



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: 14-21-113; 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 388-414-0001 "Do I have to meet all eligibility requirements for Basic Food?" and
- WAC 388-468-0005, "Residency"

Hearing location(s):

Office Building 2
 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: January 27, 2015 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: 5:00 p.m. January 27, 2015

Assistance for persons with disabilities: Contact Jeff Kildahl, DSHS Rules Consultant by January 13, 2015
 TTY (360) 664-6178 or (360) 664-6092 or by email at Kildaja@dshs.wa.gov

Date of intended adoption: Not earlier than January 28, 2015
 (Note: This is **NOT** the **effective** date)

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

This department is proposing to amend WAC 388-414-0001 to fully incorporate requirements under Title 7 of the Code of Federal Regulations (CFR) §273.2 (j) related to categorical eligibility (CE) for the federal Supplemental Nutrition Assistance Program (SNAP) and the requirement to verify residency if questionable at application and recertification for certain households.

The department is also proposing to amend WAC 388-468-0005 to clarify that households that are considered Categorically Eligible based on the receipt of non-cash public assistance benefits (broad-based categorical eligibility) have the same state residency verification requirements as non-CE households. Proposed amendments also clarify that both household types can be out of state for more than one month and still be considered a resident.

Reasons supporting proposal:

Current rules in WAC are not fully aligned with federal regulations.

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 273.2 and 273.3

DATE

December 8, 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: December 09, 2014

TIME: 2:39 PM

WSR 15-01-049

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 households served by DSHS who receive food assistance under Basic Food and travel out of state with the intention of returning making their residency questionable or the household moves out of state permanently.

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 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is "categorically eligible" (CE)?

(a) Being categorically eligible (CE) means that you have already met requirements for the program. If you are CE, you do not have to meet **every** program requirement to be eligible for Basic Food.

(b) If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

(i) ~~((Residency under WAC 388-468-0005;~~
~~(ii))~~ Countable resource limit under WAC 388-470-0005;
~~((iii))~~ (ii) Maximum gross monthly income under WAC 388-478-0060; and

~~((iv))~~ (iii) Maximum net monthly income under WAC 388-478-0060.

(c) If your AU is CE and the information is available from another program, you do not need to provide the following for Basic Food:

(i) Social Security number information under WAC 388-476-0005;
~~((and))~~

(ii) Sponsored alien information under WAC 388-450-0155; and

(iii) Residency under WAC 388-468-0005.

(d) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

(i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) **Who is categorically eligible for Basic Food?** Your Basic Food AU is CE when your household meets the conditions in subsection (2)(a) or (2)(b) below:

(a) Your AU's income that we do not exclude under WAC 388-450-0015 is at or under two hundred percent of the federal poverty guidelines we use for department programs.

(i) The federal government publishes the federal poverty guidelines on the health and human services web site. These are currently posted at <http://aspe.hhs.gov/poverty/index.shtml>.

(ii) The department uses the monthly value of the income guidelines for the current year beginning the first of April every year.

(iii) If your income is not over two hundred percent of the federal poverty guidelines, we provide your AU information about the department programs and resources in the community.

(b) Everyone in your AU receives one of the following cash assistance programs:

(i) Temporary assistance for needy families (TANF)/state family assistance (SFA) or Tribal TANF under WAC 388-400-0005 and WAC 388-400-0010;

(ii) Aged, blind, or disabled (ABD) cash assistance under WAC 388-400-0060;

(iii) Supplemental security income (SSI) under Title XVI of the Social Security Act; or

(iv) Diversion cash assistance (DCA) under WAC 388-432-0005. DCA makes the Basic Food AU CE for the month it receives DCA and the following three months.

(3) **Who is not CE even if my AU meets the above criteria?**

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

(i) Are not eligible because of their alien or student status;

(ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

(i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-468-0005 Residency. Subsections (1) through (4) applies to cash, the Basic Food program, and medical programs.

(1) A resident is a person who:

(a) Currently lives in Washington and intends to continue living here permanently or for an indefinite period of time; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(2) A person does not need to live in the state for a specific period of time to be considered a resident.

(3) A child under age eighteen is a resident of the state where the child's primary custodian lives.

(4) (~~With the exception of subsection (5) of this section, a~~) A client can temporarily be out of the state for more than one month. If so, the client must supply the department with adequate information to demonstrate the intent to continue to reside in the state of Washington.

~~(5) ((Basic Food program assistance units who are not categorically eligible do not meet residency requirements if they stay out of the state more than one calendar month.~~

~~(6))~~) A client may not receive comparable benefits from another state for the cash and Basic Food programs.

~~((7))~~) (6) A former resident of the state can apply for the ABD cash program while living in another state if:

(a) The person:

(i) Plans to return to this state;

(ii) Intends to maintain a residence in this state; and
(iii) Lives in the United States at the time of the application.
(b) In addition to the conditions in subsection ~~((+7))~~ (6)(a) (i), (ii), and (iii) being met, the absence must be:
(i) Enforced and beyond the person's control; or
(ii) Essential to the person's welfare and is due to physical or social needs.
(c) See WAC 388-406-0035, 388-406-0040, and 388-406-0045 for time limits on processing applications.
~~((+8))~~ (7) Residency is not a requirement for detoxification services.
~~((+9))~~ (8) A person is not a resident when the person enters Washington state only for medical care. This person is not eligible for any medical program. The only exception is described in subsection ~~((+10))~~ (9) of this section.
~~((+10))~~ (9) It is not necessary for a person moving from another state directly to a nursing facility in Washington state to establish residency before entering the facility. The person is considered a resident if they intend to remain permanently or for an indefinite period unless placed in the nursing facility by another state.
~~((+11))~~ (10) For purposes of medical programs, a client's residence is the state:
(a) Paying a state supplemental security income (SSI) payment; or
(b) Paying federal payments for foster or adoption assistance; or
(c) Where the noninstitutionalized individual lives when medicaid eligibility is based on blindness or disability; or
(d) Where the parent or legal guardian, if appointed, for an institutionalized:
(i) Minor child; or
(ii) Client twenty-one years of age or older, who became incapable of determining residential intent before reaching age twenty-one.
(e) Where a client is residing if the person becomes incapable of determining residential intent after reaching twenty-one years of age; or
(f) Making a placement in an out-of-state institution; or
(g) For any other institutionalized individual, the state of residence is the state where the individual is living with the intent to remain there permanently or for an indefinite period.
~~((+12))~~ (11) In a dispute between states as to which is a person's state of residence, the state of residence is the state in which the person is physically located.