



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Long-Term Support Administration

Permanent Rule Only

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:

The department is creating new sections in chapter 388-106 WAC "Long-Term Care Services" in order to define the benefit package for Supportive Housing. The State has applied to Centers for Medicare and Medicaid (CMS) for an 1115 demonstration waiver that includes Supportive Housing as a service. It is anticipated that this waiver will be implemented in 2017. In addition, the Governor issued a directive to utilize Supportive Housing services beginning in November 2016 to address the housing need for individuals leaving the state psychiatric hospitals.

Citation of existing rules affected by this order:

Repealed: None
Amended: None
Suspended: None

Statutory authority for adoption:

RCW 74.08.090

Other authority :

RCW 74.08.283, RCW 74.08.390

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-22-068 on November 1, 2016 (date).
Describe any changes other than editing from proposed to adopted version:

1. WAC 388-106-1710(3)(e): Added language "Are not a licensed residential care facility such as an adult family or assisted living facility".
2. WAC 388-106-1720(3): Added language "Have a planned discharge or diversion from Eastern or Western State Hospital;"
3. WAC 388-106-1740(a): Changed "similar" to "the same".
4. WAC 388-106-1750(1): Added language "Exceeded the amount authorized by the department".

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

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted:

May 1, 2017

NAME (TYPE OR PRINT)

Katherine Vasquez

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 09, 2017

TIME: 1:18 PM

WSR 17-11-016

**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>14</u> | Amended | _____ | Repealed | _____ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in 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>14</u> | Amended | _____ | Repealed | _____ |

NEW SECTION

WAC 388-106-1700 What definitions apply to supportive housing?

The following definitions apply to WAC 388-106-1700 through 388-106-1765:

"Chronically homeless" means an individual who is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter.

"PRISM" means predictive risk intelligence system and is a web-based clinical decision support application that features predictive modeling tools and data integration to support care management for high-risk medicaid clients.

NEW SECTION

WAC 388-106-1705 What services may I receive under supportive housing?

(1) The services you may receive under supportive housing include but are not limited to activities that assist you to:

- (a) Identify appropriate housing;
- (b) Prepare for and transition to housing;
- (c) Connect with direct and collateral services;
- (d) Maintain your housing; and
- (e) Develop and maintain a positive relationship with your landlord and other tenants.

(2) The services you receive will be identified in your assessment as defined in WAC 388-106-0010.

NEW SECTION

WAC 388-106-1710 Where may I receive supportive housing services?

(1) You may receive supportive housing services in:

- (a) Your place of residence; or
 - (b) The community setting where the authorized service occurs.
- (2) Supportive housing services must be provided in:
- (a) Washington state or a recognized out-of-state bordering city as defined in WAC 182-501-0175;
 - (b) An integrated setting of your choice; and
 - (c) A manner that ensures your individual right of privacy, dignity, respect, and freedom from coercion and restraint.

(3) Once you are a supportive housing tenant, your supportive housing services must be provided in a setting as defined in 42 C.F.R. Sec. 441.530, such as those that:

- (a) Do not have the qualities of an institution;
- (b) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;
- (c) Are not on the grounds of, or immediately adjacent to a public institution;
- (d) Do not have the effect of isolating you from community members who are not receiving medicaid services; and

(e) Are not a licensed residential care facility such as an adult family or assisted living facility.

NEW SECTION

WAC 388-106-1715 Who may provide supportive housing services?
To provide supportive housing services, supportive housing providers must meet minimum qualifications as established by DSHS supportive housing contract language and pass a DSHS criminal history background check.

NEW SECTION

WAC 388-106-1720 Am I eligible for supportive housing funded services? You are eligible for supportive housing services if you meet the following criteria:
(1) Meet functional eligibility as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410;
(2) Meet financial eligibility as defined in chapters 182-513 and 182-515 WAC;
(3) Have a planned discharge or diversion from Eastern or Western State Hospital; and
(4) You meet one or more of the following criteria:
(a) Chronically homeless;
(b) History of frequent or lengthy institutional stays;
(c) History of frequent or lengthy adult residential care or treatment stays;
(d) Experienced frequent turnover of in-home caregivers or providers;
(e) A PRISM risk score of at least 1.5.

NEW SECTION

WAC 388-106-1725 When do supportive housing services begin?
Your supportive housing services begin on the date the department authorizes your supportive housing services.

NEW SECTION

WAC 388-106-1730 How do I remain eligible for supportive housing? (1) To remain eligible for supportive housing you must remain functionally eligible as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410 and financially eligible as defined in chapters 182-513 and 182-515 WAC.

(2) If eligibility laws, regulations, or rules for supportive housing change, and if you do not meet the changed eligibility requirements, the department will terminate your services, even if your functional or financial circumstances have not changed.

NEW SECTION

WAC 388-106-1735 Do I have to pay for my supportive housing services? The department will not require you to pay toward the cost of your supportive housing services.

NEW SECTION

WAC 388-106-1740 What are my rights when I receive supportive housing services in a setting owned by a service provider? (1) In a provider owned supportive housing setting, you have the right to:

- (a) A lease or legally enforceable agreement that provides you with the same responsibilities and protection from eviction that tenants have under landlord tenant law;
- (b) Privacy in your living unit, including a lock on your door;
- (c) A choice of roommates, if you choose to have a roommate;
- (d) Decorate your living unit within the parameters of your lease agreement;
- (e) Control your schedule and choose the activities you participate in; and
- (f) Have visitors when you choose.

(2) Before the supportive housing services provider may change any of your rights under subsection (1) of this section, the supportive housing services provider must:

- (a) Obtain your consent to make a change to one of your rights;
- (b) Discuss with you the specific assessed need that the change is based on;
- (c) Try positive interventions and less intrusive ways to deal with the specific assessed need and then review these with you;
- (d) Document the discussion and the change to be made; and
- (e) Provide this documentation to you and your case manager.

(3) The supportive housing services provider and your case manager must review with you any modifications to your rights as described in subsection (2) of this section at least yearly to determine if it is still effective and needed.

NEW SECTION

WAC 388-106-1745 May I be employed and receive supportive housing services? You may be employed and receive supportive housing services as long as you remain medicaid eligible under the categorically needy (CN) program or alternative benefit plan (ABP) program.

NEW SECTION

WAC 388-106-1750 Are there limits to the supportive housing services I receive? There are limits to the supportive housing services you receive. Supportive housing services must not:

- (1) Exceed the amount authorized by the department;
- (2) Replace or duplicate existing services already available to you such as foundational community supports as defined in WAC 182-559-100; or
- (3) Include payment for rent, food, and utilities.

NEW SECTION

WAC 388-106-1755 Are there waiting lists for supportive housing? The department may create a waiting list for supportive housing services in accordance with funding appropriation.

NEW SECTION

WAC 388-106-1760 Do I have the right to an administrative hearing regarding supportive housing services? Yes, you may request an administrative hearing based on the rules outlined in WAC 388-106-1305 to contest the department's supportive housing service eligibility decisions.

NEW SECTION

WAC 388-106-1765 When may the department terminate or deny supportive housing services? The department may deny or terminate supportive housing services if you are not eligible for long-term care services pursuant to WAC 388-106-0047, 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410.