



# 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: 14-09-115; 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 create a new WAC section, WAC 388-310-2200 "WorkFirst – WorkFirst Incentives" and amend WAC-388-310-0500 "WorkFirst – Individual responsibility plan" and WAC 388-484-0005 "There is a five-year (sixty month) time limit for TANF, SFA and GA-S cash assistance".

**Hearing location(s):**

Office Building 2  
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>

**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 p.m. December 23, 2014**

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

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

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

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

The Community Services Division, Economic Services Administration is proposing to create a new WAC section, WAC 388-310-2200 "WorkFirst – WorkFirst Incentives" and amend WAC-388-310-0500 "WorkFirst – Individual responsibility plan" and WAC 388-484-0005 "There is a five-year (sixty month) time limit for TANF, SFA and GA-S cash assistance" in order to provide WorkFirst incentive payments to families who are participating in activities outlined in their individual responsibility plan.

**Reasons supporting proposal:**

The proposed amendments are necessary to implement the WorkFirst program changes outlined in the Agency Detail, Rec Sums for the Supplemental Budget (ESSB 6002) that passed the Legislature on March 13, 2014.

**Statutory authority for adoption:** RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and chapters 74.08A and 74.12.

**Statute being implemented:** RCW, 74.04.050, 74.04.055, 74.04.057, 74.08.090 and chapters 74.08A and 74.12.

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**  
November 13, 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 19, 2014**

**TIME: 9:54 AM**

**WSR 14-23-086**

**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.....Sandy Jsames, CSD Policy, DSHS	712 Pear St SE, Olympia WA 98501	(360) 725-4648
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Enforcement.....Sandy Jsames, CSD Policy, DSHS	712 Pear St SE, Olympia WA 98501	(360) 725-4648

**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: This amendment is 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 388-310-0500 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) Notice of when you have a qualifying individual responsibility plan, as described in WAC 388-310-2200 and might be able to earn a WorkFirst incentive if you participate as required.

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

- (d) Notice of when you have a qualifying individual responsibility plan, as described in WAC 388-310-2200 and might be able to earn a WorkFirst incentive if you participate as required.
- (e) 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.)

NEW SECTION

**WAC 388-310-2200 WorkFirst - WorkFirst Incentives (1) What is a WorkFirst incentive?**

The WorkFirst incentive is a monthly cash reward that TANF/SFA recipients may be able to earn by successfully participating in their individual responsibility plan activities. The WorkFirst incentive is not intended to meet your ongoing basic needs or participation-related expenses. The incentive is not part of your TANF/SFA cash assistance grant. Incentives are available only when they are funded in the state budget.

**(2) When can I start getting WorkFirst incentives?**

Starting with participation in April 2015, your family can earn a fifty-five dollar WorkFirst incentive payment for months when an adult in your assistance unit has qualifying participation. Your assistance unit can only earn one incentive payment per month. For two-parent families, we will issue the payment if at least one parent earned the incentive payment. We will issue the payment based on the assistance unit you were in during the month that you earned the incentive.

**(3) How do I earn an incentive for a month of WorkFirst participation?**

To earn an incentive for a month of WorkFirst participation, you must meet the all of the following conditions:

(a) You have a qualifying individual responsibility plan for that month.

(b) You participate for all of the hours in your individual responsibility plan. For example, if your individual responsibility plan requires you to participate thirty-five hours per week, you must participate for the thirty-five hours each week to get the incentive.

(c) You bring in, or have your provider send in, proof of your participation, when required, by the seventh of the month following the month you participated. You will receive written notice of what proof is required and when it is due from DSHS or the people who provide your assigned WorkFirst services or activities.

(d) You verify your employment hours at least once every six months, starting when you get a job and then at every eligibility review. The verification is due by the seventh of the month following the month you started employment or had your eligibility review.

(e) You have no more than two absences that you have not made up by the end of the month. However, we will not track absences or apply this condition for subsidized or unsubsidized employment.

**(4) For WorkFirst incentives, how will you decide how many absences I have each month?**

For WorkFirst incentives, we will look at whether you missed an appointment or activity that is scheduled for a specific time, place and date to determine how many absences you have each month.

(a) If you have an appointment or activity that is scheduled for a specific place, time and date, and you don't show up, or you show up late, that will count as one absence. For example, during the month of June, you are scheduled to do four hours of work experience at the local food bank every day, from 8:00 a.m. to noon, Monday through Friday. In this example:

(i) If you didn't show up at the food bank to do your work experience until 10:00 a.m. on a Monday, it would be one two-hour absence.

(ii) If you made up the two hours of the work experience that you missed by June 30, we would not count this as an absence.

(b) If you have activities where you can choose the time and place to do them, and don't complete all of your required hours by the end of the week, up to every eight hours that you miss will count as one absence. For example, during October, you must do thirty-five hours of job search a week, but can decide who you contact, which days you do the job search and how many hours of job search you do each day. In this example:

(i) If you only did twenty of your thirty-five hours of job search for a week, it would be one eight-hour absence and one seven-hour absence.

(ii) If you made up the fifteen hours of job search that you did not do by October 31, we would not count this as an absence.

**(5) What is a qualifying individual responsibility plan?**

(a) A qualifying individual responsibility plan is a plan that requires participation of at least twenty hours of WorkFirst participation per week. Your individual responsibility plan will indicate whether it is a qualifying plan.

(b) For WorkFirst incentives, WorkFirst participation does not include the time you spend:

(i) Looking for child care or housing on your own; or,

(ii) Staying home to take care of your, your child's or your adult relative's medical condition; or,

(iii) Pursuing SSI for yourself or your child.

**(6) How do you determine whether I earned an incentive for a month of WorkFirst participation?**

Each month, we will review proof of your participation and absences for the previous month to see if you earned an incentive.

(a) Once we have proof of your employment hours, we will count them without getting new proof every month. For example, we may use a copy of your paystub that lists how many hours you worked or a statement from your employer as proof of your employment hours.

(b) For your other individual responsibility plan activities, we will wait until we have proof from all of the people who provide your assigned WorkFirst services or activities before we make a decision.

**(7) How will I know whether I earned an incentive for a month of WorkFirst participation?**

Once we have the proof of your participation and absences, you will get an approval or denial letter for each month that you had an opportunity to earn an incentive.

**(8) How will you issue my WorkFirst incentives?**

Incentive payments are made in one of three ways, on your electronic benefits transfer (EBT) card, as a direct deposit to your bank account or as a warrant. When possible, you will get your WorkFirst incentive the same way you get your cash grant. If you get your incentive payment on your EBT card, the same restrictions on use of the EBT card and cash obtained from that card apply to the incentive payment.

**(9) Can I get a WorkFirst incentive after I exit TANF/SFA?**

You can get the incentives you earned for a month of WorkFirst participation while you were on TANF/SFA after you exit TANF/SFA.

AMENDATORY SECTION (Amending WSR 12-05-039, filed 2/10/12, effective 3/12/12)

**WAC 388-484-0005 There is a five-year (sixty-month) time limit for TANF, SFA and GA-S cash assistance. (1) What is the sixty-month time limit?**

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of sixty months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, WorkFirst incentive payments, support services, food assistance or medicaid.

**(2) When did the sixty-month time limit go into effect?**

The sixty-month time limit applies to cash assistance received on or after August 1, 1997 for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999 through July 31, 1999.

**(3) Does the time limit apply to me?**

(a) The sixty-month time limit applies to you for any month in which you are an ineligible parent or a parent or other relative as defined in WAC 388-454-0010, or a minor parent emancipated through court order or marriage.

(b) An ineligible parent is a natural, adoptive or step parent as defined in WAC 388-454-0010 who receives a TANF/SFA grant for his or her child but is ineligible to receive TANF/SFA assistance.

**(4) Do any exceptions to the time limits apply to me?**

The department does not count months of assistance towards the sixty-month time limit if you are:

(a) An adult caretaker, other than an ineligible parent, as described in WAC 388-454-0005 through 388-454-0010, who is not a member of the assistance unit and you are receiving cash assistance on behalf of a child;

(b) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

(c) An adult and you are living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan native village and you are receiving TANF, SFA, or GA-S cash assistance during a period when at least fifty percent of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

**(5) What happens if an ineligible parent in the home or a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?**

Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, or an ineligible parent in the home has received sixty months of cash assistance for themselves or their child, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless they qualify for a hardship extension and are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.

**(6) What can I do if I disagree with how the department has counted my months of cash assistance?**

(a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ninety days of the date we sent you a letter telling you how many months we are counting.

(b) You will get continued benefits (the amount you were getting before the change) if:

(i) You have used all sixty months of benefits according to our records; and

(ii) You ask for a hearing within the ten-day notice period, as described in chapter 388-458 WAC.

(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

**(7) Does the department ever change the number of months that count against my time limit?**

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.

(c) An ALJ decides at an administrative hearing that we should change the number of months we count.

(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.

(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.

(f) Another state gave us incorrect information about the number of months you got cash assistance from them.