



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Social and Health Services, Economic Services Administration

- Preproposal Statement of Inquiry was filed as WSR 08-09-112; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

The department is proposing to amend WAC 388-450-0015 What types of income does the department not use to figure out my benefits? and WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance and family medical programs?

Hearing location(s):

Blake Office Park East – Rose Room
4500 – 10th Ave. SE
Lacey, Washington 98503

(One block north of the intersection of Pacific Ave. SE and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)

Date: **January 6, 2009** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850, Olympia WA, 98504
Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
E-mail: schilse@dshs.wa.gov Fax: (360) 664-6185
by
5 p.m. on January 6, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by December 23, 2008
TTY (360) 664-6178 or (360) 664-6094 or
by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not earlier than January 7, 2009
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The department is proposing to amend WAC 388-450-0015 and 388-470-0045 to exclude federal economic stimulus payments as income in the month of receipt and to exclude the payments as a resource for an additional two months.

Reasons supporting proposal:

These proposed rules are needed to apply the federal policy regarding economic stimulus rebate payments to General Assistance programs.

Statutory authority for adoption:

RCW 74.04.005; 74.04.050; 74.04.055; 74.04.057;
74.04.510 and 74.08.090

Statute being implemented:

RCW 74.04.005; 74.04.050; 74.04.055; 74.04.057;
74.04.510 and 74.08.090

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION: 7 CFR 273

DATE

November 24, 2008

NAME (type or print)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 01, 2008

TIME: 3:01 PM

WSR 08-24-082

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization)

Department of Social and Health Services

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Melissa Mathson	712 Pear St. SE Olympia. WA 98503	(360) 725-4563
Implementation.....Melissa Mathson	712 Pear St. SE Olympia. WA 98503	(360) 725-4563
Enforcement.....Melissa Mathson	712 Pear St. SE Olympia. WA 98503	(360) 725-4563

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone: ()

Fax: ()

E-mail:

No. Explain why no statement was prepared.

These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by excluding economic stimulus payments from countable income and resources.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone: ()

Fax: ()

E-mail:

No: Please explain: These amendments are exempt as allowed under RCW 34.05.328(5)(b)(vii) which states in-part, "[t]his section does not apply to....rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

AMENDATORY SECTION (Amending WSR 06-07-078, filed 3/13/06, effective 5/1/06)

WAC 388-450-0015 What types of income does the department not use to figure out my benefits? This section applies to cash assistance, children's, family, or pregnancy medical, and basic food benefits.

(1) There are some types of income we do not count to figure out if you can get benefits and the amount you can get. Some examples of income we do not count are:

(a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;

(b) Federal earned income tax credit (EITC) payments;

(c) Federal economic stimulus payments;

(d) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit;

~~((d))~~ (e) Energy assistance payments;

~~((e))~~ (f) Educational assistance we do not count under WAC 388-450-0035;

~~((f))~~ (g) Native American benefits and payments we do not count under WAC 388-450-0040;

~~((g))~~ (h) Income from employment and training programs we do not count under WAC 388-450-0045;

~~((h))~~ (i) Money withheld from a benefit to repay an overpayment from the same income source. For Basic Food, we **do not** exclude money that is withheld because you were overpaid for purposely not meeting requirements of a federal, state, or local means tested program such as TANF/SFA, GA, and SSI;

~~((i))~~ (j) Legally obligated child support payments received by someone who gets TANF/SFA benefits;

~~((j))~~ (k) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as Voluntary Agency (VOLAG) payments; and

~~((k))~~ (l) Payments we are directly told to exclude as income under state or federal law.

~~((l))~~ (m) **For cash and Basic Food:** Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household; and

~~((m))~~ (n) **For medical assistance:** Only the portion of income used to repay the cost of obtaining that income source.

(2) For children's, family, or pregnancy medical, we also do not count any insurance proceeds or other income you have recovered as a result of being a Holocaust survivor.

AMENDATORY SECTION (Amending WSR 03-05-015, filed 2/7/03, effective 3/1/03)

WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance and family medical programs?

(1) We count the following resources toward your assistance unit's resource limits for cash assistance and family medical programs to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources not specifically excluded in subsection (2) below. These are resources that are easily changed into cash. Some examples of liquid resources are:

- (i) Cash on hand;
 - (ii) Money in checking or savings accounts;
 - (iii) Money market accounts or certificates of deposit (CDs) less any withdrawal penalty;
 - (iv) Available retirement funds or pension benefits, less any withdrawal penalty;
 - (v) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;
 - (vi) Available trusts or trust accounts; or
 - (vii) Lump sum payments as described in chapter 388-455 WAC.
- (b) The cash surrender value (CSV) of whole life insurance policies.

(c) The CSV over fifteen hundred dollars of revocable burial insurance policies or funeral agreements.

(d) The amount of a child's irrevocable educational trust fund that is over four thousand dollars per child.

(e) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220.

(f) Any real property like a home, land or buildings not specifically excluded in subsection (3) below.

(g) The equity value of vehicles as described in WAC 388-470-0070.

(h) Personal property that is not:

- (i) A household good;
- (ii) Needed for self-employment; or
- (iii) Of "great sentimental value," due to personal attachment or hobby interest.

(i) Resources of a sponsor as described in WAC 388-470-0060.

(j) For cash assistance only, sales contracts.

(2) The following types of liquid resources do not count when we determine your eligibility:

- (a) Bona fide loans, including student loans;
- (b) Basic Food benefits;
- (c) Income tax refunds in the month of receipt;
- (d) Earned income tax credit (EITC) in the month received and the following month;
- (e) Advance earned income tax credit payments;
- (f) Federal economic stimulus payments in the month received and the following two months;

(g) Individual development accounts (IDAs) established under RCW 74.08A.220;

~~((g))~~ (h) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a decision of the department;

~~((h))~~ (i) Underpayments received under chapter 388-410 WAC;

~~((i))~~ (j) Educational benefits that are excluded as income under WAC 388-450-0035;

~~((j))~~ (k) The income and resources of an SSI recipient;
~~((k))~~ (l) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;
~~((i))~~ (m) Foster care payments provided under Title IV-E and/or state foster care maintenance payments;
~~((m))~~ (n) Adoption support payments;
~~((n))~~ (o) Self-employment accounts receivable that the client has billed to the customer but has been unable to collect;
and
~~((o))~~ (p) Resources specifically excluded by federal law.

(3) The following types of real property do not count when we determine your eligibility:

(a) Your home and the surrounding property that you, your spouse, or your dependents live in;

(b) A house you do not live in, if you plan on returning to the home and you are out of the home because of:

(i) Employment;

(ii) Training for future employment;

(iii) Illness; or

(iv) Natural disaster or casualty.

(c) Property that:

(i) You are making a good faith effort to sell;

(ii) You intend to build a home on, if you do not already own a home;

(iii) Produces income consistent with its fair market value, even if used only on a seasonal basis; or

(iv) A household member needs for employment or self-employment. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(d) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

(4) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.

(5) If you sell your home, you have ninety days to reinvest the proceeds from the sale of a home into an exempt resource.

(a) If you do not reinvest within ninety days, we will determine whether there is good cause to allow more time. Some examples of good cause are:

(i) Closing on your new home is taking longer than anticipated;

(ii) You are unable to find a new home that you can afford;

(iii) Someone in your household is receiving emergent medical care; or

(iv) Your children are in school and moving would require them to change schools.

(b) If you have good cause, we will give you more time based on your circumstances.

(c) If you do not have good cause, we count the money you got from the sale as a resource.