

Chapter 388-823 WAC

DIVISION OF DEVELOPMENTAL DISABILITIES INTAKE AND DETERMINATION OF DEVELOPMENTAL DISABILITIES

WAC

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APPLYING FOR A DETERMINATION OF A DEVELOPMENTAL DISABILITY

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

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

"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.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration, department of social and health services.

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

"Division" means the division of developmental disabilities.

"Eligible" means you have a developmental disability that meets all of the requirements in this chapter for a specific condition.

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

"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.

"IMR" means an institution for the mentally retarded, per chapter 388-835 WAC or chapter 388-837 WAC.

"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.

"Review" means DDD must redetermine that you still have a developmental disability according to the rules that are in place at the time of the review.

"RHC" means one of five residential habilitation centers operated by the division: Lakeland Village, Yakima Valley School, Fircrest, Rainier School, and Francis Haddon Morgan Center.

"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 the division.

"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 DDD that stops your DDD eligibility and services paid by DDD.

"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 11-subtest measure of an individual's capacity for intelligent behavior. The Wechsler has both a verbal scale and a performance scale. The Wechsler is used with individuals at least age three years but under age seventy-four years. The verbal scale can be used alone with individuals who have visual or motor impairments, and the performance scale can be used alone with individuals who cannot adequately understand or produce spoken language. There are three Wechsler intelligence scales, dependent upon the age of the individual:

- The Wechsler preschool and primary scale of intelligence - revised (WPPSI-R), for children at least age three years but under age seven years;
- The Wechsler intelligence scale for children - third edition, (WISC-III), for children at least age six years but under age sixteen years; and
- The Wechsler adult intelligence scale - revised (WAIS-R), for individuals at least age sixteen years but under age seventy-four 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. 05-12-130, § 388-823-0010, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0020 How do I become a client of the division of developmental disabilities? You become a client of the division of developmental disabilities (DDD) if you apply for eligibility with DDD and DDD determines that you have a "developmental disability" as defined in this chapter.

[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. 05-12-130, § 388-823-0020, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0030 Will I receive paid services if DDD decides that I have a developmental disability? If DDD determines that you have a developmental disability, your access to paid services as a DDD client depends on:

- (1) Your meeting eligibility requirements for the specific service;
- (2) An assessed need for the service; and
- (3) Available funding for the service. The availability of funding does not apply to medicaid state plan services or services available under the DDD medicaid home and community based services waiver.

[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. 05-12-130, § 388-823-0030, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0040 What is a developmental disability? (1) A developmental disability is defined in RCW 71A.10.020(3) and must meet all of the following requirements. The developmental disability must currently:

- (a) Be attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition found by DDD to be closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation;
- (b) Originate prior to age eighteen;
- (c) Be expected to continue indefinitely; and
- (d) Result in substantial limitations to an individual's adaptive functioning.

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

[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. 05-12-130, § 388-823-0040, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0050 Must I be a resident of the state of Washington? When you apply for eligibility with DDD, you must be a resident of the state of Washington. Proof of residency includes:

- (1) The receipt of medicaid or other benefits from the department of social and health services that require residency as a condition of eligibility; or
- (2) Documentation that shows you live in the state of Washington, or, if you are a child under the age of eighteen, documentation that shows your parent or legal guardian lives in the state of Washington.

[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. 05-12-130, § 388-823-0050, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0060 How do I apply to become a client of DDD? (1) You apply to become a client of DDD by calling the regional DDD office or a local DDD office and requesting determination of a developmental disability. The toll free regional numbers are:

(6/1/05)

Region 1	Spokane	1-800-462-0624
Region 2	Yakima	1-800-822-7840
Region 3	Everett Bellingham Mount Vernon	1-800-788-2053 1-800-239-8285 1-800-491-5266
Region 4	Seattle	1-800-314-3296
Region 5	Tacoma Bremerton	1-800-248-0949 1-800-735-6740
Region 6	Port Angeles Tumwater Vancouver	1-877-601-2760 1-800-339-8227 1-888-877-3490

(2) DDD will make arrangements with you to complete the application for the eligibility determination by mail or over the phone.

[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. 05-12-130, § 388-823-0060, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0070 Who can apply for an eligibility determination? (1) The following individuals can apply for a determination of developmental disability:

- (a) The parent or legal representative must apply on behalf of a child under the age of eighteen years;
- (b) If there is a legal guardian of an applicant age eighteen years or older, the legal guardian must apply on behalf of the adult applicant; or
- (c) If there is no legal guardian of an adult applicant age eighteen years or older, the adult applicant can apply on his/her own behalf.

(2) Any person, agency, or advocate may refer an adult for a determination of a developmental disability and assist with the application process. However, since the request for a determination of developmental disability is voluntary, DDD will request the verbal or written consent from the legal guardian of the adult or from the adult applicant if there is no legal guardian.

[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. 05-12-130, § 388-823-0070, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0080 Who determines that I have a developmental disability? DDD determines if you have a developmental disability as defined in this chapter after reviewing all documentation received by the division.

[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. 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) Once DDD receives sufficient documentation to determine you eligible, DDD has thirty days from receipt of the final piece of documentation to make the determination of eligibility.

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

(3) If DDD has insufficient information to determine you eligible but has not received all of the requested documentation, DDD 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.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. 05-12-130, § 388-823-0090, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0100 What is the effective date that I become an eligible client of DDD? (1) If DDD receives sufficient information to substantiate your DDD eligibility, the effective date of your eligibility as a DDD client is the date of receipt of the final piece of documentation.

(2) Paid DDD services cannot begin before the effective date of your 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. 05-12-130, § 388-823-0100, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0105 How will DDD notify me of the results of my eligibility determination? DDD 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 a fair 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 assigned case manager.

[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. 05-12-130, § 388-823-0105, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0110 Who is responsible for obtaining the documentation needed to make this eligibility determination? You are responsible to obtain all of the information needed to document your disability or to provide DDD with the sources for obtaining the documentation.

(1) DDD will assist you in obtaining records but the purchase of diagnostic assessments or intelligence quotient (IQ) testing is your responsibility.

(2) If DDD determines that an Inventory of Client and Agency Planning (ICAP) is required, DDD will administer the ICAP at no expense to you.

[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. 05-12-130, § 388-823-0110, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0120 Will my diagnosis of a developmental disability qualify me for DDD eligibility? Eligibility for DDD requires more than a diagnosis of a developmental disability. You must meet all of the elements that define a developmental disability in WAC 388-823-0040 and meet

the requirements of a specific eligible condition defined in this chapter.

[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. 05-12-130, § 388-823-0120, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0130 Can I be eligible for DDD if my disability occurs on or after my eighteenth birthday? DDD eligibility requires that your disability exist before your 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. 05-12-130, § 388-823-0130, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0140 What if I do not have written evidence that my disability began before my eighteenth birthday? (1) If there is no documentation available to prove that your disability began prior to age eighteen, DDD may accept verbal information from your family or others who knew you prior to the age of eighteen about your early developmental history, educational history, illnesses, injuries or other information sufficient to validate the existence of an eligible condition prior to age eighteen.

(2) DDD will determine if the reported verbal information is adequate for documenting the existence of your condition prior to age eighteen.

(3) Additional evidence of your eligible condition and the resulting substantial limitations to adaptive functioning is still required.

[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. 05-12-130, § 388-823-0140, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0150 Which rules define a developmental disability if I am a child under the age of six years? If you are a child under the age of six years, assessment of developmental delays and other age appropriate criteria are used to substantiate an eligible condition and substantial limitations in adaptive functioning as defined in WAC 388-823-0800 through 388-823-0850.

[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. 05-12-130, § 388-823-0150, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0160 Which rules define a developmental disability if I am age six through nine? If you are a child age six but under age ten, you can meet the criteria for a developmental disability under either of the two following sets of rules:

(1) Developmental delays per WAC 388-823-0800 through 388-823-0850; or

(2) Developmental disabilities per WAC 388-823-0200 through 388-823-0710.

[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. 05-12-130, § 388-823-0160, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0170 Which rules define a developmental disability if I am age ten or older? If you are age ten or older, only the rules in WAC 388-823-0200 through 388-823-0710 apply when deciding if you 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. 05-12-130, § 388-823-0170, filed 6/1/05, effective 7/2/05.]

**DETERMINATION OF A DEVELOPMENTAL DISABILITY
MENTAL RETARDATION**

WAC 388-823-0200 What evidence do I need to substantiate "mental retardation" as an eligible condition? Evidence that you have an eligible condition under "mental retardation" requires a diagnosis of mental retardation by a licensed psychologist, or a finding of mental retardation by a certified school psychologist or a diagnosis of Down syndrome by a licensed physician.

(1) This diagnosis is based on documentation of a life-long condition originating before age eighteen.

(2) The condition results in significantly below average intellectual and adaptive skills functioning that will not improve with treatment, instruction or skill acquisition.

(3) A diagnosis or finding of mental retardation by the examining psychologist must include an evaluation of adaptive functioning that includes the use of a standardized adaptive behavior scale indicating adaptive functioning that is more than two standard deviations below the mean, in at least two of the following areas: Communication, self care, home living, social/interpersonal skills, use of community resources, self direction, functional academic skills, work, leisure, health, and safety.

[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. 05-12-130, § 388-823-0200, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0210 If I have mental retardation, how do I meet the definition of substantial limitations in adaptive functioning? (1) If you meet the definition of mental retardation in WAC 388-823-0200, you must have substantial limitations in adaptive functioning of two standard deviations below the mean and a full-scale intelligence quotient (FSIQ) of more than two standard deviations below the mean.

(2) The substantial limitation in adaptive functioning must reflect your current 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. 05-12-130, § 388-823-0210, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0215 What evidence do I need of my FSIQ? Evidence of a qualifying FSIQ to meet the definition of substantial limitations for the condition of mental retardation is a FSIQ derived from a Stanford-Binet, Wechsler intelligence scale (Wechsler), differential abilities scale (DAS), Kaufman assessment battery for children (K-ABC), or a Leiter international performance scale-revised (Leiter-R) if

(6/1/05)

you have a significant hearing impairment or English is not your primary language.

(1) The test must be administered by a licensed psychologist or certified school psychologist.

(2) The FSIQ 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 mental retardation and mental illness, other psychiatric condition, or other illness or injury, DDD must make its eligibility decision based solely on the diagnosis of mental retardation, excluding the effects of the mental illness, other psychiatric condition, illness or injury; or

(b) If DDD is unable to make this eligibility decision based solely on the diagnosis of mental retardation due to the existence of mental illness, other psychiatric condition or illness or injury, DDD will deny eligibility.

(3) If you have a significant hearing impairment, the administering professional may estimate an FSIQ score using only the performance IQ score of the appropriate Wechsler or administer the Leiter-R.

(4) 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.

(5) The following table shows the standard deviation for each assessment and the qualifying score of more than two standard deviations below the mean.

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Stanford-Binet 4th edition	16	67 or less
Stanford-Binet 5th edition	15	69 or less
Wechsler Intelligence Scales (Wechsler)	15	69 or less
Differential Abilities Scale (DAS)	15	69 or less
Kaufman Assessment Battery for Children (K-ABC)	15	69 or less
Leiter International Performance Scale-Revised (Leiter-R) [for persons with significant hearing impairments or when English is not a primary language]	15	69 or less

[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. 05-12-130, § 388-823-0215, filed 6/1/05, effective 7/2/05.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 388-823-0220 If I am too intellectually impaired to complete a standardized IQ test, how do I meet the criteria under mental retardation? If in the opinion of the examining psychologist, you are too intellectually impaired to complete all of the subtests necessary to achieve an FSIQ score on an approved standardized IQ test, the examining psychologist may estimate an FSIQ from the available information based on a professional judgment about your intellectual 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. 05-12-130, § 388-823-0220, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0230 If I have more than one FSIQ score, what criteria will DDD use to select the FSIQ score for determining eligibility? (1) If you have more than one FSIQ, DDD will review the pattern of FSIQ scores.

(a) If there is no significant difference among these, DDD will accept the score the closest to age eighteen.

(b) If there are significant differences among the FSIQ scores, DDD will review the pattern and attempt to determine reasons for the fluctuations to ensure that the FSIQ is resulting from mental retardation and not from mental illness or other psychiatric condition, or illness, or other injury.

(i) If you are age eighteen or older, DDD will use the FSIQ obtained at age thirteen or older, provided the FSIQ is resulting from mental retardation.

(ii) If you are under age eighteen, DDD will use the most current FSIQ, provided the FSIQ is resulting from mental retardation.

(2) DDD will exclude any FSIQ score attributable to a condition or impairment that began on or after your 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. 05-12-130, § 388-823-0230, filed 6/1/05, effective 7/2/05.]

CEREBRAL PALSY

WAC 388-823-0300 What evidence do I need to substantiate "cerebral palsy" as an eligible condition? Evidence that you have an eligible condition under "cerebral palsy" requires a diagnosis by a licensed physician of cerebral palsy, quadriplegia, hemiplegia, or diplegia with symptoms that:

- (1) Existed prior to age three; and
- (2) Impair control of movement.

[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. 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 adaptive functioning? If you have an eligible condition of cerebral palsy, substantial limitations of adaptive functioning is the need for direct physical assistance on a daily basis 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.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. 05-12-130, § 388-823-0310, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0320 What evidence do I need of my need for direct physical assistance with activities of daily living? Evidence for direct physical assistance with activities of daily living means:

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

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

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

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

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

(b) 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.

(c) 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.

[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. 05-12-130, § 388-823-0320, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0330 How can I document my need for direct physical assistance? Any of the following can be used as evidence to determine your direct physical assistance needs:

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

(2) Assessments and reports from educational or health care professionals that are current and consistent with your current functioning;

(3) In the absence of professional reports or assessments, DDD 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.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. 05-12-130, § 388-823-0330, filed 6/1/05, effective 7/2/05.]

EPILEPSY

WAC 388-823-0400 What evidence do I need to substantiate "epilepsy" as an eligible condition? Evidence of an eligible condition under "epilepsy" requires a diagnosis of a neurological condition that produces brief disturbances in the normal electrical functions of the brain resulting in seizures.

(1) This condition requires a diagnosis of epilepsy or seizure disorder that originated prior to age eighteen and is expected to continue indefinitely.

(2) The diagnosis must be made by a board certified neurologist and be based on documentation of medical history and 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.

(4) DDD will not consider your seizures uncontrolled or ongoing if it is documented or reported that you refuse to take medications.

(5) Your seizures must make you physically incapacitated, requiring direct physical assistance for one or more activities as defined in WAC 388-823-0310 and 388-823-0320 during or following seizures.

[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. 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 adaptive functioning? A substantial limitation to adaptive functioning under epilepsy is a functional assessment score of more than two standard deviations below the mean on a Vineland adaptive behavior scales (VABS), scale of independent behavior-revised (SIB-R) or inventory for client and agency planning (ICAP) assessment instrument as described in WAC 388-823-0420.

[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. 05-12-130, § 388-823-0410, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0420 What evidence do I need to substantiate adaptive functioning limitations for the eligible conditions of epilepsy, autism and other conditions similar to mental retardation? (1) Evidence of substantial limitations of adaptive functioning for the conditions of epilepsy, autism, and other conditions similar to mental retardation requires a qualifying score completed in the past thirty-six months in a VABS or a SIB-R, or a qualifying score completed in the past twenty-four months in an ICAP.

(a) Professionals who administer and score the VABS must have a background in individual assessment, human development and behavior, and tests and measurements, as well as an understanding of individuals with disabilities.

(b) Department staff or designee contracted with DDD must administer the ICAP.

(c) DDD will administer or arrange for the administration of the ICAP if VABS or SIB-R results are not submitted.

(6/1/05)

(d) Qualifying scores for each assessment are as follows:

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Vineland Adaptive Behavior Scales (VABS)	15	An adaptive behavior composite score of 69 or less
Scales of Independent Behavior-Revised (SIB-R)	15	A broad independence standard score of 69 or less for the adaptive behaviors
Inventory for Client and Agency Planning (ICAP)	15	Pursuant to WAC 388-823-0900, the broad independence domain score based on the applicant's birth date and the date the test is administered.

(2) If DDD is unable to determine that your current adaptive functioning impairment is the result of your developmental disability because you have an unrelated injury or illness that is impairing your current adaptive functioning:

(a) DDD will not accept the results of a VABS or SIB-R administered after that event and will not administer the ICAP; and

(b) Your eligibility will have to be determined under a different condition that does not require evidence of adaptive functioning per a VABS, SIB-R or ICAP.

[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. 05-12-130, § 388-823-0420, filed 6/1/05, effective 7/2/05.]

AUTISM

WAC 388-823-0500 What evidence do I need to substantiate "autism" as an eligible condition? Evidence of an eligible condition under "autism" requires a diagnosis by a qualified professional of autism or autistic disorder per 299.00 in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) that is expected to continue indefinitely, and evidence of onset before age three.

(1) The following professionals are qualified to give this diagnosis:

- (a) Board eligible neurologist;
- (b) Board eligible psychiatrist;
- (c) Licensed psychologist; or
- (d) Board certified developmental and behavioral pediatrician.

(2) The evidence provided by a diagnosing professional in subsection (1) above exhibits a total of six or more of the following diagnostic criteria listed in the current DSM-IV-TR for Autistic Disorder 299.00:

- (a) Two or more qualitative impairments in social interactions;
 - (b) One or more qualitative impairments in communication; and
 - (c) One or more impairments in restricted repetitive and stereotypical patterns or behavior, interests, and activities.
- (3) A checklist of diagnostic criteria follows:

DSM-IV-TR Diagnostic Criteria required for Autism	Check if present
1. Qualitative impairment in social interaction	

DSM-IV-TR Diagnostic Criteria required for Autism	Check if present
a. Marked impairment in the use of multiple non-verbal behaviors	
b. Failure to develop peer relationships appropriate to developmental level	
c. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people	
d. Lack of social or emotional reciprocity	
2. Qualitative impairment in communication	
a. Delay in the development of spoken language without nonverbal compensation	
b. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others	
c. Stereotyped and repetitive use of language or idiosyncratic use of language	
d. Lack of varied, spontaneous, make-believe play or social imitative play appropriate to developmental level	
3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities	
a. Encompassing preoccupation with stereotyped and restricted patterns of interest that is abnormal in either intensity or focus	
b. Apparently inflexible adherence to specific, nonfunctional routines or rituals	
c. Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)	
d. Persistent occupation with parts of objects	
TOTAL	

[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. 05-12-130, § 388-823-0500, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0510 If I have autism, how do I meet the definition of substantial limitations to adaptive functioning? A substantial limitation of adaptive functioning for the condition of autism is the presence of adaptive functioning impairment as described in WAC 388-823-0515.

[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. 05-12-130, § 388-823-0510, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0515 What evidence do I need to substantiate adaptive functioning limitations for the condition of autism? Evidence of the substantial limitations of adaptive functioning for the condition of autism is both (1) and (2) below:

(1) Evidence of delay or abnormal functioning prior to age three years in at least one of the following areas:

- (a) Social interaction;
- (b) Language as used in social interaction;
- (c) Communication; or
- (d) Symbolic or imaginative play.

(2) Eligible scores in adaptive functioning per WAC 388-823-0420 (1)(d) and subject to all of WAC 388-823-0420.

[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. 05-12-130, § 388-823-0515, filed 6/1/05, effective 7/2/05.]

ANOTHER NEUROLOGICAL CONDITION

WAC 388-823-0600 What evidence do I need to substantiate "another neurological condition" as an eligible condition? Evidence of an eligible condition under "another neurological condition" requires a diagnosis by a licensed physician of an impairment of the central nervous system involving the brain and/or spinal cord that meets all of the following:

- (1) Originated before age eighteen;
- (2) Results in both physical disability and intellectual impairment;
- (3) Is expected to continue indefinitely; and
- (4) Is not attributable to a mental illness or psychiatric disorder.

[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. 05-12-130, § 388-823-0600, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0610 If I have another neurological condition, how do I meet the definition of substantial limitations to adaptive functioning? Substantial limitations to adaptive functioning for the condition of another neurological condition require both intellectual impairment and the need for direct physical assistance with activities of daily living per WAC 388-823-0615 (1) and (2) below.

[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. 05-12-130, § 388-823-0610, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0615 What evidence do I need to substantiate adaptive functioning limitations for another neurological condition? Evidence of substantial limitations to intellectual functioning for another neurological condition is all of the following:

(1) You must have an FSIQ score of 1.5 or more standard deviations below the mean on one of the following acceptable assessments in addition to the other criteria in this section. The acceptable assessments, the standard deviation and the qualifying scores are contained in the following table:

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Stanford-Binet 4th edition	16	76 or less
Stanford-Binet 5th edition	15	78 or less
Wechsler	15	78 or less
Differential Abilities Scale (DAS)	15	78 or less
Kaufman Assessment Battery for Children (K-ABC)	15	78 or less

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Leiter-R [for persons with significant hearing impairments or when English is not primary language]	15	78 or less

(2) You must have evidence of need for direct physical assistance on a daily basis with two or more of the following activities: Toileting, bathing, eating, dressing, mobility, or communication as a result of your condition as defined in WAC 388-823-0320 and 388-823-0330.

(3) The intellectual impairment and physical assistance needs must be the result of the central nervous system impairment and not due to another condition or diagnosis.

[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. 05-12-130, § 388-823-0615, filed 6/1/05, effective 7/2/05.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffective changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

"OTHER CONDITION" SIMILAR TO MENTAL RETARDATION

WAC 388-823-0700 How do I meet the definition for an "other condition" similar to mental retardation? You will need evidence in (1) or (2) below to substantiate that you have an "other condition" similar to mental retardation.

(1) You have a diagnosis of a condition or disorder that by definition results in both intellectual and adaptive skills deficits; and

(a) The diagnosis must be made by a licensed physician or licensed psychologist;

(b) The diagnosis must be due to a neurological condition, central nervous system disorder involving the brain or spinal column, or chromosomal disorder;

(c) The diagnosis or condition is not attributable to or is itself a mental illness, or emotional, social or behavior disorder;

(d) The condition must have originated before age eighteen; and

(e) The condition must be expected to continue indefinitely.

(2) You are under the age of eighteen and are eligible for DSHS-paid in-home nursing through the medically intensive program, defined in WAC 388-551-3000.

[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. 05-12-130, § 388-823-0700, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0710 What evidence do I need to meet the definition of substantial limitations for an "other condition" similar to mental retardation? (1) Evidence of substantial limitation in both (a) and (b) below is required for an "other condition" similar to mental retardation.

(a) Evidence of intellectual impairment requires documentation of either (i) or (ii) or (iii) below:

(i) An FSIQ of 1.5 or more standard deviations below the mean as described in WAC 388-823-0615(1) for another neurological condition; or

(ii) Significant academic delays resulting in delay of at least twenty-five percent below the chronological age or age equivalent academic functioning in at least two academic areas or grade placement; or

(iii) In the absence of school records to substantiate (ii) above, DDD may review other information about your academic progress sufficient to validate your cognitive deficits.

(b) Unless there is evidence of other conditions or impairments unrelated to the eligible condition currently affecting adaptive functioning, the following evidence will determine if the eligible condition or disorder results in a substantial limitation in adaptive functioning:

(i) A score of more than two standard deviations below the mean on a VABS or SIB-R current within the past three years, or in the absence of a VABS or SIB-R, an ICAP administered by DDD within the past twenty-four months.

(ii) The qualifying scores for these tests are listed in WAC 388-823-0420 (1)(d).

(2) You do not need the additional evidence of your substantial limitations to adaptive functioning in (1)(a) and (b) above if your eligible condition is solely due to your eligibility and participation in the medically intensive program offered through DDD, defined in WAC 388-551-3000.

[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. 05-12-130, § 388-823-0710, filed 6/1/05, effective 7/2/05.]

EFFECT OF AGE ON ELIGIBILITY

WAC 388-823-0800 Which eligible developmental disability conditions apply at what age? (1) Children under the age of six must meet the definition of having a developmental disability by meeting the requirements listed in WAC 388-823-0810 through 388-823-0850.

(2) Children at least age six but under the age of ten can meet the definition of developmental disability by:

(a) Meeting the requirements listed in WAC 388-823-0200 through 388-823-0710; or

(b) Meeting the requirements listed in WAC 388-823-0810 through 388-823-0850.

(3) Children age ten and older must meet the requirements in WAC 388-823-0200 through 388-823-0710.

(4) The following chart summarizes the applicable eligibility conditions by age.

Eligible Conditions	Age 0-5	Age 6-9	Age 10-17	Age 18 and older
Developmental Delays	X	X		
Down Syndrome	X	X		
Too severe to be assessed	X	X		
Medically Intensive	X	X	X	

Eligible Conditions	Age 0-5	Age 6-9	Age 10-17	Age 18 and older
Mental Retardation (MR)		X	X	X
Cerebral Palsy		X	X	X
Epilepsy		X	X	X
Autism		X	X	X
Another Neurological		X	X	X
Other condition similar to MR		X	X	X

[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. 05-12-130, § 388-823-0800, filed 6/1/05, effective 7/2/05.]

WAC 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? If you are a child under age ten, evidence of one of the following substantiates that you have an eligible "other condition" similar to mental retardation:

- (1) Developmental delay measured by developmental assessment tools administered by qualified professionals as described in WAC 388-823-0850.
- (2) A diagnosis of Down syndrome by a licensed physician;
- (3) A determination of eligibility for the DSHS medically intensive program;
- (4) A diagnosis by a licensed physician or licensed psychologist of a condition that is so severe the child is unable to demonstrate the minimal skills required to complete a developmental evaluation or assessment.

[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. 05-12-130, § 388-823-0810, filed 6/1/05, effective 7/2/05.]

WAC 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? You do not need additional evidence of substantial limitations if you are a child under the age of ten with an eligible condition based on the medically intensive program, Down syndrome, or a diagnosed condition that is too severe for developmental testing.

[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. 05-12-130, § 388-823-0820, filed 6/1/05, effective 7/2/05.]

WAC 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? (1) If you are a child under age ten with an eligible condition based on developmental delays, evidence of substantial handicap requires developmental delays of at least 1.5 standard deviations or twenty-five percent or more of the chronological age in the following developmental areas:

- (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.

[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. 05-12-130, § 388-823-0830, filed 6/1/05, effective 7/2/05.]

WAC 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? If you are a child under the age ten, eligible based on developmental delays, the number of delays required for substantial limitations to adaptive functioning is specific to your age.

- (1) A child from birth but under age three must have a developmental delay in one or more developmental areas.
- (2) A child age three but under age ten must have developmental delays in three or more developmental areas.

AGE	NUMBER of AREAS of DELAY
Birth but under age three	One or more
Age three but under age ten	Three or more

[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. 05-12-130, § 388-823-0840, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0850 What developmental evaluations or assessments will be acceptable for determining developmental delay? DDD will accept any standardized developmental evaluation test of procedures to assess developmental delays if:

- (1) The results of the evaluation/assessment are reasonably reliable and valid by professional standards.
 - (a) If you are under age three, there is an evaluation of developmental areas that is current within the past twelve months. Evaluations determine eligibility for services and need to address each of the five developmental areas.
 - (b) If you are age three or older, there is an assessment of developmental areas. Assessments are more detailed than evaluations and are needed for determining types of services, method, intensity, and funding. Assessments are also the way to document the ongoing status of child's development, progress and recommended steps to meet outcomes.
- (2) The evaluation/assessment is administered by one of the following professionals qualified to administer the evaluation or 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.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. 05-12-130, § 388-823-0850, filed 6/1/05, effective 7/2/05.]

INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP)

WAC 388-823-0900 What are the qualifying scores for inventory of client and agency planning broad independence for each age? When the ICAP is administered to determine eligibility under substantial handicap for a developmental disability, the qualifying score must be at or below the three digit broad independence domain score specific to the age of the applicant at the time of the administration of the ICAP. The score specific to age follows:

AGE	SCORE (at or below)
6	449
7	456
8	463
9	469
10	476
11	482
12	487
13	492
14	497
15	501
16	505
17 and older	509

[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. 05-12-130, § 388-823-0900, filed 6/1/05, effective 7/2/05.]

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

WAC 388-823-0920 What sections of the ICAP does DDD or a designee contracted with DDD complete and score? (1) DDD or a designee contracted with DDD 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.

(6/1/05)

[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. 05-12-130, § 388-823-0920, filed 6/1/05, effective 7/2/05.]

WAC 388-823-0930 How does DDD or a designee contracted with DDD administer the ICAP? (1) DDD or a designee contracted with DDD 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) DDD or a designee contracted with DDD will choose the respondent and may interview more than one respondent to ensure that information is complete and accurate.

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

[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. 05-12-130, § 388-823-0930, filed 6/1/05, effective 7/2/05.]

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

[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. 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 DDD client, is there a time limit to my eligibility? While DDD has the authority to review your eligibility at any time, your eligibility as a DDD client will expire or have required reviews as indicated in WAC 388-823-1005 and 388-823-1010.

[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. 05-12-130, § 388-823-1000, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1005 When does my eligibility as a DDD client expire? (1) If you are determined eligible prior to age four, your eligibility expires on your fourth birthday.

(a) DDD will notify you at least ninety days before your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(2) If you are determined or redetermined eligible at age three but under age ten per WAC 388-823-0810 through 388-823-0850, your eligibility expires on your tenth birthday.

(a) DDD will notify you at least ninety days before your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(3) If your eligibility determination was prior to July 2005 under developmental delays, Down syndrome, or medically intensive program and you are age four or older as of June 30, 2005, your eligibility expires on your tenth birthday.

(a) DDD will notify you at least ninety days before of your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(4) If your eligibility determination was made after July 2005 and is solely due to your need for nursing through the medically intensive program, your eligibility expires when you are no longer eligible for the program but no later than your eighteenth birthday.

(a) DDD will notify you at least ninety days before your eighteenth birthday.

(b) You must reapply for eligibility with 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. 05-12-130, § 388-823-1005, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1010 When will DDD review my eligibility to determine if I continue to have a developmental disability? (1) Your eligibility can be reviewed at any time if your eligibility effective date is prior to July 2005 and you are age ten or older and were eligible under a condition of developmental delay or Down syndrome.

(2) Your eligibility will be reviewed at age seventeen with termination occurring no sooner than your eighteenth birthday if your most current eligibility determination was at sixteen or younger under mental retardation, cerebral palsy, epilepsy, autism, another neurological condition, or other condition similar to mental retardation.

(3) DDD will review your eligibility prior to the initial authorization of any paid service from DDD when you are not currently receiving paid services and:

(a) You are age eighteen or older and your most current eligibility determination is more than twenty-four months old; or

(b) You are age four but under age eighteen and your eligibility was established under the eligible conditions of developmental delay or Down syndrome and your eligibility effective date is prior to July 2005.

(4) DDD will review your eligibility if DDD discovers:

(a) The evidence used to make your most recent eligibility determination completed in 1992 or later appears to be insufficient, in error, or fraudulent; or

(b) New diagnostic information becomes available that does not support your current eligibility and you are under the age of eighteen.

[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. 05-12-130, § 388-823-1010, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1015 What is the definition of "DDD paid services" in WAC 388-823-1010(3)? DDD paid services are defined by one or more of the following:

(1) Authorization of a paid service within the last ninety days as evidenced by a social services payment system (SSPS) authorization, a county authorization for day program

services, a waiver plan of care approving a DDD paid service, or residence in a SOLA, RHC, or IMR (authorization of a state supplementary payment through SSPS does not meet the definition of a DDD paid service);

(2) Authorization of family support services within the last twelve months.

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

[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. 05-12-130, § 388-823-1015, filed 6/1/05, effective 7/2/05.]

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

[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. 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, DDD will send you prior written notification with reapplication or review information.

[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. 05-12-130, § 388-823-1030, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1040 What happens if I do not reapply for eligibility before my eligibility expiration date? (1) If you fail to reapply before your eligibility expires on your fourth or tenth birthday or if you reapply so near in time to your fourth or tenth birthday that DDD does not have sufficient time to make an eligibility determination by the date of expiration, DDD eligibility will expire and your DDD paid services will stop.

(a) If DDD determines you eligible after your eligibility expires, your eligibility and paid services will be reinstated on the date that DDD determines you eligible pursuant to WAC 388-823-0100.

(b) If DDD determines you eligible after your eligibility expires, your eligibility and paid services will not be retroactive to the expiration date.

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

(3) There is no appeal right to an expired eligibility determination.

(4) Your appeal rights to the termination of services resulting from a review of your eligibility due to the expiration of your eligibility on your fourth or tenth birthday are in WAC 388-825-120 and 388-825-150(2).

[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. 05-12-130, § 388-823-1040, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1050 What happens if I do not respond to a request for information to review my eligibility? If you do not provide DDD with the information required to review and redetermine your eligibility, DDD will terminate your eligibility and any DDD services you might be receiving.

[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. 05-12-130, § 388-823-1050, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1060 How will DDD notify me of its decision? DDD 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.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. 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 do not have a developmental disability? Your appeal rights to a department decision that you are not eligible to be a DDD client because you do not have a developmental disability are limited to those described in WAC 388-825-120 through 388-825-165.

[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. 05-12-130, § 388-823-1070, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1080 If DDD decides that I do not have a developmental disability, how soon can I reapply for another decision? If DDD decides that you do not have a developmental disability as defined in this chapter, you may reapply only if:

- (1) Your eligibility was terminated because DDD could not locate you and you have subsequently contacted DDD;
- (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 DDD did not review for the previous determination of eligibility; or
- (4) DDD denied or terminated your eligibility based solely on your ICAP score and it has been more than twenty-four months since your last ICAP.

[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. 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 DDD client on the effective date of these rules, you continue to be an eligible DDD client but you are subject to the expiration and required eligibility reviews per WAC 388-823-1000 through 388-823-1050.

[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. 05-12-130, § 388-823-1090, filed 6/1/05, effective 7/2/05.]

(6/1/05)

WAC 388-823-1095 What are my rights as a DDD client? As a DDD client, you have the following rights:

- (1) The right to be free from any kind of abuse or punishment (verbal, mental, physical, and/or sexual); or being sent to a place by yourself, if you do not choose to be alone;
- (2) The right to appeal any decision by DDD that denies, reduces, or terminates your eligibility, your services or your choice of provider;
- (3) The right to receive only those services you agree to;
- (4) The right to meet with and talk privately with your friends and family;
- (5) The right to personal privacy and confidentiality of your personal and other records;
- (6) The right to choose activities, schedules, and health care that meet your needs;
- (7) The right to be free from discrimination because of your race, color, creed, national origin, religion, age, disability, marital status, or sexual orientation;
- (8) The right to set your own rules in your home and to know what rules your providers have when you are living in their house or working in their facility;
- (9) The right to request information regarding services that may be available from DDD;
- (10) The right to know what your doctor wants you to do or take and to help plan how that will happen;
- (11) The right to be free from unnecessary medication, restraints and restrictions;
- (12) The right to vote and help people get elected to office;
- (13) The right to complain and not to have someone "get even";
- (14) The right to have your provider listen to your concerns including those about the behavior of other people where you live;
- (15) The right to receive help from an advocate;
- (16) The right to manage your money or choose other persons to assist you;
- (17) The right to be part of the community;
- (18) The right to make choices about your life;
- (19) The right to wear your clothes and hair the way you want;
- (20) The right to work and be paid for the work you do; and
- (21) The right to decide whether or not to participate in research after the research has been explained to you, and after you or your guardian gives written consent for you to participate in the research;

[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. 05-12-130, § 388-823-1095, filed 6/1/05, effective 7/2/05.]

WAC 388-823-1100 How do I complain to DDD 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, e-mail, or in person and explain your problem.

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(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 DDD headquarters in Olympia.

[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. 05-12-130, § 388-823-1100, filed 6/1/05, effective 7/2/05.]