

**Chapter 388-823 WAC**  
**DEVELOPMENTAL DISABILITIES ADMINISTRATION INTAKE AND ELIGIBILITY DE-  
TERMINATION**

Last Update: 12/19/23

**WAC**

APPLYING FOR A DEVELOPMENTAL DISABILITIES ADMINISTRATION ELIGIBILITY DETERMINATION

388-823-0010 Definitions.  
388-823-0015 How does the state of Washington define developmental disability?  
388-823-0020 How do I become a client of the developmental disabilities administration?  
388-823-0025 Who may apply for a DDA eligibility determination?  
388-823-0050 Do I have to be considered a Washington state resident to be eligible for DDA?  
388-823-0055 Who is responsible for obtaining the documentation needed to make my eligibility determination?  
388-823-0075 What if I do not have written evidence that my disability began before my eighteenth birthday?  
388-823-0080 How does DDA determine whether I meet eligibility criteria?  
388-823-0090 How long will it take to complete a determination of my eligibility?  
388-823-0100 What is the effective date of my eligibility determination?  
388-823-0105 How will DDA notify me of the results of my eligibility determination?  
388-823-0115 If I am eligible to be a client of DDA, will I receive DDA services?

DETERMINATION OF ELIGIBILITY

INTELLECTUAL DISABILITY

388-823-0200 How do I show that I have intellectual disability as an eligible condition?  
388-823-0210 If I have intellectual disability, how do I meet the definition of substantial limitations?

CEREBRAL PALSY

388-823-0300 How do I show that I have cerebral palsy as an eligible condition?  
388-823-0310 If I have cerebral palsy, how do I meet the definition of substantial limitations?

EPILEPSY

388-823-0400 How do I show that I have epilepsy as an eligible condition?  
388-823-0410 If I have epilepsy, how do I meet the definition of substantial limitations?

AUTISM

388-823-0500 How do I show that I have autism as an eligible condition?  
388-823-0510 What constitutes substantial limitation due to autism?

ANOTHER NEUROLOGICAL OR OTHER CONDITION SIMILAR TO INTELLECTUAL DISABILITY

388-823-0600 How do I show that I have another neurological or other condition similar to intellectual disability?  
388-823-0610 If I have another neurological or other condition similar to intellectual disability, how do I meet the definition of substantial functional limitations?

EVIDENCE VERIFICATION REQUIREMENTS

388-823-0720 What evidence do I need of my FSIQ?  
388-823-0730 If I have more than one FSIQ score, what criteria will DDA use to select the FSIQ for determining eligibility?  
388-823-0740 What evidence do I need of my adaptive skills limitations?  
388-823-0750 If I have more than one adaptive test score, what criteria will DDA use to select the adaptive test for determining eligibility?  
388-823-0760 What evidence do I need to show my need for direct physical assistance?  
388-823-0770 What evidence do I need of developmental delays?

INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP)

388-823-0910 What is the purpose of ICAP?  
388-823-0920 What sections of the ICAP does DDA or a designee contracted with DDA complete and score?  
388-823-0930 How does DDA or a designee contracted with DDA administer the ICAP?  
388-823-0940 What happens if DDA or a designee contracted with DDA cannot identify a qualified respondent?

ELIGIBILITY EXPIRATION, REVIEWS, AND REAPPLICATION

388-823-1000 Once I become an eligible DDA client, is there a time limit to my eligibility?  
388-823-1005 When does my eligibility as a DDA client expire?  
388-823-1010 When will DDA review my eligibility to determine if I continue to meet the eligibility requirements for DDA?  
388-823-1015 What is the definition of "DDA-paid services" in WAC 388-823-1010?  
388-823-1020 Can DDA terminate my eligibility if I no longer am a resident of the state of Washington?  
388-823-1030 How will I know that my eligibility is expiring or is due for review?  
388-823-1060 How will DDA notify me of its decision?  
388-823-1070 What are my appeal rights to a department decision that I am not eligible to be a client of DDA?  
388-823-1080 If DDA decides that I do not meet the requirements for eligibility, can I reapply for another decision?  
388-823-1090 If I am already eligible, how do these new rules affect me?  
388-823-1095 What are a person's rights as a DDA client or eligible person?  
388-823-1096 What requirements must a home or community-based service setting meet?

388-823-1100 How do I complain to DDA about my services or treatment?

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-823-0030 Will I receive paid services if DDD decides that I have a developmental disability? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0030, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0040 What is a developmental disability? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0040, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0060 How do I apply to become a client of DDD? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0060, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0070 Who can apply for an eligibility determination? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0070, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0110 Who is responsible for obtaining the documentation needed to make this eligibility determination? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0110, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0120 Will my diagnosis of a developmental disability qualify me for DDD eligibility? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0120, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0130 Can I be eligible for DDD if my disability occurs on or after my eighteenth birthday? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0130, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0140 What if I do not have written evidence that my disability began before my eighteenth birthday? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0140, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0150 Which rules define a developmental disability if I am a child under the age of six years? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0150, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0160 Which rules define a developmental disability if I am age six through nine? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0160, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0170 Which rules define a developmental disability if I am age ten or older? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0170, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0215 What evidence do I need of my FSIQ? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0215, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0220 If am too intellectually impaired to complete a standardized IQ test, how do I meet the criteria under mental retardation? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0220, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.
- 388-823-0230 If I have more than one FSIQ score, what criteria will DDD use to select the FSIQ score for determining eligibility? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0230, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0320 What evidence do I need of my need for direct physical assistance with activities of daily living? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0320, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0330 How can I document my need for direct physical assistance? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0330, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0420 What evidence do I need to substitute adaptive functioning limitations for the eligible conditions of epilepsy, autism and other conditions similar to mental retardation? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0420, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0515 What evidence do I need to substantiate adaptive functioning limitations for the condition of autism? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0515, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0615 What evidence do I need to substantiate adaptive functioning limitations for another neurological condition? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0615, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0700 How do I meet the definition for an "other condition" similar to mental retardation? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0700, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0710 What evidence do I need to meet the definition of substantial limitations for an "other condition" similar to mental retardation? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0710, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0800 Which eligible developmental disability conditions apply at what age? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0800, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0810 If I am a child under age ten, what evidence do I need to meet the definition for an "other condition" similar to mental retardation? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0810, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0820 If I am a child under age ten with an eligible condition under the medically intensive program, Down syndrome, or a diagnosed condition that is too severe for developmental testing, how do I meet the definition of substantial limitations to adaptive functioning? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0820, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0830 If I am a child under age ten with an eligible condition based on developmental delays, how do I meet the definition of substantial limitations to adaptive functioning? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0830, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0840 If I am a child under age ten, how many areas of developmental delays meet the definition of substantial limitations to adaptive functioning? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0840, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0850 What developmental evaluations or assessments will be acceptable for determining developmental delay? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0850, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-0900 What are the qualifying scores for inventory of client and agency planning broad independence for each age? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050,

71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0900, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-1040 What happens if I do not reapply for eligibility before my eligibility expiration date? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1040, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

388-823-1050 What happens if I do not respond to a request for information to review my eligibility? [Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1050, filed 6/1/05, effective 7/2/05.] Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090.

## **APPLYING FOR A DEVELOPMENTAL DISABILITIES ADMINISTRATION ELIGIBILITY DETERMINATION**

**WAC 388-823-0010 Definitions.** The following definitions apply to this chapter:

"ABAS-II" means adaptive behavior assessment system-second edition, which is a comprehensive, norm-referenced assessment of adaptive behavior and skills of individuals from birth through age 89.

"CAS" means the DAS-Naglieri cognitive assessment system, a clinical instrument for assessing intelligence based on a battery of cognitive tasks. The test is used for children ages five through seventeen years eleven months.

"Client" means a person with a developmental disability as defined in chapter 388-823 WAC who is currently eligible and active with the developmental disabilities administration (DDA).

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

"C-TONI" means the comprehensive test of nonverbal intelligence, a battery of six subtests, designed to measure different aspects of nonverbal intellectual abilities from ages six to eighteen years eleven months.

"DAS" means differential ability scales, which is a cognitive abilities battery for children and adolescents at least age two years, six months but under age eighteen.

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

"Department" means the department of social and health services.

"Documentation" means written information that provides support for certain claims, such as diagnoses, test scores, or residency for the purpose of establishing DDA eligibility.

"DSM-IV-TR" means the diagnostic and statistical manual of mental disorders, fourth edition, text revision.

"DSM-5" means the diagnostic and statistical manual of mental disorders, fifth edition.

"Eligible" means that DDA has determined that you have a condition that meets all of the requirements for a developmental disability as set forth in this chapter.

"ESIT" means early support for infants and toddlers, a program administered by the department of early learning.

"Expiration date" means a specific date that your eligibility as a client of DDA and all services paid by DDA will stop.

"FSIQ" means the full scale intelligence quotient which is a broad measure of intelligence achieved through one of the standardized

intelligence tests included in these rules. Any standard error of measurement value will not be taken into consideration when making a determination for DDA eligibility.

"Functional limitation" means a reduced ability or lack of ability to perform an action or activity in the manner or within the range considered to be normal.

"ICAP" means the inventory for client and agency planning. This is a standardized assessment of functional ability. The adaptive behavior section of the ICAP assesses daily living skills and the applicant awareness of when to perform these skills. The goal is to get a snapshot of his/her ability.

"K-ABC" means Kaufman assessment battery for children, which is a clinical instrument for assessing intellectual development. It is an individually administered test of intelligence and achievement for children at least age two years, six months but under age twelve years, six months. The K-ABC comprises four global scales, each yielding standard scores. A special nonverbal scale is provided for children at least age four years but under age twelve years, six months.

"Leiter-R" means Leiter international performance scale - revised, which is an untimed, individually administered test of nonverbal cognitive ability for individuals at least age two years but under age twenty-one years.

"Medicaid personal care" or "MPC" is a medicaid state plan program as defined in chapter 388-106 WAC.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Nonverbal" means that you do not possess sufficient verbal skills to complete a standard intellectual test.

"NSA" means necessary supplemental accommodations, which are services provided to you if you have a mental, neurological, physical, or sensory impairment or other problems that prevent you from getting program benefits in the same way that an unimpaired person would get them.

"Review" means DDA must determine that a current client of DDA still meets all of the requirements for a developmental disability as set forth in this chapter.

"RHC" means a residential habilitation center operated by the DDA.

"SIB-R" means the scale of independent behavior-revised which is an adaptive behavior assessment derived from quality standardization and norming. It can be administered as a questionnaire or as a carefully structured interview, with special materials to aid the interview process.

"SOLA" means a state operated living alternative residential service for adults operated by DDA.

"Stanford-Binet" is a battery of fifteen subtests measuring intelligence for individuals at least age two years but under age twenty-three years.

"Termination" means an action taken by DDA that stops your DDA eligibility and services paid by DDA. If your DDA eligibility is terminated your DDA authorized services will also be terminated. If you remain eligible for community first choice (CFC) or medicaid personal

care (MPC) and you are under the age of eighteen DDA will continue to authorize this service. If you are eighteen or older CFC or MPC services will be authorized by the aging and long-term support administration.

"VABS" means Vineland adaptive behavior scales, which is an assessment to measure adaptive behavior in children from birth but under age eighteen years, nine months and in adults with low functioning in four separate domains: Communication, daily living skills, socialization, and motor skills.

"Wechsler" means the Wechsler intelligence scale, which is an individually administered measure of an individual's capacity for intelligent behavior. There are three Wechsler intelligence scales, dependent upon the age of the individual:

- Wechsler preschool and primary scale of intelligence for children at least age three years but under age seven years;
- Wechsler intelligence scale for children at least age six years but under age sixteen years; and
- Wechsler adult intelligence scale for individuals at least age sixteen years but under age seventy-four years.

"WJ III(r)" means the Woodcock-Johnson(r) III, a test which is designed to provide a co-normed set of tests for measuring general intellectual ability, specific cognitive abilities, scholastic aptitude, oral language, and academic achievement. The WJ III(r) is used for ages two and up.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-823-0010, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0010, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0010, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0015 How does the state of Washington define developmental disability?** The state of Washington defines developmental disability in RCW 71A.10.020(5).

(1) To qualify for DDA you must have a diagnosed condition of intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition found by DDA to be closely related to intellectual disability or requiring treatment similar to that required for individuals with intellectual disability which:

- (a) Originates prior to age eighteen;
- (b) Is expected to continue indefinitely; and
- (c) Results in substantial limitations.

(2) In addition to the requirements listed in subsection (1) of this section, you must meet the other requirements contained in this chapter.

[Statutory Authority: RCW 74.08.090 and 34.05.353 (1)(c). WSR 15-01-021, § 388-823-0015, filed 12/5/14, effective 1/5/15. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0015, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0020 How do I become a client of the developmental disabilities administration?** You become a client of the developmental disabilities administration (DDA) if you apply for eligibility with DDA and DDA determines that you meet all eligibility criteria required to establish a developmental disability as defined in this chapter.

(1) You apply to become a client of DDA by calling the regional DDA office or a local DDA office and requesting a DDA eligibility packet be sent to you. You may also download and print the eligibility packet at <http://dshs.wa.gov/ddd/eligible.shtml>.

(2) You must complete and return the required forms, along with all supporting documentation that you have, to address any disability indicated in the eligibility packet.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0020, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0020, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0025 Who may apply for a DDA eligibility determination?** (1) You may apply for a DDA eligibility determination on your own behalf.

(2) A person may submit an application for a DDA eligibility determination on your behalf if the person is:

(a) Delegated to consent to routine medical care for you under WAC 388-148-1560;

(b) Your parent if you are under eighteen;

(c) Your caretaker relative under WAC 182-500-0020;

(d) Your spouse;

(e) Your authorized representative under WAC 182-503-0130; or

(f) Applying for you because a medical condition prevents you from applying on your own behalf.

(3) If you or your legal representative request it, DDA will withdraw your eligibility application or terminate your eligibility.

[Statutory Authority: RCW 71A.12.030 and 74.04.815. WSR 18-17-028, § 388-823-0025, filed 8/6/18, effective 9/6/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0025, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0050 Do I have to be considered a Washington state resident to be eligible for DDA?** (1) You must be considered a Washington state resident to be eligible for DDA. If DDA does not consider you a Washington state resident, you are not eligible for DDA and DDA will deny or terminate your eligibility.

(2) You are considered a Washington state resident if you:

(a) Meet residency requirements under WAC 182-503-0520 or 182-503-0525; or

(b) Are a dependent of a military service member and legal resident under RCW 74.04.815.

(3) If DDA learns that you are not a Washington state resident, DDA must terminate your eligibility.

(4) You must inform your DDA case resource manager when your address changes.

(5) If DDA receives returned mail from you with no forwarding address, DDA will try to verify you are a Washington state resident by trying to contact you or anyone identified by you to receive notices.

(6) If DDA cannot contact you or verify you are a Washington state resident, DDA must terminate your eligibility.

(7) If your eligibility was terminated because DDA could not contact you, DDA will restore your eligibility if you:

(a) Verify your continuous Washington state residency;

(b) Request your eligibility be restored; and

(c) Were determined eligible on or after June 1, 2005.

[Statutory Authority: RCW 71A.12.030 and 74.04.815. WSR 18-17-028, § 388-823-0050, filed 8/6/18, effective 9/6/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0050, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0050, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0055 Who is responsible for obtaining the documentation needed to make my eligibility determination?** You are responsible to provide all of the information required by DDA to make a determination.

(1) If you provide DDA with a signed consent form and the sources for obtaining the documentation DDA may be able to assist you in obtaining records. Evidence required to make an eligibility determination includes, but is not limited to:

(a) School psychologist and/or licensed psychologist evaluations and reports,

(b) Evidence of medical diagnoses by a licensed physician,

(c) Cognitive and adaptive skills test results and accompanying reports, and

(d) Mental health records.

(2) DDA will not pay for the purchase of diagnostic assessments, intelligence quotient (IQ) testing, or adaptive skills testing.

(3) If DDA determines that you have a qualifying condition and your records do not include an adaptive skills assessment per WAC 388-823-0710 administered within the past thirty-six months, DDA may administer the inventory of client and agency planning (ICAP) to determine your level of adaptive functioning to meet the substantial limitation requirement. DDA will administer the ICAP at no expense to you.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0055, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0075 What if I do not have written evidence that my disability began before my eighteenth birthday?** (1) If there is no

documentation available about your early developmental history, educational history, illnesses, or injuries, DDA may accept verbal information from your family or others who knew you prior to the age of eighteen to verify that your disability began prior to age eighteen. The information must be specific and reliable, and it cannot substitute for documentation that could be obtained with reasonable diligence.

(2) Additional evidence of your eligible condition and the resulting substantial limitations is still required.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0075, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0080 How does DDA determine whether I meet eligibility criteria?** DDA determines if you meet eligibility criteria as defined in this chapter by reviewing all information that has been submitted.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0080, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0080, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0090 How long will it take to complete a determination of my eligibility?** DDA has thirty days from receipt of the final piece of documentation to make the determination of eligibility.

(1) If DDA has received all requested documentation and it is sufficient to establish eligibility, DDA will make a determination of eligibility and send you written notice of eligibility.

(2) If DDA has received all requested documentation but it is insufficient to establish eligibility, DDA will make a determination of ineligibility and send you written notice of denial of eligibility.

(3) If DDA has insufficient information to determine you eligible and has not received all of the requested documentation, DDA may deny your eligibility after ninety days from the date of application. Rules governing reapplying for eligibility are in WAC 388-823-1080.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0090, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0090, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0100 What is the effective date of my eligibility determination?** (1) If DDA receives sufficient information to substantiate your DDA eligibility, the effective date of your eligibility as a DDA client is the date of receipt of the final piece of documentation.

(2) DDA services cannot begin before the effective date of your DDA eligibility.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0100, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0100, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0105 How will DDA notify me of the results of my eligibility determination?** DDA will send you written notification of the final determination of your eligibility per WAC 388-825-100.

(1) If you are not eligible, the written notice will explain why you are not eligible, explain your appeal rights to this decision, and provide you with an administrative hearing request form.

(2) If you are eligible, the written notice will include:

(a) Your eligibility condition(s);

(b) The effective date of your eligibility;

(c) The expiration date or review date of your eligibility, if applicable; and

(d) The name and phone number of your DDA primary contact.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0105, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0105, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0115 If I am eligible to be a client of DDA, will I receive DDA services?** If DDA determines that you are eligible to be a client of DDA, your access to services as a DDA client depends on your meeting eligibility requirements for the specific service. DDA paid services are described in WAC 388-825-057.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0115, filed 5/29/14, effective 7/1/14.]

## **DETERMINATION OF ELIGIBILITY**

### **INTELLECTUAL DISABILITY**

**WAC 388-823-0200 How do I show that I have intellectual disability as an eligible condition?** In order to be considered for eligibility under the condition of intellectual disability you must be age four or older and have a diagnosis of mental retardation as specified in the DSM-IV-TR or intellectual disability as specified in the DSM-5. This diagnosis must meet the following criteria:

(1) The diagnosis must be made by a licensed psychologist, or be a finding of intellectual disability by a Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

(2) An acceptable diagnostic report includes documentation of all three diagnostic criteria specified in the DSM-IV-TR or DSM-5.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0200, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10,

71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0200, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0210 If I have intellectual disability, how do I meet the definition of substantial limitations?** If you have an eligible condition of intellectual disability, in order to meet the definition of substantial limitations you must have:

(1) Documentation of a full-scale intelligence quotient (FSIQ) score of more than two standard deviations below the mean per WAC 388-823-0720, and subject to all of WAC 388-823-0720 and 388-823-0730, and

(2) Documentation of an adaptive skills test score of more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and 388-823-0750.

[Statutory Authority: RCW 74.08.090 and 34.05.353 (1)(c). WSR 15-01-021, § 388-823-0210, filed 12/5/14, effective 1/5/15. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0210, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0210, filed 6/1/05, effective 7/2/05.]

#### **CEREBRAL PALSY**

**WAC 388-823-0300 How do I show that I have cerebral palsy as an eligible condition?** In order to be considered for eligibility under the condition of cerebral palsy you must be age four or older and have a diagnosis by a licensed physician of cerebral palsy or similar brain damage which causes, quadriplegia, hemiplegia, or diplegia, with evidence of onset prior to age three.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0300, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0300, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0310 If I have cerebral palsy, how do I meet the definition of substantial limitations?** If you have an eligible condition of cerebral palsy, in order to meet the definition of substantial limitations, you must demonstrate the need for direct physical assistance, per WAC 388-823-0760, with two or more of the following activities as a result of your condition:

- (1) Toileting;
- (2) Bathing;
- (3) Eating;
- (4) Dressing;
- (5) Mobility; or
- (6) Communication.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0310, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0310, filed 6/1/05, effective 7/2/05.]

## **EPILEPSY**

**WAC 388-823-0400 How do I show that I have epilepsy as an eligible condition?** In order to be considered for eligibility under the condition of epilepsy you must be age four or older and have a diagnosis of epilepsy or a neurological condition that produces seizures.

(1) You must show evidence that your epilepsy or seizure disorder originated prior to age eighteen and is expected to continue indefinitely.

(2) The diagnosis must be made by a board certified neurologist and be supported with documentation of medical history with neurological testing.

(3) You must provide confirmation from your physician or neurologist that your seizures are currently uncontrolled and ongoing or recurring and cannot be controlled by medication.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0400, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0400, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0410 If I have epilepsy, how do I meet the definition of substantial limitations?** If you have an eligible condition of epilepsy, in order to meet the definition of substantial limitations, you must have documentation of an adaptive skills test score that reflects your daily functioning of more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and 388-823-0750.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0410, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0410, filed 6/1/05, effective 7/2/05.]

## **AUTISM**

**WAC 388-823-0500 How do I show that I have autism as an eligible condition?** (1) To be considered for eligibility under the condition of autism:

(a) You must be age four or older;

- (b) You must have been diagnosed with:
  - (i) Autism spectrum disorder 299.00 under the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5); or
  - (ii) Autistic disorder 299.00 under the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR) before February 1, 2022;
- (c) You must have been diagnosed by:
  - (i) A board-certified neurologist;
  - (ii) A board-certified psychiatrist;
  - (iii) A licensed psychologist;
  - (iv) An advanced registered nurse practitioner (ARNP) associated with an autism center, developmental center, or center of excellence;
  - (v) A licensed physician associated with an autism center, developmental center, or center of excellence; or
  - (vi) A board certified developmental and behavioral pediatrician.
- (d) The condition must be expected to continue indefinitely; and
- (e) You must provide evidence of onset before age five.
- (2) An acceptable diagnostic report includes documentation of diagnostic criteria specified in:
  - (a) The DSM-5; or
  - (b) DSM-IV-TR for a diagnostic report dated before February 1, 2022.

[Statutory Authority: RCW 71A.12.030, 71A.12.020, and 71A.16.020. WSR 22-01-037, § 388-823-0500, filed 12/6/21, effective 1/6/22; WSR 21-13-164, § 388-823-0500, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.16.020. WSR 19-19-061, § 388-823-0500, filed 9/16/19, effective 10/17/19. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0500, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0500, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0510 What constitutes substantial limitation due to autism?** (1) To establish substantial limitation due to autistic disorder diagnosed under the DSM-IV-TR, you must have an adaptive skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) To establish substantial limitation due to autism spectrum disorder diagnosed under the DSM-5 you must:

(a) Have an adaptive-skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to WAC 388-823-0740 and WAC 388-823-0750; and

(b) Have either:

(i) A full-scale intellectual quotient (FSIQ) score more than one standard deviation below the mean as described in WAC 388-823-0720 and subject to WAC 388-823-0720 and WAC 388-823-0730; or

(ii) A written statement from a qualified professional that your autism prevents you from completing FSIQ testing. "Qualified professional" means:

- (A) Board-certified neurologist;
- (B) Board-certified psychiatrist;
- (C) Licensed psychologist;

- (D) Licensed physician associated with an autism center, developmental center, or center of excellence;
- (E) Board-certified developmental and behavioral pediatrician; or
- (F) Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

[Statutory Authority: RCW 71A.12.030, 71A.10.020, and 71A.16.020. WSR 22-12-055, § 388-823-0510, filed 5/26/22, effective 6/26/22; WSR 21-13-164, § 388-823-0510, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0510, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0510, filed 6/1/05, effective 7/2/05.]

**ANOTHER NEUROLOGICAL OR OTHER CONDITION SIMILAR TO INTELLECTUAL DISABILITY**

**WAC 388-823-0600 How do I show that I have another neurological or other condition similar to intellectual disability?** In order to be considered for eligibility under the category of another neurological or other condition similar to intellectual disability you must:

- (1) Be age four or older and have a diagnosis by a licensed physician of a neurological or chromosomal disorder that:
  - (a) Originated before age 18;
  - (b) Is known by reputable authorities to cause intellectual and adaptive skills deficits;
  - (c) Is expected to continue indefinitely without improvement;
  - (d) Is other than intellectual disability, autism, cerebral palsy, or epilepsy;
  - (e) Is not attributable to nor is itself a mental illness, or emotional, social, or behavior disorder; and
  - (f) Has resulted in substantial functional limitations.
- (2) Be receiving fee-for-service medically intensive children program (MICP) services under chapter 182-551 WAC, and have been continuously eligible for DDA due solely to your MICP eligibility since before August 13, 2018; or
- (3) Be under the age of 20 and have one or more developmental delays.

[Statutory Authority: RCW 71A.16.020 and 71A.16.040. WSR 24-01-119, § 388-823-0600, filed 12/19/23, effective 1/19/24. Statutory Authority: RCW 71A.12.030 and 71A.10.020. WSR 18-15-046, § 388-823-0600, filed 7/13/18, effective 8/13/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0600, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0600, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0610 If I have another neurological or other condition similar to intellectual disability, how do I meet the definition**

**of substantial functional limitations?** If you have an eligible condition of another neurological or other condition similar to intellectual disability, in order to meet the definition of substantial functional limitations you must have impairments in both intellectual abilities and adaptive skills, which are separate from any impairment due to an unrelated mental illness, or emotional, social, or behavioral disorder.

(1) For a neurological or chromosomal disorder, evidence of substantial functional limitations requires documentation of (a) and (b) below:

(a) For impairment in intellectual abilities, either subsection (i) or (ii) or (iii) of this section:

(i) An FSIQ score of more than 1.5 standard deviations below the mean under WAC 388-823-0720 and subject to all of WAC 388-823-0720 and WAC 388-823-0730;

(ii) If you are under the age of 20, significant academic delays defined as delays of more than two standard deviations below the mean at the time of testing in both broad reading and broad mathematics; or

(iii) A written statement from a licensed physician, a licensed psychologist, or a school psychologist that your condition prevents you from completing FSIQ testing.

(b) For impairment in adaptive skills, a score of more than two standard deviations below the mean under WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) For the medically intensive children's program, you do not need additional evidence of your substantial functional limitations if your eligible condition is solely due to your eligibility and participation in the fee-for-service medically intensive children program under chapter 182-551 WAC.

(3) For developmental delays, evidence of substantial functional limitations requires documentation of (a) or (b) or (c) below:

(a) You are under the age of three and have one or more developmental delays under WAC 388-823-0770;

(b) You are under the age of three and meet the ESIT eligibility requirements; or

(c) You are under the age of 20 and have three or more developmental delays under WAC 388-823-0770.

[Statutory Authority: RCW 71A.16.020 and 71A.16.040. WSR 24-01-119, § 388-823-0610, filed 12/19/23, effective 1/19/24. Statutory Authority: RCW 71A.12.030 and 71A.10.020. WSR 18-15-046, § 388-823-0610, filed 7/13/18, effective 8/13/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0610, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0610, filed 6/1/05, effective 7/2/05.]

## **EVIDENCE VERIFICATION REQUIREMENTS**

**WAC 388-823-0720 What evidence do I need of my FSIQ?** Evidence of a qualifying FSIQ is derived from one of the tests listed in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at more than 1.5 standard deviations	Qualifying score at more than 1 standard deviation
Stanford-Binet 4th edition or earlier editions	67 or less	75 or less	83 or less
Stanford-Binet 5th edition	69 or less	77 or less	84 or less
Wechsler intelligence scales (Wechsler)	69 or less	77 or less	84 or less
Differential abilities scale (DAS)	69 or less	77 or less	84 or less
Kaufman assessment battery for children (K-ABC)	69 or less	77 or less	84 or less
Das-Naglieri cognitive assessment system (CAS)	69 or less	77 or less	84 or less
Woodcock-Johnson-Test of cognitive abilities III, III-R, or IV	69 or less	77 or less	84 or less
Reynolds intellectual assessment scales, 2nd edition (RIAS 2)	69 or less	77 or less	84 or less

(1) The test must be administered by a licensed psychologist or Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

(2) The FSIQ score cannot be attributable to mental illness or other psychiatric condition occurring at any age; or other illness or injury occurring after age eighteen:

(a) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your intellectual impairment, measured by a FSIQ test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(b) "Acceptable documentation" means written reports or statements that are directly related to the subject at issue, reasonable in

light of all the evidence, and from a source of appropriate authority. The determination of whether a document is acceptable is made by DDA.

(c) If no documentation is provided or DDA determines that the documentation is not acceptable DDA will deny eligibility. The determination may be challenged through an administrative appeal.

(3) If you have a vision impairment that prevents completion of the performance portion of the IQ test, the administering professional may estimate an FSIQ using only the verbal IQ score of the appropriate Wechsler.

(4) If you have a significant hearing impairment, English is not your primary language, or you are nonverbal your FSIQ may be estimated using one of the tests shown in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at 1.5 or more standard deviations	Qualifying score more than 1 standard deviation
Wechsler intelligence scales (WISC, WAIS, WNV)	69 or less on the performance scale, or, on both the perceptual reasoning index and processing speed index	77 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index	84 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index
Leiter international performance scale-revised (Leiter-R)	69 or less	77 or less	84 or less
Comprehensive test of nonverbal intelligence (C-TONI)	69 or less on full scale (NVIQ)	77 or less on full scale (NVIQ)	84 or less on full scale (NVIQ)
Kaufman assessment battery for children (K-ABC)	Nonverbal scale index of 69 or less	Nonverbal scale index of 77 or less	Nonverbal scale index of 84 or less

(5) If you are over the age of nineteen at the time of your determination you must have a valid FSIQ obtained at age thirteen or older.

[Statutory Authority: RCW 71A.12.030, 71A.12.020, and 71A.16.020. WSR 22-01-037, § 388-823-0720, filed 12/6/21, effective 1/6/22; WSR 21-13-164, § 388-823-0720, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0720, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0730 If I have more than one FSIQ score, what criteria will DDA use to select the FSIQ for determining eligibility? (1)**

If you have more than one FSIQ, DDA will review the pattern of FSIQ scores.

(a) If the variation among these scores is no more than five points, DDA will accept the score obtained closest to but below age eighteen.

(b) If there are differences among the FSIQ scores of more than five points, DDA will review the pattern and attempt to determine reasons for the fluctuations to ensure that the most reliable and accurate FSIQ score is used. DDA will use the most current FSIQ obtained below age eighteen, provided the FSIQ is a result of your developmental disability.

(2) DDA will exclude any FSIQ score attributable to a condition or impairment that began on or after your eighteenth birthday.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0730, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0740 What evidence do I need of my adaptive skills limitations?**

(1) Evidence of substantial limitations of adaptive functioning requires a qualifying score completed in the past thirty-six months on one of the tests shown in the table below:

Assessment	Qualifying Score
Vineland adaptive behavior scales (VABS)	An adaptive behavior composite score of 69 or less
Scales of independent behavior - Revised (SIB-R)	A broad independence standard score of 69 or less
Adaptive behavior assessment system - Second edition (ABAD-II)	An adaptive behavior composite score of 69 or less
Inventory for client and agency planning (ICAP)	A broad independence standard score of 69 or less

(a) Tests must be administered and scored by professionals who have a background in individual assessment, human development and behavior, and tests and measurements, as well as an understanding of individuals with disabilities.

(b) Tests must be administered following the instructions for the specific test used.

(c) Department staff or designee contracted with DDA must administer the ICAP.

(d) DDA will administer or arrange for the administration of the ICAP only if results from one of the other acceptable tests are not available.

(2) The adaptive test score cannot be a result of an unrelated mental illness or other psychiatric condition occurring at any age; or other illness or injury occurring after age eighteen.

(a) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your adaptive functioning impairment, measured by an adaptive skills test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(b) "Acceptable documentation" means written reports or statements that are directly related to the subject at issue, reasonable in light of all the evidence, and from a source of appropriate authority. The determination of whether a document is acceptable is made by DDA.

(c) If no documentation is provided or DDA determines that the documentation is not acceptable DDA will deny eligibility. The determination may be challenged through an administrative appeal.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0740, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0750 If I have more than one adaptive test score, what criteria will DDA use to select the adaptive test for determining eligibility?** If you have more than one adaptive test score during the thirty-six months prior to your determination, DDA will accept the test score obtained closest to the date of review or application providing it is a valid score and reflects adaptive functioning due to your developmental disability.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0750, filed 5/29/14, effective 7/1/14.]

**WAC 388-823-0760 What evidence do I need to show my need for direct physical assistance?** (1) The need for direct physical assistance with activities of daily living is due to your impaired motor control and means:

(a) You need the presence and physical assistance of another person on a daily basis to be able to communicate and be understood by any other person.

(i) If you are able to communicate through a communication device you will be considered independent in communication.

(ii) You must require more than "setting up" of the communication device.

(b) You need direct physical assistance from another person on a daily basis with toileting, bathing, eating, dressing, or mobility.

(i) You require more than "setting up" the task to enable you to perform the task independently.

(ii) You must require direct physical assistance for more than transferring in and out of wheelchair, in and out of the bath or shower, and/or on and off of the toilet.

(iii) Your ability to be mobile is your ability to move yourself from place to place, not your ability to walk. For instance, if you can transfer in and out of a wheelchair and are independently mobile in a wheelchair, you do not meet the requirement for direct physical assistance with mobility.

(2) Any of the following can be used as documentation of your direct physical assistance needs:

(a) The comprehensive assessment reporting evaluation (CARE) tool or other department assessments that measure direct assistance needs in the areas specified above;

(b) Assessments and reports from educational or healthcare professionals that are current and consistent with your current functioning;

(c) In the absence of professional reports or assessments, DDA may document its own observation of your direct assistance needs along with reported information by family and others familiar with you.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0760, 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 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.

[Statutory Authority: RCW 71A.12.030. WSR 19-14-119, § 388-823-0770, filed 7/3/19, effective 8/3/19. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0770, filed 5/29/14, effective 7/1/14.]

## **INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP)**

**WAC 388-823-0910 What is the purpose of ICAP?** The purpose of the ICAP is to assess your adaptive skills in the areas of motor skills, personal living skills, social and communication skills, and community living skills.

[Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chap-

ters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0910, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0920 What sections of the ICAP does DDA or a designee contracted with DDA complete and score?** (1) DDA or a designee contracted with DDA completes the adaptive behavior portion of the ICAP.

(2) There is a computer generated broad independence score of your motor skills, personal living skills, social and communication skills, and community living skills, based on your age.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0920, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0920, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0930 How does DDA or a designee contracted with DDA administer the ICAP?** (1) DDA or a designee contracted with DDA completes the adaptive section of the ICAP by interviewing a qualified respondent who has known you for at least three months and who sees you on a day-to-day basis. You cannot be the respondent for your own ICAP.

(2) DDA or a designee contracted with DDA will choose the respondent and may interview more than one respondent to ensure that information is complete and accurate.

(3) DDA or a designee contracted with DDA will ask you to demonstrate some of the skills in order to evaluate what skills you are able to perform. DDA or a designee contracted with DDA cannot administer the ICAP if no respondent is identified and available.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0930, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0930, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-0940 What happens if DDA or a designee contracted with DDA cannot identify a qualified respondent?** If you and DDA or a designee contracted with DDA cannot identify a qualified respondent for the ICAP, DDA or a designee contracted with DDA will not be able to administer the ICAP or determine you eligible under any conditions that require an ICAP.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0940, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0940, filed 6/1/05, effective 7/2/05.]

## ELIGIBILITY EXPIRATION, REVIEWS, AND REAPPLICATION

**WAC 388-823-1000** **Once I become an eligible DDA client, is there a time limit to my eligibility?** While DDA has the authority to review your eligibility at any time, your eligibility as a DDA client will expire or have required reviews as indicated in WAC 388-823-1005 and 388-823-1010.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1000, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1000, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1005** **When does my eligibility as a DDA client expire?** (1) If you are determined eligible before age three, your eligibility expires on your fourth birthday.

(2) If you are determined eligible with developmental delays after your third birthday, your eligibility expires on your 20th birthday.

(3) DDA will notify you at least six months before your eligibility expiration date.

(4) If your eligibility expires, you must reapply in order to maintain eligibility with DDA.

(5) If DDA receives your reapplication less than 60 days before your expiration date and does not have sufficient time to make an eligibility determination by the date of expiration, your DDA eligibility will expire and your DDA paid services will stop.

(a) If DDA determines you are eligible after your eligibility expires, your eligibility will be reinstated on the date that DDA determines you eligible under WAC 388-823-0100.

(b) If DDA determines you are eligible after your eligibility expires, your eligibility will not be retroactive to the expiration date.

(6) This expiration of eligibility takes effect if DDA is unable to locate you to provide written notification that eligibility is expiring.

(7) There is no appeal right to eligibility expiration.

[Statutory Authority: RCW 71A.16.020 and 71A.16.040. WSR 24-01-119, § 388-823-1005, filed 12/19/23, effective 1/19/24. Statutory Authority: RCW 71A.12.030 and 71A.10.020. WSR 18-15-046, § 388-823-1005, filed 7/13/18, effective 8/13/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1005, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1005, filed 6/1/05, effective 7/2/05.]

**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 19 and:

(i) Your most recent eligibility determination was completed before your 16th birthday; and

(ii) You are eligible with intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition similar to intellectual disability.

(b) If you are age 19 and are eligible with 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 new information becomes available that does not support your current eligibility determination.

(e) 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 does not receive all of the documentation necessary to determine you are eligible during a review, DDA will terminate your eligibility:

(a) On your 20th birthday if the review is because you are age 19; or

(b) 90 days after DDA requests the information if the review is because:

(i) You have requested a paid service;

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

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

[Statutory Authority: RCW 71A.16.020 and 71A.16.040. WSR 24-01-119, § 388-823-1010, filed 12/19/23, effective 1/19/24. Statutory Authority: RCW 71A.12.030. WSR 19-14-119, § 388-823-1010, filed 7/3/19, effective 8/3/19. Statutory Authority: RCW 71A.12.030 and 71A.10.020. WSR 18-15-046, § 388-823-1010, filed 7/13/18, effective 8/13/18. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1010, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.040, and 74.08.090. WSR 14-07-028, § 388-823-1010, filed 3/10/14, effective 4/10/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1010, filed 6/1/05, effective 7/2/05.]

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

(1) A DDA social services authorization within the last ninety days in a DSHS payment system;

(2) A county authorization;

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

(4) Residence in a 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.

[Statutory Authority: RCW 71A.12.030, WSR 19-14-119, § 388-823-1015, filed 7/3/19, effective 8/3/19. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1015, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1015, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1020 Can DDA terminate my eligibility if I no longer am a resident of the state of Washington?** DDA will terminate your eligibility if you lose residency in the state of Washington as defined in WAC 388-823-0050.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1020, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1020, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1030 How will I know that my eligibility is expiring or is due for review?** If your eligibility has a required expiration or review date, DDA will send you prior written notification with re-application or review information.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1030, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1030, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1060 How will DDA notify me of its decision?** DDA will notify you and your legal representative or one other responsible party in writing of its determination of eligibility, ineligibility, or expiration of eligibility per WAC 388-825-100.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1060, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1060, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1070 What are my appeal rights to a department decision that I am not eligible to be a client of DDA?** Your appeal rights to a department decision that you are not eligible to be a DDA client because you do not meet the requirements for a developmental disabili-

ty as outlined in chapter 388-823 WAC, are limited to those described in WAC 388-825-120 through 388-825-165.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1070, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1070, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1080 If DDA decides that I do not meet the requirements for eligibility, can I reapply for another decision?** If DDA decides that you do not meet the requirements for eligibility, as defined in this chapter, DDA will only accept a new application if:

(1) Your eligibility was terminated because DDA could not locate you and you have subsequently contacted DDA;

(2) Your eligibility was terminated because you lost residency in the state of Washington and you have reestablished residency;

(3) You have additional or new information relevant to the determination that DDA did not review for the previous determination of eligibility.

(a) The only acceptable new information considered is diagnostic information, FSIQ tests, or adaptive skills tests.

(b) DDA will only accept adaptive skills tests as new information if you provide evidence that your prior scores were invalid or if you provide evidence of a loss of functioning related to your qualifying condition.

(c) DDA will not administer an ICAP if you have a previous, valid ICAP or adaptive skills test score that is current within the past thirty-six months.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1080, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1080, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1090 If I am already eligible, how do these new rules affect me?** If you are an eligible DDA client on the effective date of these rules, you continue to be an eligible DDA client but you are subject to the expiration and required eligibility reviews per WAC 388-823-1000 through 388-823-1030.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1090, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1090, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1095 What are a person's rights as a DDA client or eligible person?** (1) The following definitions apply to this section:

(a) "Administration" means the division of the department responsible for providing services to eligible persons, but does not include the division of the department responsible for the licensing and certification of services and facilities for eligible persons.

(b) "Assessment" has the same meaning as defined in RCW 71A.10.020.

(c) "Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and has been determined to be eligible to receive services under chapter 71A.16 RCW.

(d) "Department" means the department of social and health services.

(e) "Developmental disabilities ombuds" means the office created under chapter 43.382 RCW.

(f) "Eligible person" has the same meaning as defined in RCW 71A.10.020.

(g) "Legal representative" means a parent of a client under age 18, a court-appointed guardian or limited guardian under Title 11 RCW if the subject matter is within the scope of the guardianship order, or any other person authorized by law to act for the client.

(h) "Necessary supplemental accommodation representative" means an individual who receives copies of administration correspondence to help a client or eligible person understand the documents and exercise the client or eligible person's rights. The necessary supplemental accommodation representative is identified by the client or eligible person when the client or eligible person does not have a legal guardian and is requesting or receiving services from the administration.

(i) "Provider" means an individual, a facility, or an agency that is one or more of the following: Licensed, certified, contracted by the department, or state operated to provide services to administration clients.

(j) "Restraint" includes:

(i) Physical restraint, which is a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the client's body that restricts freedom of movement or access to the client's body, is used for discipline or convenience, and is not required to treat the client's medical symptoms; and

(ii) Chemical restraint, which is a psychopharmacologic drug that is used for discipline or convenience and is not required to treat the client's medical symptoms.

(k) "Restriction" means a limitation on the client's use or enjoyment of property, social activities, or engagement in the community.

(1) "Service plan" means any plan required by the department to deliver the services authorized by the administration to the client.

(2) The rights set forth in this section are the minimal rights guaranteed to all clients of the administration, and are not intended to diminish rights set forth in other state or federal laws that may contain additional rights.

(3) The administration must notify the individual and the individual's legal representative or necessary supplemental accommodation representative of the rights set forth in this section upon determining the individual is an eligible person. The notification the administration provides must be in written form. The administration must document the date that the notification required in this subsection was provided.

(4) The administration must notify a client and a client's legal representative or necessary supplemental accommodation representative

of the rights set forth in this section upon conducting a client's assessment. The notification the administration provides must be in written form. The administration must document the date it provided the notification required in this subsection.

(5) The client has the right to exercise autonomy and choice free from provider interference. This includes the client's right to:

(a) Be free from sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion;

(b) Be free from discrimination based on race, color, creed, national origin, religion, sex, age, disability, marital and family status, gender identity, or sexual orientation;

(c) Make choices regarding the type of food available within the client's resources and service plan;

(d) Have visitors at the client's home and associate with persons of the client's choosing and subject to limitations as negotiated with the client's housemates;

(e) Control the client's schedule and choose activities, schedules, and health care that meet the client's needs;

(f) Information about the treatment ordered by the client's health care provider and help plan how the treatment will be implemented;

(g) Be free from unnecessary medication, restraints, and restrictions;

(h) Vote, participate in the democratic process, and help people with getting elected to office;

(i) Manage the client's money or choose a person to assist;

(j) Be part of the community;

(k) Make choices about the client's life;

(l) Choose the clothes and hairstyle the client wears;

(m) Furnish and decorate the client's bedroom to the client's preferences or furnish and decorate the client's home to the client's preferences subject to agreement with the client's housemates;

(n) Seek paid employment;

(o) Receive the services that the client agrees to receive;

(p) Decide whether or not to participate in research after the research has been explained to the client, and after the client or the client's legal representative gives written consent for the client to participate in the research; and

(q) Be free from financial exploitation.

(6) The client has the right to participate in the administration's service planning. This includes the client's right to:

(a) Be present and provide input on the client's service plans written by the administration and providers;

(b) Have meaningful opportunities to lead planning processes;

(c) Have the client's visions for a meaningful life and the client's goals for education, employment, housing, relationships, and recreation included in the planning process;

(d) Choose an advocate to attend the planning processes with the client; and

(e) Have access to current and accurate information about recreation, education, and employment opportunities available in the client's community.

(7) The client has the right to access information about services and health care. This includes the client's right to:

(a) View a copy of all of the client's service plans;

(b) Possess full copies of the client's current service plans;

(c) Review copies of the policies and procedures for any service the client receives, at any time. This includes policies and procedures about how the client may file a complaint to providers and the department;

(d) Examine the results of the department's most recent survey or inspection conducted by state surveyors or inspectors, statements of deficiency, and plans of correction in effect with respect to the client's provider and the client's residence. The client's service provider must assist the client with locating and accessing this information upon the client's request; and

(e) Receive written notification of enforcement actions taken by the department against the client's provider. The administration's case manager or designee must provide notification to the client and the client's legal representative or necessary supplemental accommodation representative within 20 days, excluding weekends and holidays, of the date of enforcement. For purposes of this subsection, a "provider" means an entity that provides residential services received by a client that is operated by or contracted through the administration. An enforcement action that requires this notification includes:

- (i) Conditions placed on the provider certification or license;
- (ii) Suspension or limited suspension of referrals or admissions;
- (iii) Imposition of provisional certification or decertification;

or

(iv) Denial, suspension, or revocation of a license or certification.

(8) The client has the right to file complaints and grievances, and to request appeals. This includes the client's right to:

(a) Appeal any decision by the department that denies, reduces, or terminates the client's eligibility, services, or choice of provider as defined in federal medicaid law and state public assistance laws;

(b) Submit grievances to the client's provider about the client's services or other concerns. This includes, but is not limited to, concerns about the behavior of other people where the client lives. The provider must maintain a written policy on the grievance process that includes timelines and possible remedies. If a grievance is unresolved, the provider must provide the client with information on how to submit the grievance to the department;

(c) File complaints and grievances, and request appeals without penalty or retaliation by the department or providers; and

(d) Receive information about how to obtain accommodation for disability in the appeal process.

(9) The client has the right to privacy and confidentiality. This includes the client's right to:

(a) Personal privacy and confidentiality of the client's personal records;

(b) Communicate privately, including the right to send and receive mail and email, and the right to use a telephone in an area where calls can be made without being overheard; and

(c) Meet with and talk privately with the client's friends and family.

(10) The client has rights during discharge, transfer, and termination of services as set forth in this subsection.

(a) Clients who are residents of a long-term care facility that is licensed under chapter 18.20, 72.36, or 70.128 RCW have the rights set forth in RCW 70.129.110.

(b) Clients who receive certified community residential services have the right to:

(i) Remain with the client's provider. Services must not be terminated unless the provider determines and documents that:

(A) The provider cannot meet the needs of the client;

(B) The client's safety or the safety of other individuals in the facility or residence is endangered;

(C) The client's health or the health of other individuals in the facility or residence would otherwise be endangered; or

(D) The provider ceases to operate.

(ii) Receive written notice from the provider of any potential termination of services at least 30 days before such termination, except when there is a health and safety emergency that requires termination of service, in which case notice must be provided at least 72 hours before the date of termination. The notice must be provided to the client and the client's legal representative or necessary supplemental accommodation representative. The notice must include:

(A) The reason for termination of services; and

(B) The effective date of termination of services.

(iii) Receive a transition plan at least two days before the effective date of the termination of services, or if the termination was based on a health and safety emergency receive a transition plan within two days of the administration's receipt of notice for emergency termination. The administration must provide the client and the client's legal representative or necessary supplemental accommodation representative with the plan. The plan must include:

(A) The location where the client will be transferred;

(B) The mode of transportation to the new location; and

(C) The name, address, and telephone number of the developmental disabilities ombuds.

(c) A provider that provides services to clients in a residence owned by the provider must exhaust the procedures for termination of services prior to the commencement of any unlawful detainer action under RCW 59.12.030.

(11) The client has the right to access advocates. The client has the right to receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies. The provider must not interfere with the client's access to any of the following:

(a) Any representative of the state;

(b) The resident's individual physician;

(c) The developmental disabilities ombuds; or

(d) Any representative of the organization designated to implement the protection and advocacy program pursuant to RCW 71A.10.080.

(12) If a client is subject to a guardianship order pursuant to chapter 11.130 RCW, the rights of the client under this section are exercised by the client's guardian if the subject matter is within the scope of the guardianship order.

(13) In addition to the rights in this section, clients who receive home and community-based services are entitled to receive those services in an integrated setting as described in WAC 388-823-1096.

[Statutory Authority: RCW 71A.12.030, 71A.26.040, 71A.26.030, and 42 C.F.R. 441.301 (c)(4). WSR 23-21-001, § 388-823-1095, filed 10/4/23, effective 11/4/23. Statutory Authority: RCW 71A.12.030 and 71A.26.030. WSR 21-03-003, § 388-823-1095, filed 1/7/21, effective 2/7/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR

14-12-046, § 388-823-1095, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1095, filed 6/1/05, effective 7/2/05.]

**WAC 388-823-1096 What requirements must a home or community-based service setting meet? (1) Home and Community-Based Settings.**

Home and community-based settings must have all of the following qualities based on the needs of the HCBS participant as indicated in their person-centered service plan:

(a) The setting is integrated in and supports full access of HCBS participants receiving home and community-based services under 42 C.F.R. Section 440.180 ("HCBS") to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as people not receiving HCBS.

(b) The setting is selected by the HCBS participant from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the HCBS participant's needs, preferences, and, for residential settings, resources available for room and board.

(c) Ensures the HCBS participant's rights of privacy, dignity and respect, and freedom from coercion and restraint.

(d) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.

(e) Facilitates individual choice regarding services and supports, and who provides them.

**(2) Provider-owned or controlled residential settings.** In a provider-owned or controlled residential setting, in addition to the qualities under subsection (1) of this section, the following additional conditions must be met:

(a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the HCBS participant, and the HCBS participant has, at a minimum, the same responsibilities and protections from eviction that tenants have under the Washington State Residential Landlord-Tenant Act, and other applicable county or city tenant protections. For settings in which landlord tenant laws do not apply, the state must ensure that a lease, residency agreement, or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

(b) Each HCBS participant has privacy in their sleeping or living unit:

(i) Units have entrance doors lockable by the HCBS participant, with only appropriate staff having keys to doors.

(ii) HCBS participants sharing units have a choice of roommates in that setting.

(iii) HCBS participants have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

(c) HCBS participants have the freedom and support to control their own schedules and activities, and have access to food at any time.

(d) HCBS participants are able to have visitors of their choosing at any time.

(e) The setting is physically accessible to the HCBS participant.

(3) **Modifications.** Any modification of the additional conditions, under subsection (2)(a) through (2)(d) of this section, must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:

(a) A specific and individualized assessed need.

(b) The positive interventions and supports used prior to any modifications to the person-centered service plan.

(c) Less intrusive methods of meeting the need that have been tried but did not work.

(d) A clear description of the condition that is directly proportionate to the specific assessed need.

(e) Regular collection and review of data to measure the ongoing effectiveness of the modification.

(f) Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.

(g) The informed consent of the HCBS participant.

(h) An assurance that interventions and supports will cause no harm to the HCBS participant.

(4) **Settings that are not Home and Community-Based.** Home and community-based settings do not include the following:

(a) A nursing facility;

(b) An institution for mental diseases;

(c) An intermediate care facility for individuals with intellectual disabilities;

(d) A hospital; or

(e) Any other locations that have qualities of an institutional setting as determined by the Centers for Medicare and Medicaid Services (CMS). Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating HCBS participants from the broader community of people not receiving HCBS will be presumed to be a setting that has the qualities of an institution unless CMS determines through heightened scrutiny, based on information presented by the State or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

[Statutory Authority: RCW 71A.12.030, 71A.26.040, 71A.26.030, and 42 C.F.R. 441.301 (c)(4). WSR 23-21-001, § 388-823-1096, filed 10/4/23, effective 11/4/23. Statutory Authority: RCW 71A.12.030 and 42 C.F.R. § 441.301 (c)(4). WSR 18-10-071, § 388-823-1096, filed 4/30/18, effective 5/31/18.]

**WAC 388-823-1100 How do I complain to DDA about my services or treatment?** If you have a complaint or grievance about your services or treatment, follow these steps in this order:

(1) First, contact your case resource manager or social worker by phone, in writing, email, or in person and explain your problem.

(2) If you are not happy with the results from speaking with your case resource manager or social worker, you may ask to speak with their supervisor.

(3) If steps (1) and (2) do not solve your problem, you submit your complaint in writing to the regional office.

(4) If you do not reach a solution with the regional office, you can request that your complaint be forwarded to the DDA headquarters in Olympia.

[Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-1100, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-1100, filed 6/1/05, effective 7/2/05.]