



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 09-11-103;** 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: The department is amending:

- WAC 388-424-0020, How does my alien status impact my eligibility for the federally funded Washington Basic Food Program benefits?;
- WAC 388-466-0120, Refugee Cash Assistance; and
- WAC 388-466-0130, Refugee Medical Assistance.

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: **September 22, 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 September 22, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by September 8, 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 September 23, 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 changes to the WACs listed above to allow Special Immigrants from Afghanistan to be eligible for refugee cash assistance (RCA), refugee medical assistance (RMA), and federally funded Washington Basic Food benefits for up to eight months as allowed under federal law.

Reasons supporting proposal: The proposed rule changes are in response to the Pub. L. No 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602, which was signed into law on March 11, 2009, the Office of Refugee Resettlement (ORR) State Letter 09-17 from April 9, 2009, and a new federal guidance issued on May 15, 2009 by the Food and Nutrition Service, United States Department of Agriculture. Rules related to Afghan Special Immigrants' eligibility were implemented by emergency rule filing on April 15, 2009 for Refugee Cash Assistance and Refugee Medical Assistance, and on July 7, 2009 for Washington Basic Food.

Statutory authority for adoption: RCWs 74.04.050; 74.04.055; 74.04.057; 74.08.090; and 74.08A.320

Statute being implemented: RCWs 74.04.050; 74.04.055; 74.04.057; 74.08.090 and 74.08A.320

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input 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: PL 110-161, sec. 525; PL 110-181, sec. 1244; USDA Food and Nutrition Service Administrative Notice 08-17; ORR SL 04-12.

DATE

August 13, 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: August 18, 2009

TIME: 8:40 AM

WSR 09-17-097

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..... Olga Walker | 712 Pear St. SE, Olympia 98501 | (360) 725-4641 |
| Implementation.... Olga Walker | 712 Pear St. SE, Olympia 98501 | (360) 725-4641 |
| Enforcement..... Olga Walker | 712 Pear St. SE, Olympia 98501 | (360) 725-4641 |

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.

The proposed changes do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by extending eligibility for Special Immigrants from Afghanistan to eight months.

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 08-14-116, filed 6/30/08, effective 8/1/08)

WAC 388-424-0020 How does my alien status impact my eligibility for the federally funded Washington Basic Food program benefits? (1) If you are a U.S. citizen or U.S. national as defined in WAC 388-424-0001 and meet all other eligibility requirements, you may receive federal Basic Food benefits.

(2) If you are not a U.S. citizen or U.S. national, you must fall within (a), (b), or (c) (~~(or (d))~~) of this subsection, and meet all other eligibility requirements, in order to receive federal Basic Food benefits:

(a) You are a member of one of the following groups of "qualified aliens" or similarly defined lawful immigrants as defined in WAC 388-424-0001:

- (i) Amerasian;
- (ii) Asylee;
- (iii) Cuban or Haitian entrant;
- (iv) Deportation or removal withheld;
- (v) Refugee;
- (vi) Victim of trafficking;
- (vii) Noncitizen American Indian; or
- (viii) Hmong or Highland Lao tribal member.

(b)(i) You are a member of one of the following groups of qualified aliens as defined in WAC 388-424-0001:

- (A) Conditional entrant;
- (B) Lawful permanent resident (LPR);
- (C) Paroled for one year or more; or
- (D) Victim of domestic violence or parent or child of a victim.

(ii) And, one of the following also applies to you:

(A) You have worked or can get credit for forty Social Security Administration (SSA) work quarters - as described in WAC 388-424-0008;

(B) You are an active duty personnel or honorably discharged veteran of the U.S. military or you are the spouse, unmarried surviving spouse, or unmarried dependent child of someone who meets this requirement, as described in WAC 388-424-0007(1);

(C) You receive cash or medical benefits based on Supplemental Security Income (SSI) criteria for blindness or disability;

(D) You have lived in the U.S. as a "qualified alien" as described in WAC 388-424-0001 for at least five years;

(E) You are under age eighteen; or

(F) You were lawfully residing in the U.S. on August 22, 1996 and were born on or before August 22, 1931.

(c) You are a special immigrant from Iraq or Afghanistan eligible for eight months of federally funded assistance from the date of your entry into the United States or from the date you received special immigrant status if this occurred after your U.S. entry.

~~((d) You are a special immigrant from Afghanistan eligible~~

~~for six months of federally funded assistance from the date of your entry into the United States or from the date you received special immigrant status if this occurred after your U.S. entry.)~~

(3) If you are ineligible for federal Basic Food benefits due to your alien status, you may be eligible for state Basic Food benefits (see WAC 388-424-0025).

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

WAC 388-466-0120 Refugee cash assistance (RCA). (1) Who can apply for refugee cash assistance (RCA)?

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within thirty days.

~~(2) ((How do I know if I qualify for RCA))~~ **Who is eligible for refugee cash assistance?**

You may be eligible for RCA if you meet all of the following conditions:

(a) You have resided in the United States for less than eight months;

(b) You meet the immigration status requirements of WAC 388-466-0005;

(c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;

(d) You meet the work and training requirements of WAC 388-466-0150; and

(e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

~~(3) ((What are the other reasons for not being))~~ **Who is not eligible for RCA?**

You may not get RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF) or Supplemental Security Income (SSI); or

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within thirty consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, eighteen years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration

status. Your entry date will be the date on your certification letter;

(b) A child victim under the age of eighteen, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(6) Does getting a ((one-time)) onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the eighth month starting with the month of your arrival to the United States. Count the eight months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, 2000, May is your first month and December 2000 is your last month of RCA.

~~(b) ((If you are from Afghanistan and were granted special immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), your RCA ends on the last day of the sixth month starting from the month of your arrival to the United States or from the month you received special immigrant status if this occurred after your entry.~~

~~(c))~~ If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA. Your medical coverage may continue for up to eight months from your month of arrival in the United States (WAC 388-466-0130).

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income and/or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if he/she arrives in the U.S. after me?

When your spouse arrives in the United States, DSHS determines his/her eligibility for RCA and/or other income assistance programs.

(a) Your spouse may be eligible for up to eight months of RCA based on his/her date of arrival into the United States. ~~((Spouses from Afghanistan who have been granted special immigrant status under section 101 (a)(27) of the INA, are eligible for RCA for up to six months from the date of their entry into the United States or from the month they received special immigrant status if this occurred after their U.S. entry.))~~

(b) If you live together, you and your spouse are part of the

same assistance unit and your spouse's eligibility for RCA is determined based on your and your spouse's combined income and resources (WAC 388-466-0140).

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or ((a fair)) an administrative hearing (WAC 388-02-0090). Your request must be made within ninety days of the date of the decision or action.

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

WAC 388-466-0130 Refugee medical assistance (RMA). (1) Who can apply for refugee medical assistance?

Anyone can apply for refugee medical assistance (RMA) and have eligibility determined by the department of social and health services (DSHS).

(2) Who is eligible for refugee medical assistance?

(a) You are eligible for RMA if you meet all of the following conditions:

- (i) Immigration status requirements of WAC 388-466-0005;
- (ii) Income and resource requirements of WAC 388-466-0140;
- (iii) Monthly income standards up to two hundred percent of the federal poverty level (FPL). Spenddown is available for applicants whose income exceeds two hundred percent of FPL (see WAC 388-519-0110); and

(iv) Provide the name of the voluntary agency (VOLAG) which helped bring you to this country, so that DSHS can promptly notify the agency (or sponsor) about your application for RMA.

(b) You are eligible for RMA if you:

(i) Receive refugee cash assistance (RCA) and are not eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210; or

(ii) Choose not to apply for or receive RCA and are not eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210, but still meet RMA eligibility requirements.

(3) Who is not eligible for refugee medical assistance?

You are not eligible to receive RMA if you are:

(a) Already eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210;

(b) A full-time student in an institution of higher education unless the educational activity is part of a department-approved individual responsibility plan (IRP);

(c) A nonrefugee spouse of a refugee.

(4) If I have already received a cash assistance grant from voluntary agency (VOLAG), will it affect my eligibility for RMA?

No. A cash assistance payment provided to you by your VOLAG is not counted in determining eligibility for RMA.

(5) If I get a job after I have applied but before I have been approved for RMA, will my new income be counted in determining my eligibility?

No. Your RMA eligibility is determined on the basis of your income and resources on the date of the application.

(6) Will my sponsor's income and resources be considered in determining my eligibility for RMA?

Your sponsor's income and resources are not considered in determining your eligibility for RMA unless your sponsor is a member of your assistance unit.

(7) How do I find out if I am eligible for RMA?

DSHS will send you a letter in both English and your primary language informing you about your eligibility. DSHS will also let you know in writing every time there are any changes or actions taken on your case.

(8) Will RMA cover my medical expenses that occurred after I arrived in the U.S. but before I applied for RMA?

You may be eligible for RMA coverage of your medical expenses for three months prior to the first day of the month of your application. Eligibility determination will be made according to medicaid rules.

(9) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RMA?

You are eligible for RMA to the same extent as a refugee, if you are:

(a) An adult victim, eighteen years of age or older, and you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS). You also have to meet eligibility requirements in subsections (2)(a) and (b) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter.

(b) A child victim under the age of eighteen, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirements.

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet eligibility requirements in subsections (2)(a) and (b) of this section.

(10) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example, if you entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and granted asylum on September 1, 2000, your date of entry is September 1, 2000. On September 1, 2000 you may be eligible for refugee medical assistance.

(11) When does my RMA end?

~~((a))~~ Your refugee medical assistance will end on the last day of the eighth month from the month of your entry into the

United States. Start counting the eight months with the first day of the month of your entry into the U.S. For example, if you entered the U.S. on May 28, 2000, your last month is December 2000.

~~((b) If you are from Afghanistan and were granted Special Immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), your RMA ends on the last day of the sixth month starting with the month of your arrival to the United States or from the month you received Special Immigrant status if this occurred after your U.S. entry.))~~

(12) What happens if my earned income goes above the income standards?

(a) If you are getting RMA, your medical eligibility will not be affected by the amount of your earnings;

(b) If you were getting medicaid and it was terminated because of your earnings, we will transfer you to RMA for the rest of your RMA eligibility period. You will not need to apply.

(13) Will my spouse also be eligible for RMA, if he/she arrives into the U.S. after me?

When your spouse arrives in the U.S., we will determine his/her eligibility for medicaid and other medical programs.

(a) ~~If your spouse ((may be)) is eligible for RCA, he/she is automatically eligible for RMA((; if so, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival)).~~

(b) ~~((Spouses from Afghanistan who have been granted special immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), are eligible for RMA for a maximum of six months from the date of entry into the United States or from the month they received special immigrant status if this occurred after their U.S. entry)) If your spouse is not eligible for RCA because your household's countable income exceeds the TANF income and resource standards described in chapter 388-450 and 388-470 WAC, he/she is eligible for RMA as long as the countable household income is below two hundred percent of Federal Poverty Level (FPL) per WAC 388-466-0140(2).~~

~~(c) If your spouse is approved for RMA, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival.~~

(14) What do I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with the decision or action taken on your case by department you have the right to request a review of your case or request ~~((a fair))~~ an administrative hearing (see WAC 388-02-0090). Your request must be made within ninety days of the date of the decision or action~~((+))~~.

(15) What happens to my medical coverage after my eligibility period is over?

We will determine your eligibility for other medical programs. You may have to complete an application for another program.