



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, Health and Recovery Services Administration

- Preproposal Statement of Inquiry was filed as WSR 09-07-061; 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 388-424-0006, Citizenship and Alien Status – Date of Entry; WAC 388-424-0010, Citizenship and Alien Status – Eligibility Restrictions for TANF and Medical Benefits; and WAC 388-424-0016, Citizenship and Alien Status – Immigrant Eligibility Restrictions for State Medical Benefits.

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://www.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)

Date: **June 23, 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 June 23, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by June 9, 2009

Date of intended adoption: Not sooner than June 24, 2009
(Note: This is **NOT** the **effective** date)

TTY (360) 664-6178 or (360) 664-6094 or
by e-mail at johnsij4@dshs.wa.gov

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

Recently passed federal legislation allows: 1) States, beginning April 1, 2009, to provide Medicaid and State Children's Health Insurance Program coverage to legal immigrant children and pregnant women without the 5-year delay from the time of their U.S. entry; and 2) Afghan Special Immigrants to be eligible for Temporary Assistance for Needy Families (TANF) and Medicaid for up to eight months as allowed under federal law effective March 11, 2009.

Reasons supporting proposal: Implementing this rule change will save the state money by allowing DSHS to draw down federal matching funds and will extend assistance to needy immigrant children, pregnant women, and Afghan immigrants

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120

Statute being implemented: P.L. No. 111-3 (H.R. 2, Title II, Sec. 214 - Children's Health Insurance Program Reauthorization Act of 2009); P.L. No 111-08 Omnibus Appropriations Act of 2009, Office of Refugee Resettlement State Letter # 09-17

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

DATE

May 15, 2009

NAME (type or print)

Don Goldsby

SIGNATURE

TITLE

Manager, Rules and Policies Assistance Unit

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 19, 2009

TIME: 2:01 PM

WSR 09-11-107

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..... Kevin Sullivan | P.O. Box 45504, Olympia, WA 98504 | (360) 725-1344 |
| Implementation.... Karin Kramer | P.O. Box 45534, Olympia, WA 98504 | (360) 725-2075 |
| Enforcement..... Karin Kramer | P.O. Box 45534, Olympia, WA 98504 | (360) 725-2075 |

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.

Does not impact small businesses.

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:

Per RCW 34.05.328(5)(b)(vii), client eligibility rules for medical assistance are exempt from the provision.

AMENDATORY SECTION (Amending WSR 07-07-023, filed 3/9/07, effective 4/9/07)

WAC 388-424-0006 Citizenship and alien status--Date of entry.

(1) A person who physically entered the U.S. prior to August 22, 1996 and who continuously resided in the U.S. prior to becoming a "qualified alien" (as defined in WAC 388-424-0001) is not subject to the five-year bar on TANF, nonemergency medicaid, and SCHIP.

(2) A person who entered the U.S. prior to August 22, 1996 but became "qualified" on or after August 22, 1996, or who physically entered the U.S. on or after August 22, 1996 and who requires five years of residency to be eligible for federal Basic Food, can only count years of residence during which they were a "qualified alien."

(3) A person who physically entered the U.S. on or after August 22, 1996 is subject to the five-year bar on TANF, nonemergency medicaid, and SCHIP unless exempt. The five-year bar starts on the date that "qualified" status is obtained.

(4) The following "qualified aliens," as defined in WAC 388-424-0001, are exempt from the five-year bar:

- (a) Amerasian lawful permanent residents;
- (b) Asylees;
- (c) Cuban/Haitian entrants;
- (d) Persons granted withholding of deportation or removal;
- (e) Refugees;
- (f) Victims of trafficking who have been certified or had their eligibility approved by the office of refugee resettlement (ORR); and
- (g) Lawful permanent residents, parolees, or battered aliens, as defined in WAC 388-424-0001, who are also an armed services member or veteran as described in WAC 388-424-0007.

(5) In addition to subsection (4) of this section, the following "qualified aliens" are also exempt from the five-year bar on nonemergency medicaid and SCHIP:

- (a) Pregnant women;
- (b) Children under nineteen years of age; and
- (c) Children under twenty-one years of age who are residing in a medical institution as described in WAC 388-505-0230.

AMENDATORY SECTION (Amending WSR 08-14-116, filed 6/30/08, effective 8/1/08)

WAC 388-424-0010 Citizenship and alien status--Eligibility restrictions for ~~((the temporary assistance for needy families program and medical benefits, including)) TANF, nonemergency medicaid, and ((the children's healthcare programs)) SCHIP.~~ (1) To receive TANF, nonemergency medicaid, or ~~((medical benefits)) SCHIP,~~

you must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

(a) A U.S. citizen;
(b) A U.S. national;
(c) An American Indian born outside the U.S.;
(d) A "qualified alien";
(e) A victim of trafficking;
(f) A Hmong or Highland Lao; or
(g) A special immigrant from Iraq or Afghanistan eligible for eight months of federally funded assistance from your date of entry into the United States or from the date you received special immigrant status(~~(, or~~

~~(h) A special immigrant from Afghanistan eligible for six months of federally funded assistance from your date of entry into the United States or from the date you received special immigrant status)).~~

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF, nonemergency medicaid, and SCHIP (~~(benefits)~~).

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF, nonemergency medicaid, or SCHIP for five years after obtaining status as a qualified alien unless:

(a) He or she is an alien as described ((under)) in WAC 388-424-0006(4); or

(b) He or she is an alien as described in WAC 388-424-0006(5) applying for nonemergency medicaid or SCHIP.

(4) An alien who is ineligible for TANF(~~(, nonemergency medicaid, or SCHIP)~~) because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) and WAC 388-438-0110 (alien emergency medical program); or

(b) State-funded cash or chemical dependency benefits as described in WAC 388-424-0015 (SFA, GA and ADATSA) and medical benefits as described in WAC 388-424-0016; or

(c) Pregnancy medical benefits as described in WAC 388-462-0015; or

(d) Children's (~~(health program)~~) healthcare benefits as described in WAC 388-505-0210.

AMENDATORY SECTION (Amending WSR 04-15-004, filed 7/7/04, effective 8/7/04)

WAC 388-424-0016 Citizenship and alien status--Immigrant eligibility restrictions for state medical benefits. (~~((1))~~) To receive general assistance medical (medical care services) you must meet the alien requirements of general assistance as described in WAC 388-424-0015(2) and be a recipient of general assistance cash.

~~((2) To receive medical benefits for pregnancy, you must be ineligible for other programs as described in WAC 388-462-0015, verify you are pregnant, and be:~~

- ~~(a) A "qualified alien" who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3);~~
- ~~(b) PRUCOL as defined in WAC 388-424-0001; or~~
- ~~(c) An undocumented alien as defined in WAC 388-424-0001.)~~