



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:16-17-143; 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 388-400-0047 in order to remove the pure Food Assistance Program (FAP) households from the Heat and Eat program to be consistent with federal requirements for the low-income energy assistance program (LIHEAP).

Hearing location(s):

Office Building 2
DSHS Headquarters
1115 Washington
Olympia, WA 98504

Public parking at 11th and Jefferson. A map is available at:
<https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>

Date: **March 21, 2017** 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. March 21, 2017

Assistance for persons with disabilities: Contact:
Jeff Kildahl, DSHS Rules Consultant by March 7, 2017
Phone: (360) 664-6092 or TTY: (360) 664-6178
Email: KildaJA@dshs.wa.gov

Date of intended adoption: Not earlier than March 22, 2017
(Note: This is **NOT** the **effective** date)

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

Changes proposed under this filing remove from the Heat and Eat program Food Assistance Program (FAP) households that do not contain at least one U.S. citizen or qualified alien as defined under WAC 388-424-0001, as required by 8 USC Section 1611(a)(1).

Reasons supporting proposal:

The department may not provide a Heat and Eat low-income energy assistance program (LIHEAP) benefit to households that do not include at least one person meeting the U.S. Department of Health and Human Services (HHS) new citizenship or qualified alien status requirements.

Statutory authority for adoption:

RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.04.515, RCW 74.08.090, RCW 74.04.500, RCW 74.08A.010, RCW 74.08A.903, Food and Nutrition Act of 2008 (P.L. 110-246, 7 U.S.C.) as amended by PL 113-79.

Statute being implemented:

Is rule necessary because of a:

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

DATE

February 9, 2017

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: February 14, 2017

TIME: 8:47 AM

WSR 17-05-077

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	PO Box 45470, Olympia, WA 98504	(360) 725-4895
Implementation:	Holly St. John	PO Box 45470, Olympia, WA 98504	(360) 725-4895
Enforcement:	Holly St. John	PO Box 45470, Olympia, WA 98504	(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 impact small businesses or non-profits. It only affects DSHS clients.

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 388-400-0047 What is the heat and eat program and are you eligible? (1) What is the heat and eat program?

(a) The heat and eat program is a special energy assistance program for certain assistance units that receive basic food, Washington combined application project (WASHCAP), or the food assistance program for legal immigrants (FAP).

(b) An assistance unit (AU) in heat and eat program receives up to twenty dollars and one cent in federal low income home energy assistance program (LIHEAP) benefits. This U.S. Department of Health and Human Services, Administration for Children and Families LIHEAP benefit makes the AU eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(2) If you receive WASHCAP, you will get LIHEAP and your AU is eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(3) Is your (~~assistance unit~~) AU eligible for heat and eat?

Your AU is eligible for heat and eat if you meet all of the following:

(a) You receive at least one dollar in basic food or FAP benefits prior to any recoupments;

(b) Your basic food or FAP AU includes at least one U.S. citizen or qualified alien as defined under WAC 388-424-0001 as required by 8 U.S.C. Sec. 1611(a)(1);

(c) You do not receive transitional food assistance (TFA);

~~((e))~~ (d) You are not eligible for the standard utility allowance (SUA) under WAC 388-450-0195 based on having out_of_pocket costs for heating or cooling;

~~((d))~~ (e) You have not received a regular LIHEAP benefit amount of more than twenty dollars in the past twelve months; and

~~((e))~~ (f) You (~~do not~~) do not receive the maximum allotment for your AU size under WAC 388-478-0060 without using the SUA.

(4) How do you receive heat and eat?

(a) If you are eligible for heat and eat, we deposit the benefit on your EBT card.

(b) The heat and eat benefit is good for twelve months.

(c) After twelve months, we look at your circumstances to see if you are still eligible for heat and eat.

(5) How do you apply for heat and eat?

(a) You do not apply for heat and eat.

(b) We will determine if your AU is eligible to receive heat and eat and automatically provide the benefit to you.