



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, Community Services Division

- Preproposal Statement of Inquiry was filed as WSR 14-09-111; 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 388-412-0015, WAC 388-450-0185, WAC 388-450-0190, WAC 388-478-0060, WAC 388-450-0195, and WAC 388-470-0005.

Hearing location(s):
 Office Building 2 – Lookout Room
 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>

Date: **December 9, 2014** Time: **10:00 a.m.**

Submit written comments to:
 Name: DSHS Rules Coordinator
 Address: PO Box 45850
 Olympia, WA 98504
 e-mail DSHSRPAURulesCoordinator@dshs.wa.gov
 fax (360) 664-6185 by (date) **5:00 p.m. December 9, 2014**

Assistance for persons with disabilities: Contact Jeff Kildahl, DSHS Rules Consultant by November 25, 2014
 TTY (360) 664-6178 or (360) 664-6092 or by email at Kildaja@dshs.wa.gov

Date of intended adoption: Not earlier than December 10, 2014
(Note: This is **NOT** the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments increase the:
 Basic Food Standard deductions for 1 – 3 persons to \$155, 4 persons to \$165, 5 persons to \$193, and 6 or more persons to \$221; Basic Food minimum allotment to \$16; State-funded FAP minimum allotment to \$12; Standard Utility Allowance to \$415; Limited Utility Allowance to \$336; Maximum Shelter Deduction to \$490; Maximum Gross Monthly Income and Maximum Net Monthly Income limits for households that are not Categorically Eligible (CE) for Basic Food; 165% Federal Poverty Level standard; and Basic Food Resource limit to \$2,250 for households without elderly or disabled members

Reasons supporting proposal: The amendments:
 Support the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), per Supplemental Nutrition Assistance Program (SNAP) Administrative Notice 14-48: SNAP - Fiscal Year (FY) 2015 Cost-of-Living Adjustments (COLAS) dated August 4, 2014; Update Basic Food standards for Federal Fiscal Year 2015; Update the Basic Food standard utility allowance (SUA) and limited utility allowance (LUA) used when determining Basic Food benefits, to implement SNAP 10-6-WA-SUA dated July 24, 2014; and Update the Basic Food Resource Limit Adjustments for Federal Fiscal Year 2015 in accordance with USDA FNS, SNAP Administrative Notice 14-56 – Fiscal Year 2015 Resource Limit Adjustments.

Statutory authority for adoption: RCW 74.04.005; 74.04.050; 74.04.055; 74.04.057; 74.04.500; 74.04.510; 74.08.090; and 74.08A.120

Statute being implemented: RCW 74.04.005; 74.04.050; 74.04.055; 74.04.057; 74.04.500; 74.04.510; 74.08.090; and 74.08A.120

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 (d) (iii) (B) Yes No
 7 CFR 273.9 (d) (6) (iii) Yes No
 7 CFR 273.9 (d) (6) Yes No

DATE
October 30, 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: November 03, 2014
 TIME: 12:08 PM**

WSR 14-22-077

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..... Holly St. John	Community Services Division	360 725-4895
Implementation.... Holly St. John	Community Services Division	360 725-4895
Enforcement.....Holly St. John	Community Services Division	360 725-4895

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.

The proposed rule does not have an economic impact on 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:

These amendments are exempt as allowed under RCW 34.05.328(5)(b)(vii) which states in part, "this 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 388-470-0005 How do resources affect my eligibility for cash assistance and Basic Food? (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.

(b) **"You"** means a person applying for or getting benefits from the department.

(c) **"Fair market value (FMV)"** means the price at which you could reasonably sell the resource.

(d) **"Equity value"** means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or Basic Food when:

(a) It is a resource we must count under WAC 388-470-0045 and 388-470-0055;

(b) You own the resource. We consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that doesn't have a title; and

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within twenty days.

(3) For cash assistance, you must try to make your resources available even if it will take you more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance, we use the equity value as the value of your resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients of cash assistance can have an additional three thousand dollars in a savings account.

(7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for Basic Food.

(8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for Basic Food:

(a) Three thousand two hundred fifty dollars if your AU has either an elderly or disabled individual; or

(b) Two thousand two hundred fifty dollars for all other AUs.

(9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For Basic Food, we count the entire amount unless you can prove that the entire amount is not available to you.

(10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household; or

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington Basic Food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) programs is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) **How we determine monthly allotments:**

(a) We calculate your monthly allotment for federally funded Basic Food as described under WAC 388-450-0162;

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) **Maximum allotment:**

(a) The maximum allotment for the number of people in your AU eligible for federally funded Basic Food benefits is described under WAC 388-478-0060.

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) **Prorated benefits in the first month** - If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(5) **Combined allotment for first and second month's benefits** - If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for food assistance, we issue both the first and second months benefits in one allotment if you are eligible for both months.

(6) **Minimum allotment** - Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) (~~Fifteen~~) Sixteen dollars if your AU has one or two members, and at least one person is eligible for federally funded Basic Food.

(b) (~~Eleven~~) Twelve dollars if your AU has one or two members, and all members of your AU are eligible for state-funded FAP.

(7) **Use of food assistance benefits** - Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits? 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 eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
1	\$((452)) <u>155</u>
2	\$((452)) <u>155</u>
3	\$((452)) <u>155</u>
4	\$((463)) <u>165</u>
5	\$((491)) <u>193</u>
6 or more	\$((249)) <u>221</u>

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

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;
 (e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (4) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of four hundred (~~seventy-eight~~) ninety dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred (~~seventy-eight~~) ninety dollars.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE (~~11-1-2013~~) 10/1/2014

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$(1,245) <u>1,265</u>	\$(958) <u>973</u>	\$(189) <u>194</u>	\$(1,580) <u>1,605</u>
2	((1,681)) <u>1,705</u>	((1,293)) <u>1,311</u>	((347)) <u>357</u>	((2,133)) <u>2,163</u>
3	((2,116)) <u>2,144</u>	((1,628)) <u>1,650</u>	((497)) <u>511</u>	((2,686)) <u>2,722</u>
4	((2,552)) <u>2,584</u>	((1,963)) <u>1,988</u>	((632)) <u>649</u>	((3,239)) <u>3,280</u>
5	((2,987)) <u>3,024</u>	((2,298)) <u>2,326</u>	((750)) <u>771</u>	((3,791)) <u>3,838</u>
6	((3,423)) <u>3,464</u>	((2,633)) <u>2,665</u>	((900)) <u>925</u>	((4,344)) <u>4,396</u>
7	((3,858)) <u>3,904</u>	((2,968)) <u>3,003</u>	((995)) <u>1,022</u>	((4,897)) <u>4,955</u>

EFFECTIVE ((11-1-2013)) 10/1/2014

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
8	((4,294)) <u>4,344</u>	((3,303)) <u>3,341</u>	((1,137)) <u>1,169</u>	((5,450)) <u>5,513</u>
9	((4,730)) <u>4,784</u>	((3,638)) <u>3,680</u>	((1,279)) <u>1,315</u>	((6,003)) <u>6,072</u>
10	((5,166)) <u>5,224</u>	((3,973)) <u>4,019</u>	((1,421)) <u>1,461</u>	((6,556)) <u>6,631</u>
Each Additional Member	+((436)) <u>440</u>	+((335)) <u>339</u>	+((142)) <u>146</u>	+((553)) <u>559</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASHCAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or

(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.

(2) For Basic Food, "utilities" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water (~~(and sewer)~~);

(d) Sewer;

(e) Well (~~(or septic tank)~~) installation/maintenance;

~~((e))~~ (f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

~~((f))~~ (h) Telephone service.

(3) We use the amounts below if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs **or** receives more than twenty dollars in Low Income Home Energy Assistance Act (LIHEEA) benefits each year, you get a standard utility allowance (SUA) of four hundred (~~(nine))~~ fifteen dollars.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (2) of this section, you get a limited utility allowance (LUA) of three hundred thirty six dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of sixty-five dollars.

~~((4) If your AU receives Basic Food on March 9, 2014, you receive the SUA through October 2014 regardless of your household's utility expenses unless you have a lapse in your Basic Food benefits.))~~