



**RULE-MAKING ORDER  
EMERGENCY RULE ONLY**

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: May 10, 2019

TIME: 11:07 AM

WSR 19-11-043

**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:** The department is amending WAC 388-845-1410 "Are there limits to the prevocational services you may receive?" to eliminate prevocational services by March 1, 2019.

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

- New: None
- Repealed: None
- Amended: WAC 388-845-1410
- Suspended: None

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

**Other authority:** 42 C.F.R. Section 441.301(c)(4)

**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:** Prevocational services do not meet federal integration requirements under 42 C.F.R. Section 441.301(c)(4) for HCBS settings. In response, the Department's HCBS Statewide Transition Plan, as approved by the Centers for Medicare and Medicaid Services (CMS), ended enrollment in prevocational services by September 1, 2015. Additionally, the approved plan aimed to transition all remaining prevocational clients to other services within four years. DDA must enact this mass change on an emergency basis to comply with the CMS-approved waiver amendments that eliminate prevocational services on the Basic Plus and Core waivers by March 1, 2019. If this amendment is not enacted on an emergency basis, the Department risks losing federal funding. Enacting this amendment on an emergency basis also enables DDA to send timely due-process notices with an appropriate WAC citation. This is the second emergency filing on this section and it is necessary to keep the amendments enacted until the permanent rulemaking process is complete. DDA held the public hearing on April 23, 2019 and is in the process of filing the permanent rule-making order.

**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	<u>1</u>	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____



**WAC 388-845-1410 Are there limits to the prevocational services you may receive?** The following limits apply to your receipt of prevocational services:

(1) Effective September 1, 2015, no new referrals are accepted for prevocational services.

(2) Effective March 1, 2019, prevocational services are no longer available.

(3) Clinical and support needs for prevocational services are limited to those identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan/individual support plan.

~~((3))~~ (4) You must be age twenty and graduating from high school before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((4))~~ (5) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals; and

(c) Recommendation by your individual support plan team.

~~((5))~~ (6) You will not be authorized to receive prevocational services in addition to community access services or supported employment services.

~~((6))~~ (7) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.