



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 08-20-050; 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)

- 388-310-0400 – Entering the WorkFirst program as a mandatory participant;
- 388-310-0500 – WorkFirst, individual responsibility plan;
- 388-310-0900 – WorkFirst, basic education;
- 388-310-1000 – WorkFirst, vocational education; and
- 388-310-1050 – WorkFirst, skills enhancement training

Hearing location(s):

Office Building 2 - Auditorium
 (DSHS Headquarters)
 1115 Washington
 Olympia, WA 98504
 Public parking at 11th and Jefferson. A map is available at:
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>
 or by calling 360-664-6094.

Date: **May 26, 2009** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850, Olympia WA, 98504-5850
 Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
 E-mail: DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax: (360) 664-6185

by
5 p.m. on May 26, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by May 12, 2009
 TTY (360) 664-6178 or (360) 664-6094 or
 by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not earlier than May 27, 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 clarifying that WorkFirst participants can call in on the same day or as soon as possible thereafter if unable to attend a WorkFirst appointment or activity. The department is also proposing to expand allowable homework hours that count towards WorkFirst participation to include unsupervised study.

Reasons supporting proposal:

These changes are being proposed to invoke new options under the final Deficit Reduction Act, and to maximize the state's ability to meet the federal work participation rate.

Statutory authority for adoption:

45 CFR 260, 42 USC 601, chapter 74.08A RCW, RCW 74.04.050, 74.04.055, 74.08.090, 74.04.057, and chapter 74.12 RCW

Statute being implemented:

45 CFR 260, 42 USC 601, chapter 74.08A RCW, 74.04.050, 74.04.055, 74.08.090, 74.04.057, and chapter 74.12 RCW

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:

DATE
April 15, 2009

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: April 20, 2009

TIME: 2:05 PM

WSR 09-09-104

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.....Stephanie Nielsen	PO Box 45470, Olympia WA 98504-5470	(360) 725-4699
Implementation.... Stephanie Nielsen	PO Box 45470, Olympia WA 98504-5470	(360) 725-4699
Enforcement.....Stephanie Nielsen	PO Box 45470, Olympia WA 98504-5470	(360) 725-4699

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 rules invoke new options under the final Deficit Reduction Act, and to maximize the state's ability to meet the federal work participation rate.

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." These proposed rules invoke new options under the final Deficit Reduction Act, and to maximize the state's ability to meet the federal work participation rate.

AMENDATORY SECTION (Amending 08-07-046, filed 3/14/08, effective 5/1/08)

WAC 388-310-0400 WorkFirst--Entering the WorkFirst program as a mandatory participant. (1) What happens when I enter the WorkFirst program as a mandatory participant?

If you are a mandatory participant, you must follow instructions as written in your individual responsibility plan (see WAC 388-310-0500), which is written after you have participated in a comprehensive evaluation of elements related to your employability. If you have been identified as someone who needs necessary supplemental accommodation (NSA) services (defined in chapter 388-472 WAC) your case manager will first develop an accommodation plan to help you access WorkFirst services. The case manager will use the accommodation plan to help develop your IRP with you. If you have been identified as a victim of family violence (defined in WAC 388-61-001), you and your case manager will develop an IRP to help you with your situation, including referrals to appropriate services.

If you are a mandatory participant, your case manager will refer you to WorkFirst activities unless any of the following applies to you:

(a) You work thirty-two or more hours a week. **"Work"** means to engage in any legal, income generating activity which is taxable under the United States tax code or which would be taxable with or without a treaty between an Indian Nation and the United States;

(b) You (~~work sixteen or more hours a week in the federal or state work study program~~) participate the equivalent of twenty or more hours a week in job search, vocational education, issue resolution, or paid or unpaid work that meets the federal definition of core activities, which may include work of sixteen or more hours a week in the federal or state work study program, and you attend a Washington state community or technical college at least half time;

(c) You work twenty or more hours a week in unsubsidized employment and attend a Washington state community or technical college at least half time;

(d) You are under the age of eighteen, have not completed high school, GED or its equivalent and are in school full time;

(e) You are eighteen or nineteen years of age and are attending high school or an equivalent full time;

(f) You are pregnant or have a child under the age of twelve months, and are participating in other pregnancy to employment activities. See WAC 388-310-1450;

(g) Your situation prevents you from looking for a job and you are conducting activities identified on your IRP to help you with your situation. (For example, you may be unable to look for a job while you have health problems or you are homeless); or

(h) Your situation prevents you from looking for work because you are a victim of family violence and you are conducting activities on your IRP to help you with your situation.

(2) **How will I know what my participation requirements are?**

(a) Your individual responsibility plan will describe what you need to do to be able to enter job search or other WorkFirst activities and then find a job (see WAC 388-310-0500 and 388-310-0700).

(b) If you enter the pregnancy to employment pathway (described in WAC 388-310-1450(3)), you must take part in an assessment.

(3) **What happens if I do not follow my WorkFirst requirements?**

If you do not participate in creating an individual responsibility plan, job search, or in the activities listed in your individual responsibility plan, and you do not have a good reason, the department will follow the sanction rules in WAC 388-310-1600.

AMENDATORY SECTION (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

WAC 388-310-0500 WorkFirst--Individual responsibility plan.

(1) **What is the purpose of my individual responsibility plan?**

The purpose of your individual responsibility plan is to give you a written statement that describes:

(a) What your responsibilities are; and

(b) Which WorkFirst activities you are required to participate in; and

(c) What services you will receive so you are able to participate.

(2) **What is included in my individual responsibility plan?**

Your individual responsibility plan includes the following:

(a) What WorkFirst activities you must do and the participation requirements for those activities including the amount of time you will spend doing the activities, a start and end date for each activity and the requirement to participate fully.

(b) Any other specific requirements that are tied to the WorkFirst work activity. For example, you might be required to learn English as part of your work experience activity or to provide proof of your employment hours.

(c) What services we will provide to help you participate in the activity. For example, you may require support services (such as help with paying for transportation) or help with paying childcare.

(d) Your statement that you recognize the need to become and remain employed as quickly as possible.

(3) **How is my individual responsibility plan developed?**

You and your case manager will work together and use information gathered from your comprehensive evaluation (see WAC 388-310-0700) when available to develop your individual responsibility plan and decide what activities will be included in it. Then, your case manager will assign you to specific WorkFirst activities that will help you find employment.

(4) **What happens after my individual responsibility plan is completed?**

Once your individual responsibility plan is completed:

(a) You will sign and get a copy of your individual responsibility plan.

(b) You and your case manager will review your plan as necessary over the coming months to make sure your plan continues to meet your employment needs. You will sign and get a copy of your individual responsibility plan every time it is reviewed and changed.

(5) What should I do if I cannot go to a required WorkFirst appointment or activity because of a temporary situation outside of my control?

If you cannot participate because of a temporary situation outside of your control, you must call the telephone number shown on your individual responsibility plan on the same day you were to report when possible to explain your situation, or as soon as possible thereafter. You will be given an excused absence. Some examples of excused absences include:

(a) You, your children or other family members are ill;

(b) Your transportation or child care arrangements break down and you cannot make new arrangements in time to comply;

(c) A significant person in your life died; or

(d) A family violence situation arose or worsened.

(6) What happens if I don't call in on the same day I am unable to attend to get an excused absence?

If you do not call in on the same day you are unable to attend when possible, or as soon as possible thereafter, to get an excused absence, it will be considered an unexcused absence.

If you exceed the number of unexcused absences allowed on your individual responsibility plan, without good cause, your case manager will begin the sanction process. (See WAC 388-310-1600 for more details.)

AMENDATORY SECTION (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

WAC 388-310-0900 WorkFirst--Basic education. (1) What is basic education?

Basic education is high school completion, classes to prepare for general equivalency diploma (GED), testing to acquire GED certification, adult basic education (ABE) or English as a second language (ESL) training. Basic education also includes (~~supervised~~) approved homework and study activities associated with the educational activity.

(2) When do I participate in basic education as part of WorkFirst?

You may participate in basic education as part of WorkFirst under any of the following circumstances:

(a) You are twenty years of age or older and your comprehensive evaluation shows you need this education to become employed or get a better job and:

(i) You are participating the equivalent of twenty hours or more per week in job search, vocational education, issue

resolution, paid work or unpaid work that meets the federal definition of core activities; or

(ii) You have limited-English proficiency and you lack language skills that are needed to qualify for entry level jobs.

(b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or GED certificate and you need this education in order to find employment.

(c) You will be required to be in high school or a GED certification program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or GED certificate.

(d) You are enrolled in the pregnancy to employment pathway and your comprehensive evaluation shows basic education would help you find and keep employment. (See WAC 388-310-1450.)

AMENDATORY SECTION (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

WAC 388-310-1000 WorkFirst--Vocational education. (1) What is vocational education?

Vocational education is training that leads to a degree or certificate in a specific occupation, not to result in a baccalaureate or advanced degree unless otherwise indicated below, and is offered by an accredited:

(a) Public and private technical college or school;

(b) Community college;

(c) Tribal college; or

(d) For customized job skills training (formerly known as preemployment training), community based organizations.

(2) Vocational education may include:

(a) Customized job skills training;

(b) High-wage/high-demand training;

(c) ((Supervised)) Approved homework and study activities associated with the educational activity; and/or

(d) Remedial/developmental education, prerequisites, basic education and/or English as a second language training deemed a necessary part of the vocational education program.

(3) **What is customized job skills training?**

Customized job skills training helps you learn skills you need for an identified entry level job that pays more than average entry level wages.

(a) Customized job skills training is an acceptable activity when an employer or industry commits to hiring or giving hiring preference to WorkFirst participants who successfully complete customized job skills training.

(b) You can find out about current customized job skills training opportunities by asking your employment services counselor, your case manager or staff at your local community and technical college.

(4) **What is high-wage/high-demand training?**

(a) There are two types of high-wage/high-demand (HWHD)

full-time training options for TANF recipients to complete a certificate or degree that will lead to employment in a high-wage/high-demand occupation:

(i) Information technology, health care or other professional-technical programs: This option allows you to start and finish a one-year or shorter state community or technical college training program in the information technology, health care fields or other professional-technical programs that meet high-wage/high-demand criteria; and/or

(ii) Certificate/degree completion: This option allows you to finish up the last year of any certificate or degree program, not to exceed a baccalaureate degree, in a high-wage/high-demand field on an exception basis. The high-wage/high-demand criteria for this option is based on median income and high-demand occupations within the local labor market as determined by employment security department.

(b) For both types of HWHD training, the training can be approved one-time only (barring an approved exception to policy).

(c) To qualify for HWHD training, you must also:

(i) Meet all of the prerequisites for the course;

(ii) Obtain the certificate or degree within twelve calendar months;

(iii) Participate full time in the training program and make satisfactory progress;

(iv) Work with WorkFirst staff during the last quarter of training for job placement; and

(v) Return to job search once you complete the educational program if still unemployed.

(5) When can vocational education be included in my individual responsibility plan?

We may add vocational education to your individual responsibility plan for up to twelve months if:

(a) Your comprehensive evaluation shows you need this education to become employed or get a better job and you participate full time in vocational education or combine vocational education with any approved WorkFirst work activity; or

(b) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand program; or

(c) You have limited English proficiency and you lack job skills that are in demand for entry level jobs in your area; and the vocational education program is the only way that you can acquire these skills (because there is no available work experience, community service or on-the-job training that can teach you these skills); or

(d) You are in the pregnancy to employment pathway and your comprehensive evaluation shows vocational education would help you find and keep employment. (See WAC 388-310-1450.)

(6) Can I get help with paying the costs of vocational education?

WorkFirst may pay for the costs of your vocational education, such as tuition or books, for up to twelve months, if vocational education is in your individual responsibility plan and there is no other way to pay them. You may also get help with paying your child care costs through the working connections child care

program. (See chapter 388-290 WAC for the working connections child care program rules.)

AMENDATORY SECTION (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

**WAC 388-310-1050 WorkFirst--Skills enhancement training. (1)
What is skills enhancement training?**

Skills enhancement training (formerly known as job skills training) is training or education for job skills required by an employer to provide a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Skills enhancement training may include:

(a) Customized training programs to meet the needs of a specific employer;

(b) General education and training that prepares a person for employment to include vocational education and courses explicitly required for program entry;

(c) Basic education and English as a second language training when such instruction is focused on skills needed for employment, combined in a unified whole with job training or needed to enable the person to perform a specific job or engage in a specific job training program;

(d) Four-year bachelor degree programs at any state-certified college or university; and

(e) (~~Supervised~~) Approved homework and study activities.

(2) Who may provide skills enhancement training?

The training may be offered by the following types of organizations that meet the WorkFirst program's standards for service providers:

(a) Community based organizations;

(b) Businesses;

(c) Tribal governments; or

(d) Public and private community and technical colleges.

(3) When can skills enhancement training be included in my individual responsibility plan?

We may add skills enhancement training in your individual responsibility plan if you are participating the equivalent of twenty or more hours a week in job search, vocational education, issue resolution, paid work or unpaid work that meets the federal definition of core activities.

(4) Can I get help with paying the costs of skills enhancement training?

WorkFirst may pay your costs, such as tuition or books, if skills enhancement training is in your individual responsibility plan and there is no other way to pay them. You may also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)