



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(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:14-14-118; or
- Expedited Rule Making--Proposed notice was filed as WSR:\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- 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 388-420-010 "Alcohol and drug treatment centers" and WAC 388-408-0040, "How does living in an institution affect my eligibility for Basic Food?"

**Hearing location(s):**

Office Building 2 – Lookout Room  
DSHS Headquarters  
1115 Washington  
Olympia, WA 98504  
Public parking at 11<sup>th</sup> and Jefferson. A map is available at:  
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

Date: September 23, 2014 Time: 10:00 a.m.

**Date of intended adoption:** Not earlier than September 24, 2014  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: DSHS Rules Coordinator  
Address: PO Box 45850  
Olympia, WA 98504  
e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
fax (360) 664-6185

**by: 5:00 pm September 23, 2014**

**Assistance for persons with disabilities:** Contact Jeff Kildahl, DSHS Rules Consultant by September 9, 2014  
TTY (360) 664-6178 or (360) 664-6094 or by email at [Kildaja@dshs.wa.gov](mailto:Kildaja@dshs.wa.gov)

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

The department is proposing to amend rules to update information concerning the division that licenses behavioral health agencies and certifies the services the agencies provide. References to the Division of Alcohol and Substance Abuse (DASA) should be removed and replaced with Division of Behavioral Health and Recovery (DBHR).

**Reasons supporting proposal:**

Proposed changes are not expected to impact eligibility and benefits for the Washington Basic Food program and the state-funded Food Assistance Program (FAP) for legal immigrants as these rules and procedures are already in effect and being applied to Basic Food eligibility decisions. The changes provide updates to agency names and clarification only. Under RCW 74.08A.120, rules for FAP shall follow exactly the rules of the federal food stamp program (SNAP) except for the provisions pertaining to immigrant status.

**Statutory authority for adoption:**

RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090

**Statute being implemented:**

RCW 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 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: 7 CFR 273.11

**DATE**  
August 14, 2014

**NAME** (type or print)  
Katherine Vasquez

**SIGNATURE**

**TITLE**  
DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** August 20, 2014

**TIME:** 10:26 AM

**WSR 14-17-130**

**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..... Robert Thibodeau	712 Pear St. SE Olympia, WA 98504	(360) 725-4634
Implementation....Robert Thibodeau	712 Pear St. SE Olympia, WA 98504	(360) 725-4634
Enforcement.....Robert Thibodeau	712 Pear St. SE Olympia, WA 98504	(360) 725-4634

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal 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 amendment only affects certain Basic Food recipients receiving services from DBHR and living in DBHR institutions.

**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."

**WAC 388-408-0040 How does living in an institution affect my eligibility for Basic Food?** (1) For Basic Food, an "institution" means a place where people live that provides residents more than half of three meals daily as a part of their normal services.

(2) Most residents of institutions are not eligible for Basic Food.

(3) If you live in one of the following institutions, you may be eligible for Basic Food even if the institution provides the majority of your meals:

(a) Federally subsidized housing for the elderly;

(b) Qualified drug and alcohol treatment centers when an employee of the treatment center is the authorized representative as described under WAC 388-460-0010;

(c) Qualified DDD group homes for persons with disabilities;

(d) A shelter for battered women and children when the resident left the home that included the abuser; or

(e) Nonprofit shelters for the homeless.

(4) A qualified DDD group home is a nonprofit residential facility that:

(a) Houses sixteen or fewer persons with disabilities as defined under WAC 388-400-0040(6); and

(b) Is certified by the division of developmental disabilities (DDD).

(5) A qualified drug and alcohol treatment center is a residential facility that ~~((is))~~:

~~((a) ((Authorized)) Is authorized as a retailer by the U.S. Department of Agriculture, Food and Nutrition Service((+)) or~~

~~((b) Operated)) operated by a private nonprofit organization; and~~

~~((c) Certified by the division of alcohol and substance abuse (DASA) as+)) (b) Meets the division of behavioral health and recovery (DBHR) chemical dependency residential licensing and certification rules in WAC 388-877B-0200.~~

(6) The qualified drug and alcohol treatment center described in subsection (5) in this section must be:

~~((i)) (a) Receiving funds under part B of Title XIX of the Public Health Service Act;~~

~~((ii)) (b) Eligible to receive funds under part B of Title XIX of the Public Health Service Act, but does not receive these funds; or~~

~~((iii)) (c) Operating to further the purposes of part B of the Public Health Service Act to provide treatment and rehabilitation of drug addicts or alcoholics.~~

~~((6)) (7) Elderly or disabled individuals and their spouses may use Basic Food benefits to buy meals from the following meal providers if FNS has approved them to accept Basic Food benefits:~~

~~(a) Communal dining facility; or~~

~~(b) Nonprofit meal delivery service.~~

~~((7)) (8) If you are homeless, you may use your Basic Food benefits to buy prepared meals from nonprofit organizations the department has certified as meal providers for the homeless.~~

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-420-010 Alcohol and drug treatment centers.** (1) Food assistance is only available to a resident of a drug ~~((or))~~ and alcohol treatment center when the treatment center is ~~((or~~

~~(Administered))~~ administered by a public or private nonprofit agency ~~((and))~~. In addition, the residential treatment center must be:

~~((b) Certified by the division of alcohol and substance abuse (DASA).))~~ (a) Licensed by the division of behavioral health and recovery (DBHR) as a behavioral health agency (see chapter 388-877 WAC); and

(b) Certified by DBHR to provide chemical dependency residential treatment services (see WAC 388-877B-0200).

(2) A resident is considered a one person assistance unit. However if the resident's spouse or child is also living in the treatment center, the spouse or child is included in the resident's assistance unit.

(3) The resident must have a designated employee of the treatment center act as an authorized representative as specified in chapter 388-460 WAC.

(4) The authorized representative receives and uses the food assistance benefits for meals the resident is served in the treatment center.

(5) The authorized representative also has responsibilities as specified in chapter 388-460 WAC.