



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: July 03, 2019

TIME: 8:49 AM

WSR 19-14-119

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

**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:** These amendments increase the amount of time an assessment may be used as evidence of developmental delay, clarifies for internal Developmental Disabilities Administration (DDA) eligibility workers when an eligibility review is required for clients who are 19 years old, and clarifies the definition of a DDA-paid service.

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

New: None  
Repealed: None  
Amended: WAC 388-823-0770, WAC 388-823-1010, WAC 388-823-1015  
Suspended: None

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

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 19-11-081 on May 17, 2019 (date).  
Describe any changes other than editing from proposed to adopted version: None

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

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Web site:  
Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	<u>3</u>	Repealed	___
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**The number of sections adopted using:**

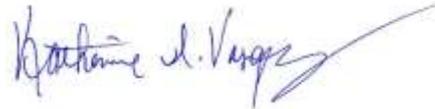
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>3</u>	Repealed	___

**Date Adopted:** July 2, 2019

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0770 What evidence do I need of developmental delays?** (1) Evidence of substantial functional limitations requires developmental delays of at least 1.5 standard deviations or twenty-five percent or more of the chronological age in one or more of the following developmental areas based on an assessment current within the past ~~(12)~~ eighteen months:

- (a) Physical skills (fine or gross motor);
- (b) Self help/adaptive skills;
- (c) Expressive or receptive communication, including American sign language;
- (d) Social/emotional skills; and
- (e) Cognitive, academic, or problem solving skills.

(2) The number of areas in which you are required to have delays to meet the evidence is specific to your age.

(3) Tools used to determine developmental delays must be diagnostic assessments that are designed to measure the developmental areas in subsection (1) of this section and are appropriate to the age of the child being tested.

(4) The assessment must be administered by one of the following professionals qualified to administer the assessment of developmental areas:

- (a) Licensed physician;
- (b) Licensed psychologist or certified school psychologist;
- (c) Speech language pathologist;
- (d) Audiologist;
- (e) Registered occupational therapist;
- (f) Licensed physical therapist;
- (g) Registered nurse;
- (h) Certified teacher;
- (i) Masters level social worker; or
- (j) Orientation and mobility specialist.

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

**WAC 388-823-1010 When will DDA review my eligibility to determine if I continue to meet the eligibility requirements for DDA?** (1) DDA will review your eligibility:

(a) If you are age nineteen and ~~((you have not received an))~~ your most recent eligibility determination ~~((since on or))~~ was completed before your sixteenth birthday;

(b) If you are age nineteen and were determined eligible under another neurological or other condition similar to intellectual disability and have used academic delays as evidence of your substantial functional limitations;

(c) Before authorization of any DDA-paid service if you are not currently receiving paid services and your most current eligibility determination was made before June 1, 2005;

(d) If the evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;

(e) If new information becomes available that does not support your current eligibility determination; or

(f) If you were determined eligible due solely to your eligibility for fee-for-service (FFS) medically intensive children's program (MICP) services and you are no longer eligible for FFS MICP services.

(2) If DDA requires additional information to make a determination of eligibility during a review and you do not provide sufficient information, DDA will terminate your eligibility:

(a) On your twentieth birthday if the review is because you are age nineteen; or

(b) Ninety days after DDA requests the information if the review is because:

(i) You have requested a paid service;

(ii) The evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;

(iii) New information is available that does not support your current eligibility determination; or

(iv) You are no longer eligible for FFS MICP services under chapter 182-551 WAC.

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-1015 What is the definition of "DDA-paid services" in WAC ((388-823-1010(2))) 388-823-1010? "DDA-paid services" means a service or program administered by DDA as evidenced by:**

(1) A DDA social services authorization ((of a paid service)) within the last ninety days ((as evidenced by a social services authorization)) in ((the)) a DSHS payment system((~~7~~));

(2) A county authorization ((for day program services,~~7~~));

(3) A DDA ((individual)) service plan approving a DDA service or program((~~7~~));

(4) Residence in a ((SOLA, RHC, or ICF/ID,~~7~~)) residential habilitation center; or

(5) Documentation of DDA approval of your absence from DDA paid services for more than ninety days with available funding for your planned return to services.