cost of your waiver services ~~((cannot))~~ must not exceed the average daily cost of care in an ICF/IID.

~~((6))~~ (5) Waiver services ~~((cannot))~~ must not replace or duplicate other available paid or unpaid supports or services. You must first ~~((pursue))~~ exhaust benefits available to you through private insurance, the medicaid state plan ~~((,))~~ - including early and periodic screening, diagnosis, and treatment - or other resources.

~~((7))~~ (6) Waiver funding ~~((cannot))~~ must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0550.

(7) DDA does not authorize the use of waiver funding for:

(a) Restrictive technology;

(b) Location tracking services; or

(c) Audio or video technology to surveil the client.

(8) For IFS and basic plus waivers, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

(9) Your choice of qualified providers and services is limited to the most cost-effective option that meets your health and welfare needs.

(10) 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 consecutive days.

(a) You may receive services in a recognized out-of-state bordering city on the same basis as in-state services.

(b) The only recognized bordering cities ~~((per))~~ under WAC 182-501-0175 are:

(i) Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho; and

(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

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

(12) Waiver services ~~((do))~~ does not cover copays, deductibles, dues, membership fees, or subscriptions.

**WAC 388-845-0210** ~~What ((is the scope of)) services ((for)) are available under the basic plus waiver?~~ The following services are available under the basic plus waiver:

((BASIC PLUS WAIVER))	SERVICES	YEARLY LIMIT
	AGGREGATE SERVICES: <u>Positive behavior support and consultation</u> Community guide Environmental adaptations  Occupational therapy <u>Chemical extermination of bedbugs (cimex lectularius)</u> Physical therapy Skilled nursing Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed <del>((6192))</del> <u>six thousand one hundred ninety-two dollars</u> per year on any combination of these services
	Wellness education  EMPLOYMENT SERVICES: Prevocational services Supported employment Individual technical assistance	Limits are determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	Community <del>((access))</del> <u>inclusion</u>	Limits are determined by DDA assessment
	BEHAVIORAL HEALTH STABILIZATION SERVICES: <u>Positive behavior support and consultation</u> Behavioral health crisis diversion bed services	Limits determined by a behavioral health professional or DDA

((BASIC PLUS WAIVER))	SERVICES	YEARLY LIMIT
	Specialized psychiatric services	
	Personal care	Limits determined by the CARE tool used as part of the DDA assessment
	Respite care	Limits are determined by the DDA assessment
	((Sexual deviancy evaluation)) Risk assessment	Limits are determined by DDA
	Emergency assistance is only for basic plus waiver aggregate services	(((\$6000)) Six thousand dollars per year; preauthorization required

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

**WAC 388-845-0215** ~~What ((is the scope of)) services ((for)) are available under the core waiver?~~ The following services are available under the core waiver:

((CORE WAIVER))	SERVICES	YEARLY LIMIT
	<u>Positive behavior support and consultation</u> <u>Community guide</u> <u>Community transition</u> <u>Environmental adaptations</u> <u>Occupational therapy</u> <u>Chemical extermination of bedbugs (cimex lectularius)</u> <u>Physical therapy</u> <u>((Sexual deviancy evaluation)) Risk assessment</u> <u>Skilled nursing</u> <u>Specialized medical equipment/supplies</u> <u>Specialized psychiatric services</u> <u>Speech, hearing and language services</u>	Determined by the person-centered service (( <del>plan/individual support</del> )) plan, not to exceed the average cost of an ICF/IID for any combination of services

((CORE WAIVER))	SERVICES	YEARLY LIMIT
	Staff/family consultation and training Transportation Wellness education	Limits are determined by DDA assessment  Limits are determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	Residential habilitation	
	Community ((access)) <u>inclusion</u>	
	Employment services  Prevocational services Supported employment  Individualized technical assistance	
	BEHAVIORAL HEALTH STABILIZATION SERVICES: <u>Positive behavior support and consultation</u> Behavioral health crisis diversion bed services Specialized psychiatric services	Limits determined by a behavioral health professional or DDA
	Respite care	Limits are determined by the DDA assessment

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

**WAC 388-845-0220** What is the scope of services for the community protection waiver? The following services are available under the community protection waiver:

((COMMUNITY PROTECTION WAIVER))	SERVICES	YEARLY LIMIT
	<p>Positive behavior support and consultation</p> <p>Community transition</p> <p>Environmental adaptations</p> <p>Occupational therapy</p> <p><u>Chemical extermination of bedbugs (cimex lectularius)</u></p> <p>Physical therapy ((Sexual deviancy evaluation)) <u>Risk assessment</u></p> <p>Skilled nursing</p> <p>Specialized medical equipment and supplies</p> <p>Specialized psychiatric services</p> <p>Speech, hearing and language services</p> <p>Staff/family consultation and training</p> <p>Transportation</p>	<p>Determined by the person-centered service ((<del>plan/individual support</del>)) plan, not to exceed the average cost of an ICF/IID for any combination of services</p>
	Residential habilitation	
	<p>Employment Services:</p> <p>Prevocational services</p> <p>Supported employment</p> <p>Individual technical assistance</p>	<p>Limits determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015</p>

((COMMUNITY PROTECTION WAIVER))	SERVICES	YEARLY LIMIT
	BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavioral support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services	Limits determined by a behavioral health professional or DDA

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

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

((CIIBS Waiver))	Services	Yearly Limit
	((•)) Positive behavior support and consultation ((•)) Staff/family consultation and training ((•)) Environmental adaptations ((• Occupational therapy • Physical therapy • Sexual deviancy evaluation)) Risk assessment ((•)) Nurse delegation ((•)) Specialized medical equipment/supplies ((• Specialized psychiatric services • Speech, hearing and language services •) Transportation ((•)) Assistive technology ((•)) Therapeutic equipment and supplies ((•)) Specialized ((nutrition and)) clothing ((•)) Vehicle modifications	Determined by the person-centered service ((plan/individual support)) plan. Total cost of waiver services ((cannot)) <u>must not exceed the average cost of ((\$4,000)) four thousand dollars per month per participant.</u>

((CHBS Waiver))	Services	Yearly Limit
	Respite care	Limits determined by the DDA assessment. Costs are included in the total average cost of <del>(((\$4000))</del> <u>four thousand dollars</u> per month per participant for all waiver services.
	Behavioral health stabilization services:  <del>((Behavioral))</del> <u>Positive behavior support and consultation</u>  Crisis diversion bed services  <del>((Specialized psychiatric services))</del>	Limits determined by behavioral health specialist

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

**WAC 388-845-0230** ~~What ((is the scope of)) services ((for))~~ are available under the individual and family services (IFS) waiver? (1) IFS waiver services include:

((IFS Waiver))	Services	Yearly Limit
	<p>           ((•)) Assistive technology            ((•)) <u>Positive</u> behavior support and consultation            ((•)) Community engagement            ((•)) Staff/family consultation and training            ((•)) Environmental adaptations            ((•)) Occupational therapy            ((•)) Physical therapy            ((• <del>Sexual</del> deviancy evaluation (paid for outside of annual allocation)            • Nurse delegation            •)) Peer mentoring            ((•)) Person-centered plan facilitation            ((•)) Respite care  <u>Skilled nursing</u>            ((•)) Specialized clothing            ((•)) Specialized medical equipment/supplies            ((• <del>Specialized nutrition</del>)            ((•)) Specialized psychiatric services            ((•)) Speech, hearing and language services            ((•)) Supported parenting services            ((•)) Transportation            ((•)) Therapeutic equipment and supplies            ((•)) Vehicle modifications            ((•)) Wellness education         </p>	<p>           Total cost of waiver services <del>((cannot))</del> <u>must not exceed</u> annual allocation determined by the person-centered service <del>((plan/ASP))</del> <u>plan.</u> </p>
	<p><u>Risk assessment</u></p>	<p><u>Limits determined by DDA</u></p>

((IFS Waiver))	Services	Yearly Limit
	((•)) Behavioral health stabilization services: (( <del>• Behavioral</del> )) <u>Positive behavior support and consultation</u> ((•)) Specialized psychiatric services	Limits determined by behavioral health specialist.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment described in 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;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

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

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

(1) Clinical and support needs for assistive technology are identified in your DDA assessment and documented in the person-centered service ((~~plan/individual support~~)) plan.

(2) Assistive technology may be authorized as a waiver service by obtaining an initial denial of funding or information showing that the technology is not covered by medicaid or private insurance.

(3) The department does not pay for experimental technology as defined in WAC 182-531-0550.

(4) The department requires your 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.

(5) Assistive technology requires prior approval by the DDA regional administrator or designee.

(6) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection (4) of this section.

(7) The dollar amounts for your IFS waiver annual allocation limit the amount of assistive technology you are authorized to receive.

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

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

**WAC 388-845-0500 What is positive behavior support and consultation?** (1) Positive behavior support and consultation may be provided to persons on any of the DDA HCBS waivers and 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).

(2) Positive behavior support and consultation may also be provided as a behavioral health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

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

**WAC 388-845-0501 What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?** (1) In addition to the definition in WAC 388-845-0500, positive behavior support and consultation in the CIIBS waiver must include the following characteristics:

(a) Treatment must be evidence based, driven by individual outcome data, and consistent with DDA's positive behavior support guidelines as outlined in contract;

(b) The following written components will be developed in partnership with the child and family by a behavior specialist as defined in WAC 388-845-0506:

(i) Functional behavioral assessment; and

(ii) Positive behavior support plan based on functional behavioral assessment((-));

(c) Treatment goals must be objective and measurable. The goals must relate to an increase in skill development and a resulting decrease in challenging behaviors that impede quality of life for the child and family; and

(d) Behavioral support strategies will be individualized and coordinated across all environments, such as home, school, and community, in order to promote a consistent approach among all involved persons.

(2) Positive behavior support and consultation in the CIIBS waiver may also include the following components:

(a) Behavioral technicians (as defined in WAC 388-845-0506) may implement positive behavior support plans which may include 1:1 behavior interventions and skill development activity.

(b) Positive behavior support plans may include recommendations by either a music ((~~and/or~~)) or recreation therapist, or both, as defined in WAC 388-845-2005.

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

**WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation?** Under the basic plus, core, ~~((CP))~~ community protection (CP), and 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 to provide this service:

- (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~~((s))~~ registered or certified ~~((in accordance with the requirements of))~~ under chapter 18.19 RCW;
- (11) Polygrapher; or
- (12) State-operated positive behavior support agency limited to behavioral health stabilization services.

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

**WAC 388-845-0506 Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral supports (CIIBS) waiver?** ~~((1))~~ Under the CIIBS waiver, providers of positive behavior support and consultation must be contracted with DDA to provide CIIBS intensive services as one of the following ~~((two provider types))~~:

~~((a))~~ (1) Master's or PhD-level behavior specialist, licensed, certified, or ~~((certified/))~~ registered to provide behavioral assessment, intervention, and training; or

~~((b))~~ (2) Behavior technician, licensed, certified, or ~~((certified/))~~ registered to provide behavioral intervention and training, following the lead of the behavior specialist.

~~((2) Providers of behavior support and consultation per WAC 388-845-0505 may be utilized to provide counseling and/or therapy services to augment the work of the CIIBS intensive service provider types.)~~

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

**WAC 388-845-0510 Are there limits to the positive behavior support and consultation you ~~((can))~~ may receive?** (1) Clinical and sup-

port needs for positive behavior support and consultation are identified in your DDA assessment and documented in the person-centered service (~~(plan/individual support)~~) plan.

(2) DDA and the treating professional will determine the need and amount of service you will receive, subject to the ~~((limitations))~~ limits in subsection (3) of this section.

(3) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the ~~((IFS))~~ individual and family services (IFS) waiver limit the amount of service unless provided as a behavioral health stabilization service.

(4) DDA ~~((reserves the right to))~~ may require a second opinion from a department-selected provider.

(5) Positive behavior support and consultation not provided as a behavioral health stabilization service 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) Not otherwise covered under the medicaid state plan, including early and periodic screening, diagnosis, and treatment.

#### NEW SECTION

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

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

(a) Receive residential habilitation services; or

(b) Live in a private house or apartment for which you are financially responsible.

#### NEW SECTION

**WAC 388-845-0520 Who are qualified providers of chemical extermination of bedbugs?** A qualified chemical extermination provider must be:

(1) Licensed as a chemical pesticide applicator by the Washington state department of agriculture; and

(2) Contracted with DDA to provide chemical extermination of bedbugs.

NEW SECTION

**WAC 388-845-0525 Are there limits to the chemical extermination of bedbugs services I may receive?** (1) Chemical extermination services covers only:

- (a) The assessment or inspection by the qualified provider;
- (b) Application of chemical-based pesticide; and
- (c) One follow-up visit.

(2) Chemical extermination of bedbugs is limited to two treatments per plan year.

(3) Chemical extermination of bedbugs excludes:

- (a) Lodging during the chemical extermination process; and
- (b) Preparatory housework associated with the extermination process.

(4) DDA does not cover chemical extermination of bedbugs for a client who lives with their family.

(5) DDA requires prior approval by the regional administrator or designee for chemical extermination of bedbugs.

AMENDATORY SECTION (Amending WSR 17-12-002, filed 5/24/17, effective 6/24/17)

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

(1) You are sixty-two or older; or

(2) You meet age requirements under WAC 388-845-2110(1) and((+)):

(a) You have participated in the developmental disabilities ((ad-  
ministration—(DDA's))) administration's (DDA) supported employment services for 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 days of the referral.

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

**WAC 388-845-0700 What ((is-a)) are community guide services?** Community guide services ((increases)) increase access to informal community supports. Community guide services are short-term ((and)) services designed to develop creative, flexible, and supportive community resources for individuals with developmental disabilities to meet a goal identified in the waiver participant's person-centered

service plan. ((~~This service is~~)) These services are available in basic plus and core waivers.

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

**WAC 388-845-0820 Are there limits to your use of emergency assistance?** All of the following ((~~limitations~~)) limits apply to your use of emergency assistance:

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service ((~~plan/individual support~~)) plan to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and ((~~cannot~~)) must not exceed six thousand dollars per twelve months based on the effective date of your current person-centered service ((~~plan/individual support~~)) plan;

(3) Emergency assistance services are limited to the following basic plus waiver aggregate services(( ~~and~~)):

(a) Positive behavior support and consultation;

(b) Community guide;

(c) Environmental adaptations;

(d) Occupational therapy;

(e) Physical therapy;

(f) Specialized medical equipment and supplies;

(g) Specialized psychiatric services;

(h) Speech hearing and language services;

(i) Skilled nursing;

(j) Staff and family consultation and training, which excludes individual and family counseling; and

(k) Transportation;

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

(a) The emergency situation has been resolved; ((~~or~~))

(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 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0910 What ((~~limitations~~)) limits apply to environmental adaptations?** The following service ((~~limitations~~)) limits apply to environmental adaptations:

(1) Clinical and support needs for environmental adaptations are identified in the waiver participant's DDA assessment and documented in the person-centered service ((~~plan/individual support~~)) plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee and must be supported by itemized and written bids from licensed contractors. For an adaption that costs:

~~(a) One ((bid is required for adaptations costing one)) thousand five hundred dollars or less((. Two bids are required for adaptations costing)), one bid is required;~~

~~(b) More than one thousand five hundred dollars and equal to or less than five thousand dollars((. Three bids are required for adaptations costing)), two bids are required; or~~

~~(c) More than five thousand dollars, three bids are required.~~

~~(3) All bids must include:~~

~~(a) The cost of all required permits and sales tax; and~~

~~(b) An itemized and clearly outlined scope of work.~~

~~((+3)) (4) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.~~

~~((+4)) (5) Environmental adaptations ((or improvements)) to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, or central air conditioning.~~

~~((+5)) (6) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to authorizing payment for work.~~

~~((+6) Deteriorated)) (7) The condition of the dwelling or other ((remodeling)) projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.~~

~~((+7)) (8) Location of the dwelling in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.~~

~~((+8)) (9) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.~~

~~((+9)) (10) Environmental adaptations ((cannot)) must not add to the total square footage of the home.~~

~~((+10)) (11) The dollar amounts for aggregate services in your basic plus waiver or the dollar amount of your annual IFS allocation limit the amount of service you may receive.~~

~~((+11)) (12) For core, community protection, and CIIBS waivers, annual environmental adaptation costs must not exceed twelve thousand one hundred ninety-two dollars.~~

~~(13) Damage repairs under the CIIBS and IFS waivers are subject to the following restrictions:~~

~~(a) Limited to the cost of restoration to the original ((condition)) function;~~

~~(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;~~

~~(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages; ((and))~~

~~(d) Repairs to personal property such as furniture((,)) and appliances((, and normal wear and tear)) are excluded; and~~

~~(e) Repairs due to normal wear and tear are excluded.~~

~~((+12)) (13) The following adaptations are not ((included in this service)) covered as an environmental adaptation:~~

~~(a) Building fences and fence repairs; ((and))~~

~~(b) Carpet or carpet replacement;~~

- (c) Air conditioning, heat pumps, or ceiling fans; and
- (d) Roof repair or siding.

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

**WAC 388-845-1000 What are extended state plan services?** (1) Extended state plan services ((refer to)) means physical therapy((+)), occupational therapy((+)), and speech, hearing, and language services not available to you under the medicaid ((without regard to your waiver status. They are "extended" services when the waiver pays for more services than is provided under the)) state ((medicaid)) plan. ((These services are available under all DDA HCBS waivers))

(2) Extended state plan services are available to clients age twenty-one and older under the following waiver programs:

- (a) Basic plus;
- (b) Core;
- (c) Individual and family services; and
- (d) Community protection;

(3) Extended state plan services are available to a client if the therapy:

(a) Addresses a remedial need and allows the client to remain in the home; or

(b) Is medically necessary and all state plan services have been exhausted.

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

**WAC 388-845-1015 Are there limits to the extended state plan services you ((can)) may receive?** (1) ((Clinical and support needs for)) Extended state plan services are limited to ((those)) therapies identified in your DDA assessment and ((documented in the)) person-centered service plan((/individual support plan)).

(2) ((Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under medicaid and any other private health insurance plan.

(3)) The department does not pay for treatment determined by DSHS to be experimental as described in WAC 182-531-0550.

((4) The department and the treating professional)) (3) The department determines the need for and amount of service you ((can)) may receive((+)).

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

(b) The department will require evidence that you have ((accessed)) exhausted your full benefits through the medicaid state plan, your private health insurance, or other resources before authorizing this waiver service.

((5)) (4) The dollar amount for basic plus waiver aggregate services limit the amount of service you may receive.

((+6)) (5) The dollar amount for your annual allocation on the IFS waiver limit the amount of service you may receive.

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

**WAC 388-845-1150 What are behavioral health stabilization services?** Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis or meet criteria for enhanced respite or community crisis stabilization services. These services are available in the basic plus, core, CIIBS, IFS, and community protection waivers to individuals determined by behavioral health professionals or DDA to be at risk of institutionalization or hospitalization who need one or more of the following services:

- (1) Positive behavior support and consultation;
- (2) Specialized psychiatric services for people age twenty-one and older; or
- (3) Behavioral health crisis diversion bed services not available to participants on the IFS waiver.

AMENDATORY SECTION (Amending WSR 17-12-011, filed 5/26/17, effective 6/26/17)

**WAC 388-845-1615 Who may be qualified providers of respite care?** Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

- (1) Individuals who meet the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;
- (4) Licensed and contracted adult family homes;
- (5) Licensed and contracted adult residential care facilities;
- (6) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;
- (7) Licensed child care centers under chapter 170-295 WAC;
- (8) Licensed child day care centers under chapter 170-295 WAC;
- (9) Adult day care providers under chapter 388-71 WAC contracted with DDA;
- (10) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services; ((or))
- (11) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or
- (12) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.

**WAC 388-845-1620 Are there limits to the respite care you can receive?** The following limitations apply to the respite care you can receive:

(1) For basic plus, core, and CIIBS waivers, the DDA assessment will determine how much respite you can receive per chapter 388-828 WAC.

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

(3) Respite cannot replace:

(a) Day care while your parent or guardian is at work; or

(b) Personal care hours available to you. When determining your unmet need, DDA will first consider the personal care hours available to you.

(4) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

(5) Your individual respite provider may not provide:

(a) Other DDA services for you during your respite care hours; or

(b) DDA paid services to other persons during your respite care hours.

(6) Your primary caregivers may not provide other DDA services for you during your respite care hours.

(7) If your personal care provider is your parent and you live in your parent's adult family home you may not receive respite.

(8) DDA may not pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

(9) If you require respite care from a licensed practical nurse (LPN) or a registered nurse (RN), respite services may be authorized (~~((as skilled nursing services per WAC 388-845-1700))~~) using an LPN or RN. Respite services are limited to the assessed respite care (~~((from a))~~) hours identified in your person-centered service plan. Respite provided by an LPN or RN requires a prior approval (~~((per WAC 388-845-1700(2). If you are on the IFS or basic plus waiver, skilled nursing services are limited to the dollar amounts of your basic plus aggregate services or IFS annual allocation per WAC 388-845-0210 and 388-845-0230))~~) by the regional administrator or designee.

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

**WAC 388-845-1650 What are ~~((sexual deviancy evaluations))~~ is a risk assessment?** (1) ~~((Sexual deviancy evaluations))~~ A risk assessment:

(a) ~~((Are))~~ Is a professional evaluation~~((s))~~ that ~~((assess the))~~ assesses a person's needs and the person's level of risk of ~~((sexual offending or sexual recidivism))~~ sexual predatory behavior or aggression;

(b) Determines the need for psychological, medical, or therapeutic services; and

(c) Provides treatment recommendations to mitigate any assessed risk.

(2) ~~((Sexual deviancy evaluations are))~~ A risk assessment is available in all DDA HCBS waivers.

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

**WAC 388-845-1655 Who is a qualified provider of ~~((sexual deviancy evaluations))~~ a risk assessment?** The provider of ~~((sexual deviancy evaluations))~~ a risk assessment must:

(1) Be a ~~((certified sexual offender treatment provider (SOTP); and))~~ licensed psychologist under chapter 246-924 WAC; or

(2) ~~((Meet the standards contained in))~~ Be a certified sexual offender treatment provider (SOTP) and meet requirements under WAC 246-930-030 ~~((education required prior to certification))~~ and WAC 246-930-040 ~~((professional experience required prior to examination))~~ if the provider is performing a risk assessment.

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

**WAC 388-845-1660 Are there ~~((limitations))~~ limits to the ~~((sexual deviancy evaluations))~~ risk assessment you ~~((can))~~ may receive?**

(1) Clinical and support needs for ~~((sexual deviancy evaluations))~~ a risk assessment are limited to those identified in your DDA assessment and documented in the person-centered service ~~((plan/individual support))~~ plan. ~~((Sexual deviancy evaluations))~~ A risk assessment must meet the standards ~~((contained))~~ in WAC 246-930-320.

(2) ~~((Sexual deviancy evaluations require))~~ A risk assessment requires prior approval by the DDA regional administrator or designee.

(3) The ~~((costs))~~ cost of ~~((sexual deviancy evaluations do))~~ a risk assessment does not count toward the dollar limits for aggregate services in the basic plus waiver~~((s))~~ or the annual allocation in the IFS waiver.

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

**WAC 388-845-1700 What is waiver skilled nursing?** (1) Waiver skilled nursing (~~is continuous~~) means long-term, intermittent, (or part-time) and hourly skilled nursing services (~~. These services are~~):

(a) Available in the basic plus, core, IFS, and (~~CP~~) community protection (CP) waivers; and

(b) That address nursing care tasks not available to you under the medicaid state plan - including early and periodic screening, diagnosis, and treatment.

(2) Waiver skilled nursing services include nurse delegation services (~~, per~~) provided by a registered nurse under WAC 388-845-1170 (~~, provided by a registered nurse, including the initial visit, follow up instruction, and supervisory visits~~).

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

**WAC 388-845-1710 Are there (~~limitations~~) limits to the skilled nursing services you (~~can~~) may receive?** The following (~~limitations~~) limits apply to your receipt of skilled nursing services:

(1) Clinical and support needs for skilled nursing services are limited to those identified in your DDA assessment and documented in the person-centered service (~~plan/individual support~~) plan.

(2) Skilled nursing services with the exception of nurse delegation and nursing evaluations require prior approval by the DDA regional administrator or designee.

(3) (~~DDA and the treating professional determine the need for and amount of service~~) Skilled nursing hours must not exceed the number of hours determined by the nursing care consultant skilled nursing assessment.

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

(5) The dollar amount for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in your IFS waiver limits the amount of skilled nursing services you may receive.

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

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

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

(b) Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must

assist the department in determining whether third-party payments are available.

(c) The department 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.

(d) The department may require a second opinion from a department selected provider that meets the criteria in subsection (1)(c) of this section.

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

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

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

**WAC 388-845-1900 What are specialized psychiatric services?** (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing behavioral health symptoms. These services are available ~~((in all DDA HCBS waivers))~~ to people age twenty-one and older.

(2) ~~((Service))~~ Specialized psychiatric services may be any of the following:

- (a) Psychiatric evaluation~~((τ))~~;
- (b) Medication evaluation and monitoring~~((τ))~~;
- (c) Psychiatric consultation.

(3) These services are also available as a behavioral health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

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

**WAC 388-845-2000 What is staff/family consultation and training?** (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all DDA HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the person-centered service plan/individual support plan, including:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (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; and
- (j) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

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

**WAC 388-845-2010** Are there ~~((limitations))~~ limits to the ~~((staff/family))~~ staff and family consultation and training you ~~((can))~~ may receive? (1) Clinical and support needs for ~~((staff/family))~~ staff and family consultation and training are limited to those identified in your DDA assessment and documented in the person-centered service ~~((plan/individual support))~~ 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/family))~~ staff and family consultation and training.

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

(4) Basic plus waiver individual and family counseling is limited to family members who:

(a) Live with the waiver participant; and

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

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

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

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

**WAC 388-845-2170** Are there ~~((limitations-on))~~ limits to your receipt of therapeutic equipment and supplies? The following ~~((limitations))~~ limits apply to your receipt of therapeutic equipment and supplies under the CIIBS and IFS waivers:

(1) Therapeutic equipment and supplies may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.

(2) The department does not pay for experimental equipment and supplies.

(3) The department requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

(4) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection (3) of this section.

(5) The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.

(6) Therapeutic equipment and supplies requires a prior approval by the DDA regional administrator or designee.

(7) Therapeutic equipment and supplies excludes nonspecialized recreational items such as trampolines, swing sets, or hot tubs.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                  |   |
|------------------|---|
| WAC 388-845-1200 | What are "person-to-person" services?                           |
| WAC 388-845-1205 | Who are qualified providers of person-to-person services?       |
| WAC 388-845-1210 | Are there limits to the person-to-person service I can receive? |
| WAC 388-845-1840 | What is specialized nutrition?                                  |
| WAC 388-845-1845 | Who are qualified providers of specialized nutrition?           |
| WAC 388-845-1850 | Are there limitations to your receipt of specialized nutrition? |