



# 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 08-21-082 ; 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 amending:

- WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?  
 WAC 388-400-0045 If I am not eligible for federally funded benefits through Washington Basic Food program because of my alien status, can I receive state-funded Basic Food?  
 WAC 388-450-0162 How does the department count my income to determine if my assistance unit is eligible and calculate the amount of my cash and Basic Food benefits?  
 WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?

**Hearing location(s):**

Blake Office Park East – Rose Room  
 4500 – 10<sup>th</sup> 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 360-664-6097)

Date: **February 24, 2009** Time: **10:00 am**

**Submit written comments to:**

Name: DSHS Rules Coordinator  
 Address: PO Box 45850, Olympia WA, 98504  
 Delivery: 4500 – 10<sup>th</sup> Ave. SE, Lacey, Washington 98503  
 E-mail: [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov) Fax: (360) 664-6185

**By 5:00 pm on February 24, 2009**

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by February 10, 2009

TTY (360) 664-6178 or (360) 664-6094 or  
 by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov)

**Date of intended adoption:** No earlier than February 25, 2009  
 (Note: This is **NOT** the **effective** date)

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

The rules describe eligibility requirements for the Basic Food Program, allowable income deductions for Basic Food, and the process of determining eligibility and calculating monthly benefits for both state and federal benefits under the Washington Basic Food Program.

The proposed changes amend the above listed rules to be consistent with the requirements of the Food and Nutrition Act of 2008, regulations under Title 7 of the Code of Federal Regulations, and administrative notices published by the US Department of Agriculture, Food and Nutrition Service related to the Supplemental Nutrition Assistance Program (SNAP) or Food Stamp Program.

**Reasons supporting proposal:**

The state legislature authorizes the department to administer the Food Stamp Program and food assistance program for legal immigrants under RCW 74.04.500; 74.04.510; and 74.04.510 consistent with federal requirements for the Food Stamp Program.

The amendments made under this filing clarify the rules regarding determining eligibility and benefit level for the Washington Basic Food Program consistent with the requirements of the Food and Nutrition Act of 2008 and Title 7 of the Code of Federal Regulations.

**Statutory authority for adoption:** RCW 74.04.050; 74.04.055; 74.04.057; 74.04.510; 74.08.090

**Statute being implemented:** RCW 74.04.050; 74.04.055; 74.04.057; 74.04.510; 74.08.090

**Is rule necessary because of a:**

- Federal Law?  Yes  No  
 Federal Court Decision?  Yes  No  
 State Court Decision?  Yes  No  
 If yes, CITATION: 7 CFR 273.9, Food and Nutrition Act of 2008.

**DATE**  
January 14, 2009

**NAME** (type or print)  
Stephanie Schiller

**SIGNATURE**  
*Stephanie E Schiller*

**TITLE**  
DSHS Rules Coordinator

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED**

**DATE: January 21, 2009  
TIME: 7:34 AM**

**WSR 09-03-100**

**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..... John Camp	712 Pear St. SE, Olympia, WA 98503	(360) 725-4616
Implementation.... John Camp	712 Pear St. SE, Olympia, WA 98503	(360) 725-4616
Enforcement..... John Camp	712 Pear St. SE, Olympia, WA 98503	(360) 725-4616

**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.

This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients by setting requirements used to determine eligibility and benefit levels for the Washington Basic Food Program.

**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 06-13-043, filed 6/15/06, effective 7/17/06)

**WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?** The Washington Basic Food program (Basic Food) is a nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0034 and 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of:

(a) The most current version of the Food ((Stamp Act of 1977)) and Nutrition Act of 2008;

(b) Federal regulations adopted by the U.S. Department of Agriculture, Food and Nutrition Services (FNS) related to the supplemental nutrition assistance program (SNAP); and

(c) Standards FNS publishes each year for income limits, resource limits, income deductions, and benefit amounts for SNAP.

(3) To be eligible for **federal** Basic Food benefits, each AU member must meet the citizenship or alien status requirements for federal benefits as described under WAC 388-424-0020.

(4) An AU member who is not eligible for federal benefits may be eligible for **state-funded** Basic Food benefits if they meet the requirements described under WAC 388-400-0045.

(5) To be eligible for **federal** or **state** Basic Food benefits, each AU member must:

(a) Be a resident of the state of Washington as required under WAC 388-468-0005;

(b) Meet the citizenship or alien status requirements of either WAC 388-424-0020 or 388-424-0025;

(c) Give us their Social Security number as required under WAC 388-476-0005;

(d) Give us proof of identity as required under WAC 388-490-0005;

(e) Participate in the ((food stamp)) Basic Food employment and training program ((FSE&T as)) (BFE&T) if required under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(6) To be eligible for Basic Food, your AU must:

(a) ((Have countable income at or below gross and net income standards as described under WAC 388-478-0060)) Have total monthly income before taxes and deductions at or under the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as part of your AU's gross monthly income;

(b) Have net income at or under the net monthly income standard under WAC 388-478-0060. We subtract deductions allowed under WAC 388-450-0185 to determine your AU's net monthly income.

(c) Have ~~((countable))~~ resources we must count under WAC 388-470-0055 that are at or below your AU's resource limit under WAC 388-470-0005 ((unless your AU is categorically eligible under WAC 388-414-0001));

~~((c))~~ (d) Report changes of circumstances as required under WAC 388-418-0005; and

~~((d))~~ (e) Complete a mid-certification review and provide proof of any changes if required under WAC 388-418-0011.

(7) If your AU is categorically eligible for Basic Food under WAC 388-414-0001, your AU can have income over the gross or net income standard, and have resources over the resource limit and still be eligible for benefits.

(8) If your AU has income at or under the gross income standard or is categorically eligible for Basic Food, we ((deduct certain expenses from your income under WAC 388-450-0185 before we calculate your Basic Food benefits)) determine if you are eligible for Basic Food and calculate your monthly benefits as described under WAC 388-450-0162.

~~((8))~~ (9) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to receive more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470 WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for out-of-pocket medical expenses for the elderly or disabled individual if they are over thirty-five dollars a month under WAC 388-450-0200; and

(d) Being exempt from the **gross monthly income** standard under WAC 388-478-0060.

~~((9))~~ (10) For Basic Food, **elderly** means a person who is age sixty or older;

~~((10))~~ (11) For Basic Food, **disabled** means a person who:

(a) Receives SSI;

(b) Receives disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Receives disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Receives disability benefits from the Railroad Retirement Act under sections 2 (a) (1) (iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for medicare.

(e) Receives disability-related medical assistance under Title XIX of the Social Security Act;

(f) Is a veteran and receives disability payments based on one hundred percent disability;

(g) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the USC.

~~((11))~~ (12) If a person in your ~~((AU))~~ household attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not count

this person as a member of your AU under WAC 388-408-0035.

~~((12))~~ (13) If your AU currently receives food benefits under WASHCAP or lives on or near an Indian reservation and receives benefits from a tribal food distribution program approved by Food and Nutrition Service (FNS), your AU is not eligible for food assistance benefits through the Washington Basic Food program.

~~((13))~~ (14) If ~~((am))~~ a person in your AU ~~((member))~~ is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

(b) Persons fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;

(c) Persons who do not attest to citizenship or alien status as defined in WAC 388-424-0001;

(d) Persons who are ineligible aliens under WAC 388-424-0020;

(e) Persons disqualified for an intentional program violation under WAC 388-446-0015;

(f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or

(g) Persons who failed to meet work requirements under chapter 388-444 WAC.

AMENDATORY SECTION (Amending WSR 03-05-028, filed 2/10/03, effective 4/1/03)

**WAC 388-400-0045** **If I am not eligible for ~~((federally-funded)) federal~~ benefits through Washington Basic Food program because of my alien status, can I receive state-funded Basic Food?** (1) If you are not eligible for federally-funded Basic Food benefits because you do not meet the alien status requirements under WAC 388-424-0020, you may be eligible for state-funded Basic Food if you meet both of the following requirements:

(a) You are a Washington state resident; and

(b) You meet the immigrant eligibility requirements under WAC 388-424-0025.

(2) State-funded Basic Food follows the same eligibility rules as federally-funded Basic Food except for rules related to alien status. A summary of the rules for Basic Food is found in WAC 388-400-0040.

(3) ~~Some assistance units (AUs) ~~((may receive a combined benefit of both state and federal Basic Food benefits. Your AU's maximum allotment of Basic Food benefits is found under WAC 388-478-0060))~~ include both people who are eligible for federal Basic Food benefits and those who are eligible for state-funded benefits. In these cases, we determine the federal and state portion of your Basic Food benefits by applying the following process to the monthly benefit calculation under WAC 388-450-0162:~~

(a) We calculate your AU's monthly benefits as if all the eligible persons in your AU could receive benefits under the federal program; and

(b) We then calculate the monthly benefits for the persons in

your AU who are eligible for federal benefits.

<u>If step A is more than step B</u>	<u>If step B is more than step A</u>
<p><u>Your AU receives:</u></p> <ul style="list-style-type: none"> <li>● <u>Federal benefits in the amount calculated using step (b); and</u></li> <li>● <u>State-funded benefits for the difference between the amount calculated using step (a) and step (b).</u></li> </ul>	<p><u>Your AU receives federal benefits in the amount calculated using step (b).</u></p>

AMENDATORY SECTION (Amending WSR 08-15-009, filed 7/3/08, effective 8/3/08)

**WAC 388-450-0162 How does the department count my income to determine if my assistance unit is eligible and calculate the amount of my cash and Basic Food benefits?** (1) Countable income is all income your assistance unit (AU) has after we subtract the following:

- (a) Excluded or disregarded income under WAC 388-450-0015;
- (b) For **cash assistance**, earned income incentives and deductions allowed for specific programs under WAC 388-450-0170 and 388-450-0175;
- (c) For **Basic Food**, deductions allowed under WAC 388-450-0185; and
- (d) (~~Allocations~~) Income we allocate to someone outside of the assistance unit under WAC 388-450-0095 through 388-450-0160.

(2) Countable income includes all income that we must deem or allocate from financially responsible persons who are not members of your (~~assistance unit~~) AU under WAC 388-450-0095 through 388-450-0160.

(3) For **cash assistance**:

(a) We compare your countable income to the payment standard in WAC 388-478-0020 and 388-478-0030.

(b) You are not eligible for benefits when your (~~assistance unit's~~) AU's countable income is equal to or greater than the payment standard plus any authorized additional requirements.

(c) Your benefit level is the payment standard and authorized additional requirements minus your (~~assistance unit's~~) AU's countable income.

(4) For **Basic Food**, if you meet all other eligibility requirements for the program under WAC 388-400-0040, we determine if you meet the income requirements for benefits and calculate your AU's monthly benefits as specified under Title 7 Part 273 of code of federal regulations for the supplemental nutrition assistance program (SNAP). The process is described in brief below:

~~(a) ((We compare your countable income to the monthly gross and net income standards under WAC 388-478-0060)) How we determine if your AU is income eligible for Basic Food:~~

~~(i) ((If your assistance unit is categorically eligible for Basic Food under WAC 388-414-0001, your assistance unit can have income over the gross or net income standard and still be eligible for benefits)) We compare your AU's total monthly income to the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as a part of your gross monthly income.~~

~~(ii) ((All other assistance units must have income at or below the gross and net income standards as required)) We then compare your AU's countable monthly income to the net income standard under WAC 388-478-0060 ((to be eligible for benefits)).~~

~~(A) If your AU is categorically eligible for Basic Food under WAC 388-414-0001, your AU can have income over the gross or net income standard and still be eligible for benefits.~~

~~(B) If your AU includes a person who is sixty years of age or older or has a disability, your AU can have income over the gross income standard, but must have income under the net income standard to be eligible for benefits.~~

~~(C) **All other AUs** must have income at or below the gross and net income standards as required under WAC 388-478-0060 to be eligible for Basic Food.~~

~~(b) ((Your benefit level is the maximum allotment in WAC 388-478-0060 minus thirty percent of your countable income)) How we calculate your AU's monthly Basic Food benefits:~~

~~(i) We start with the maximum allotment for your AU under WAC 388-478-0060.~~

~~(ii) We then subtract thirty percent of your AU's countable income from the maximum allotment and round the benefit down to the next whole dollar to determine your monthly benefit.~~

~~(iii) If your AU is eligible for benefits and has one or two persons, your AU will receive at least the minimum allotment as described under WAC 388-412-0015, even if the monthly benefit we calculate is lower than the minimum allotment.~~

AMENDATORY SECTION (Amending WSR 08-24-051, filed 11/25/08, effective 12/26/08)

**WAC 388-450-0185** What income deductions does the department ((count all of my income to determine my eligibility and benefits for Basic Food)) allow when determining if I am eligible for food benefits and the amount of my monthly benefits? ((We subtract the following amounts from your assistance unit's (AU's) countable income before we determine your Basic Food benefit amount)) We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your

countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of people in your AU under WAC 388-408-0035:

Eligible and ineligible AU members	Standard deduction
1	\$144
2	\$144
3	\$144
4	\$147
5	\$172
6 or more	\$197

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense needed for an AU member to:

(a) Keep work, look for work, or accept work;

(b) Attend training or education to prepare for employment; or

(c) Meet employment and training requirements under chapter 388-444 WAC.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) Legally obligated current or back child support paid to someone outside of your AU:

(a) For a person who is not in your AU; or

(b) For a person who is in your AU to cover a period of time when they were not living with you.

(6) A portion of your shelter costs as described in WAC 388-450-0190.