

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

Last Update: 8/27/24

WAC

APPLYING FOR A DEVELOPMENTAL DISABILITIES ADMINISTRATION ELIGIBILITY DETERMINATION

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388-823-0310 If I have cerebral palsy, how do I meet the definition of substantial limitations?

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388-823-1005 When does my eligibility as a DDA client expire?  
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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?  
388-823-1060 How does DDA notify me of its decision?  
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-823-0030 Will I receive paid services if DDA 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 Repealed by WSR 14-12-046,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 Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14.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 Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14.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 Repealed by WSR 14-12-046, filed 5/29/14, effective 7/1/14.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.
- 388-823-0720 What evidence do I need of my FSIQ? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090.
- 388-823-0730 If I have more than one FSIQ score, what criteria will DDA use to select the FSIQ for determining eligibility? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090.
- 388-823-0770 What evidence do I need of developmental delays? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, 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.
- 388-823-0940 What happens if DDA or a designee contracted with DDA cannot identify a qualified respondent? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090.
- 388-823-1000 Once I become an eligible DDA client, is there a time limit to my eligibility? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090.
- 388-823-1030 How will I know that my eligibility is expiring or is due for review? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, 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.
- 388-823-1090 If I am already eligible, how do these new rules affect me? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090.
- 388-823-1100 How do I complain to DDA about my services or treatment? [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.] Repealed by WSR 24-18-040, filed 8/27/24, effective 10/7/24. Statutory Authority: RCW 71A.10.020, 71A.16.020, 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" means adaptive behavior assessment system, which is a comprehensive, norm-referenced assessment of adaptive behavior and skills of individuals from birth through age 89.

"Adaptive behavior" means age-appropriate behaviors people need to live and function independently in daily life.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and has been determined eligible for DDA under chapter 388-823 WAC.

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

"DABS" means diagnostic adaptive behavior scale, which is a comprehensive standardized assessment of adaptive behavior for people ages 4-21.

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

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

"Diagnostic report" means a report that documents evidence of a developmental or intellectual disability.

"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-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 children, youth, and families under chapter 110-400 WAC.

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

"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 an adaptive behavior 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.

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

"Necessary supplemental accommodation" means services designed to afford people equal access to DDA services as described in chapter 388-472 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.

"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 an enrolled person still meets 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.

"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 18 DDA will continue to authorize this service. If you are 18 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 18 years, nine months and in adults with low functioning in four separate domains: Communication, daily living skills, socialization, and motor skills.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0010, filed 8/27/24, effective 10/7/24. 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.

(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 before age 18;
- (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 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0015, filed 8/27/24, effective 10/7/24. 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 enroll with the developmental disabilities administration?** (1) You may enroll with 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.

(2) You apply to become a client of DDA by contacting a DDA office and requesting a DDA eligibility packet. You may also download,

complete, and return an eligibility packet at <https://www.dshs.wa.gov/dda/consumers-and-families/eligibility>.

(3) You must complete and return the required forms, along with any supporting documentation that you have.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0020, filed 8/27/24, effective 10/7/24. 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 for yourself.

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

(a) Delegated to consent to routine medical care for you under WAC 110-148-1560;

(b) Your parent if you are under 18;

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

(d) Your spouse;

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

(f) Applying for you because a medical condition prevents you from applying; or

(g) Someone to whom you or the courts have given permission to apply on your behalf.

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0025, filed 8/27/24, effective 10/7/24. 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 required documentation?** (1) You are responsible for providing the information required to determine DDA eligibility.

(2) If you provide DDA with a signed consent form and contacts, DDA will assist in obtaining records.

(3) Evidence required to make an eligibility determination includes, but is not limited to:

(a) Evaluations and reports from a school psychologist, a licensed psychologist, or both;

(b) Evidence of a qualifying condition;

(c) Clinical and diagnostic tests measuring a person's development and adaptive skills test results and accompanying reports; and

(d) Mental health records.

(4) DDA will not pay for diagnostic, developmental, or adaptive skills assessments.

(5) If you cannot provide DDA with an adaptive assessment completed in the last 36 months, but you otherwise meet DDA eligibility criteria, DDA will offer to administer the ICAP for you at no cost.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0055, filed 8/27/24, effective 10/7/24. 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 18th birthday?** (1) If there is no documentation available about your condition existing before age 18, DDA may accept an attestation - either verbal or written. The attestation must confirm your condition began before age 18 and may be from someone who knows you or a self-attestation verified by another person who knows you. 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.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0075, filed 8/27/24, effective 10/7/24. 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?** (1) DDA has up to 30 days from receipt of the final piece of requested documentation to make a determination of eligibility.

(2) If DDA has received all requested documentation and can establish eligibility, DDA will provide written and verbal notice.

(3) If DDA cannot establish eligibility, DDA will send written and verbal notice of the reason for the ineligible decision.

(4) If DDA has insufficient information to determine you eligible and has not received all of the requested documentation, DDA may deny eligibility after 90 days from the date of application. Rules governing reapplying for eligibility are in WAC 388-823-1080.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0090, filed 8/27/24, effective 10/7/24. 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?** The effective date of your DDA eligibility is the date DDA receives the final piece of documentation needed to make an eligibility determination.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0100, filed 8/27/24, effective 10/7/24. 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?** (1) DDA will provide written and verbal notification of the determination.

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

- (a) Your eligible 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.

(3) If you are determined not eligible, the written notification will:

- (a) Explain the decision;
- (b) Explain your appeal rights to the decision; and
- (c) Provide you with an administrative hearing request form.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0105, filed 8/27/24, effective 10/7/24. 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 enrolled with DDA, will I receive DDA services?** If enrolled with DDA, your access to services depends on meeting eligibility requirements for the service. Your eligibility for services is determined separately from your DDA enrollment.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0115, filed 8/27/24, effective 10/7/24. 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?** To be considered eligible with intellectual disability, you must have a diagnosis of intellectual disability or an equivalent diagnosis. This diagnosis must meet the following criteria:

- (1) The condition must have onset before age 18;
- (2) The diagnosis must be made by a licensed psychologist, a Washington certified school psychologist, or other school psychologist certified by the National Association of School Psychologists; and
- (3) The diagnosis must be documented in an acceptable diagnostic report.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0200, filed 8/27/24, effective 10/7/24. 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?** To meet the definition of substantial limitations for intellectual disability, you must have documentation of an adaptive skills test score of more than two standard deviations below the mean in accordance with WAC 388-823-0740 and 388-823-0750.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0210, filed 8/27/24, effective 10/7/24. 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?** (1) To be considered eligible with cerebral palsy, you must have a diagnosis of cerebral palsy or similar cerebral damage which causes full or partial limb paralysis, with evidence of onset before age 18.

(2) DDA accepts a diagnosis from:

(a) A licensed physician;

(b) A licensed naturopathic physician; or

(c) A physician assistant or advanced registered nurse practitioner (ARNP) associated with a neurological practice.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0300, filed 8/27/24, effective 10/7/24. 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?** To meet the definition of substantial limitations for cerebral palsy, you must demonstrate the need

for direct physical assistance, as defined in 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.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0310, filed 8/27/24, effective 10/7/24. 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?** To be eligible with epilepsy, you must have a diagnosis of epilepsy or a neurological condition that produces seizures.

(1) You must show evidence that your epilepsy or seizure disorder originated before age 18 and is expected to continue indefinitely.

(2) The diagnosis must be made by a licensed neurologist.

(3) You must provide confirmation from a physician or neurologist that your seizures are ongoing despite medical intervention.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0400, filed 8/27/24, effective 10/7/24. 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?** To meet the definition of substantial limitations for epilepsy, you must have documentation of an adaptive skills test score of more than two standard deviations below the mean in accordance with WAC 388-823-0740 and 388-823-0750.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0410, filed 8/27/24, effective 10/7/24. 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 eligible with autism:

- (a) You must be diagnosed with:
  - (i) Autism spectrum disorder; or
  - (ii) Autistic disorder before February 1, 2022;
- (b) The condition must have originated before age 18; and
- (c) You must have been diagnosed by:
  - (i) A licensed neurologist;
  - (ii) A licensed psychiatrist;
  - (iii) A licensed psychologist;
  - (iv) A licensed developmental and behavioral pediatrician;
  - (v) A center of excellence as defined in WAC 182-531A-0200; or
  - (vi) One of the following professionals associated with an autism center or developmental center:
    - (A) A licensed physician;
    - (B) An ARNP;
    - (C) A physician assistant; or
    - (D) A naturopathic physician.
- (2) The diagnosis must be documented in a diagnostic report.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0500, filed 8/27/24, effective 10/7/24. 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?** To establish substantial limitation due to autistic disorder or autism spectrum disorder, you must have an adaptive skills test score more than two standard deviations below the mean in accordance with WAC 388-823-0740 and 388-823-0750.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0510, filed 8/27/24, effective 10/7/24. 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?** (1) To be considered for eligibility with another neurological or other condition similar to intellectual disability you must:

(a) Have a diagnosis of a neurological or chromosomal disorder that:

- (i) Originated before age 18;
- (ii) Is known by reputable authorities to cause intellectual and adaptive skill deficits;
- (iii) Is expected to continue indefinitely without improvement;
- (iv) Is other than intellectual disability, autism, cerebral palsy, or epilepsy; and
- (v) Is not attributable to nor is itself a mental illness, or emotional, social, or behavior disorder; or

(b) Be receiving fee-for-service medically intensive children program (MICP) services under WAC 182-551-3000, and have been continuously eligible for DDA due solely to your MICP eligibility since before August 13, 2018.

(2) You must have been diagnosed by:

- (a) A licensed physician;
- (b) A licensed naturopathic physician;
- (c) Geneticist; or
- (d) One of the following professionals associated with a neurological clinic or genetic testing center:
  - (i) An ARNP; or
  - (ii) A physician assistant.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0600, filed 8/27/24, effective 10/7/24. 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?** (1) If you have an eligible condition of another neurological or other condition similar to intellectual disability, to meet the definition of substantial functional limitations you must have an adaptive skills test score of more than two standard deviations below the mean in accordance with WAC 388-823-0740 and WAC 388-823-0750.

(2) For WAC 388-823-0600(2) 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.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0610, filed 8/27/24, effective 10/7/24. 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.]

### **DEVELOPMENTAL DELAY**

**WAC 388-823-0620 How do I show that I have a developmental delay as an eligible condition?** To be eligible with developmental delay, you must be:

- (1) Under the age of three and have one or more developmental delays;
- (2) Under the age of three and meet the ESIT eligibility requirements; or
- (3) Under the age of 20 and have three or more developmental delays.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0620, filed 8/27/24, effective 10/7/24.]

**WAC 388-823-0630 What evidence do I need of developmental delays?** (1) To qualify under developmental delay, DDA must receive evidence showing a standard deviation of at least 1.5 or 25% or more of the chronological age in at least one of the following developmental areas:

- (a) Fine or gross motor skills;
  - (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 evidence of developmental delay must be:
- (a) Measured using an age-appropriate diagnostic assessment; and
  - (b) Assessed within the past 18 months, except when written confirmation explains the previously measured delay remains valid.
- (3) DDA accepts a written statement from a qualified professional stating that your developmental delay prevents you from completing testing.
- (4) The assessment must be completed by one of the following professionals qualified to assess the developmental areas outlined above:
- (a) Licensed physician or physician assistant;
  - (b) Licensed naturopathic physician;
  - (c) Licensed psychologist or certified school psychologist;
  - (d) Speech language pathologist;

- (e) Audiologist;
- (f) Licensed occupational therapist;
- (g) Licensed physical therapist;
- (h) ARNP or registered nurse;
- (i) Certified teacher;
- (j) Master's level social worker; or
- (k) Orientation and mobility specialist.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0630, filed 8/27/24, effective 10/7/24.]

**EVIDENCE VERIFICATION REQUIREMENTS**

**WAC 388-823-0740 What evidence do I need of my adaptive skills limitations?** (1) For evidence of adaptive skills limitations, DDA accepts a qualifying score from one of the following assessments completed in the past 36 months.

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 (ABAS)	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
Diagnostic adaptive behavior scale (DABS)	A broad total adaptive score of 69 or less

(a) Assessments must be administered and scored by professionals who have a background in individual assessment, human development and behavior, tests and measurements, and knowledge of individuals with disabilities.

(b) DDA will administer or arrange for the administration of the ICAP only if results from one of the other acceptable tests are not available within the past 36 months.

(c) Authorized administration staff or contracted designee must administer the ICAP.

(2) The adaptive test score cannot be a result of:

(a) An unrelated mental illness or other psychiatric condition occurring at any age; or

(b) Another illness or injury occurring after age 18.

(3) 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, 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.

(a) "Acceptable documentation" means written reports or statements that are directly related to adaptive functioning, reasonable



considering the evidence, and from a qualified professional. The determination of whether a document is acceptable is made by DDA.

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0740, filed 8/27/24, effective 10/7/24. 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 from the 36 months before an eligibility determination, DDA will accept the most recent assessment that reflects adaptive functioning due to your developmental disability.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0750, filed 8/27/24, effective 10/7/24. 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 How do I show my need for direct physical assistance?** (1) To show your need for direct physical assistance, your impaired motor control must require direct physical assistance to complete activities of daily living resulting in:

(a) The need for physical assistance to communicate with another person on a daily basis.

(i) Effective use of a communication device is considered independent communication.

(ii) More than communication device set up is required.

(b) The need for direct physical assistance with toileting, bathing, eating, dressing, or mobility on a daily basis.

(i) "Direct physical assistance" means more than task set up and support to physically transfer to the task are required.

(ii) "Mobility" means the ability to move from place to place independently regardless of the use of mobility aides.

(2) Any of the following can be used as documentation of 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 describe direct assistance needs;

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0760, filed 8/27/24, effective 10/7/24. 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.]

## INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP)

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0910, filed 8/27/24, effective 10/7/24. 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, § 388-823-0910, filed 6/1/05, effective 7/2/05.]

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

(2) There is an age-based broad independence score of your adaptive skills in the areas of motor, personal living, social, communication, and community living.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0920, filed 8/27/24, effective 10/7/24. 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 administer the ICAP?** (1) DDA or a contracted designee completes the adaptive section of the ICAP by interviewing a qualified respondent who has an established relationship with you. The qualified respondent must be someone who has interacted with you on a regular basis for at least three months.

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

(3) DDA or a contracted designee will ask for a skills demonstration to evaluate current functioning.

(4) DDA cannot administer the ICAP when:

(a) There is no respondent identified and available. You cannot be the respondent for your own ICAP.

(b) There is a previous, valid ICAP or adaptive skills test score from the past 36 months.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-0930, filed 8/27/24, effective 10/7/24. 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

**ELIGIBILITY EXPIRATION, REVIEWS, AND REAPPLICATION**

**WAC 388-823-1005 When does my eligibility as a DDA client expire?** (1) If you are enrolled before your third birthday with developmental delay(s), your eligibility expires on your fourth birthday.

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

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

(4) If your eligibility expires, you must reapply to stay enrolled with DDA.

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

(6) Eligibility will be reinstated if DDA determines you are eligible after an expiration date. You are reenrolled on the date a new determination is made.

(7) Eligibility will expire if DDA is unable to locate you to provide written notice of expiration.

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-1005, filed 8/27/24, effective 10/7/24. 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) While DDA may review your eligibility at any time, DDA will review your eligibility:

(a) At age 19 when the most recent eligibility determination was completed before age 16.

(b) At age 19 when determined eligible with another neurological or other condition similar to intellectual disability and academic delays were used as evidence of substantial functional limitations.

(c) Before authorization of any DDA-paid service if one is not currently receiving paid services and the most recent eligibility determination was before June 1, 2005.

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

(e) If new information becomes available that does not support the current eligibility determination.

(f) If you are determined eligible due solely to enrollment in the fee-for-service (FFS) medically intensive children's program (MICP) but you are no longer eligible for FFS MICP services.

(2) DDA will notify you in writing at least six months before your eligibility review date.

(3) When a review occurs and there is insufficient information to determine your eligibility, DDA can disenroll you:

(a) On your 20th birthday if it is an age 19 review; or

(b) 90 days after the information is requested, if the review is because:

(i) A paid service is requested;

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

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

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

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-1010, filed 8/27/24, effective 10/7/24. 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 388-823-1060 How does DDA notify me of its decision?** DDA will notify you and your legal representative or other responsible parties - verbally and in writing - of a determination of eligibility, ineligibility, or expiration of eligibility per WAC 388-825-100.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-1060, filed 8/27/24, effective 10/7/24. 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 if found DDA ineligible?** If found DDA ineligible due to not meeting requirements under this chapter, your appeal rights are limited to those described in WAC 388-825-120 through 388-825-165.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-1070, filed 8/27/24, effective 10/7/24. 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 found DDA ineligible, can I reapply?** If DDA decides that you do not meet the requirements for eligibility, DDA will accept a new application if:

- (1) Eligibility was terminated because DDA could not locate you and you have since contacted DDA;
- (2) Eligibility was terminated because you were not a Washington state resident but have since reestablished residency;
- (3) DDA eligibility requirements have changed since your most recent eligibility determination;
- (4) There is additional or new diagnostic or relevant testing information that DDA did not previously review. DDA will accept an adaptive skills test result as new information if it reflects adaptive functioning due to your developmental disability.

[Statutory Authority: RCW 71A.10.020, 71A.16.020, and 74.08.090. WSR 24-18-040, s 388-823-1080, filed 8/27/24, effective 10/7/24. 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 388-823-1095 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.

(l) "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.]