



PROPOSED RULE MAKING

CR-102 (October 2017) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 16, 2017

TIME: 12:53 PM

WSR 17-21-071

Agency: Department of Social and Health Services, Economic Services Administration

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 17-01-038 ; 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); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The department is proposing to amend WAC 388-444-0030 "What additional work requirements and time limits is an able-bodied adult without dependents (ABAWD) subject to in order to be eligible for Basic Food?", WAC 388-444-0045 "How does an ABAWD regain eligibility for Basic Food after being closed for the three-month limit", and WAC 388-444-0065 "Am I eligible for Basic Food if I quit my job or reduce my work effort".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 21, 2017	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2

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

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850, Olympia, WA 98504
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax: 360-664-6185
 Other:
 By (date) 5:00 pm November 21, 2017

Assistance for persons with disabilities:

Contact Jeff Kildahl, DSHS Rules Consultant
 Phone: 360-664-6092
 Fax: 360-664-6185
 TTY: 711 Relay Service
 Email: Kildaja@dshs.wa.gov
 Other:
 By (date) November 7, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: These proposed amendments update the eligibility policies of Work Registrants, including but not limited to the Able-Bodied Adults Without Dependents (ABAWDs) population, bringing them into compliance with Federal Regulations.

Reasons supporting proposal: The Food and Nutrition Services (FNS) approved the department's waiver request to exempt all counties except for most of King County (Muckleshoot Reservation residents remain exempt). This waiver is in effect from January 1, 2017 through December 31, 2018. Clients who were previously identified as ABAWDs under the current version of the WAC (those in Pierce and Snohomish counties) no longer need to participate in work requirements to remain eligible for food benefits. Clients who have already been terminated under these rules may be eligible under the new waiver.

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

Statute being implemented:

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 type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: 7 CFR 273

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Social and Health Services

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> 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

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

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."

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|--|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 12, 2017

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 16-07-003, filed 3/3/16, effective 4/3/16)

WAC 388-444-0030 ~~((What additional work requirements and time limits is an))~~ **Are able-bodied adults without dependents (ABAWD) subject to ((in order)) additional work requirements and time limits to be eligible for basic food?** (1) An able-bodied adult without dependents (ABAWD) is a person who:

(a) Is age eighteen through forty-nine; ~~((and))~~

(b) Is fit for work and not exempted under WAC ~~((388-444-0035(1)))~~ 388-444-0035; and

(c) Does not receive food assistance in an assistance unit (AU) that includes a minor child~~((7))~~. (We will consider the AU to include a minor child even if the minor child is not eligible to receive food assistance ((in that AU; or

~~(d) Is not otherwise exempt under WAC 388-444-0035))~~.

(2) If you are an ABAWD, you must participate in work activities under subsection (4) ~~((unless you are exempt from ABAWD requirements under WAC 388-444-0035))~~ of this section.

(3) Nonexempt ABAWDs who live outside of King county~~((, Snohomish county or Pierce county, and nonexempt ABAWDs who live within the city of Tacoma or the city of Lakewood,))~~ or on the Muckleshoot Tribal Reservation may continue to receive food assistance until December 31, ~~((2016,))~~ 2018 even if ~~((the ABAWD fails))~~ they fail to participate in work-related activities.

(4) ~~((Beginning January 1, 2016,))~~ A nonexempt ABAWD is not eligible to receive food assistance for more than three full months (which do not have to be consecutive months), not including any partial benefit months in a thirty-six month period, unless the ABAWD:

(a) Works ~~((at least twenty hours per week, averaged monthly (eighty hours per month). Working includes))~~ an average of eighty hours per month, including:

(i) Work in exchange for money;

(ii) Work in exchange for goods or services ("in kind" work);

(iii) Unpaid work that is verified according to department requirements; or

(iv) Any combination of ~~((4)(a)(i))~~ (a)(i) through ~~((4)(a)(iii).))~~ (a)(iii) of this subsection; or

(b) Participates in one of the following work programs and is meeting the requirements of that work program:

(i) The Workforce Innovation and Opportunity Act of 2014;

(ii) Section 236 of the Trade Act of 1974;

(iii) A state-approved employment and training program at least an average of eighty hours per month; or

~~((iv))~~ (c) An unpaid work program as provided in WAC 388-444-0040.

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

WAC 388-444-0045 **How does an ABAWD regain eligibility for basic food after ((being closed for)) the three-month limit?** (1) If you have ~~((used up your))~~ received three months of benefits as an able-

bodied adult without dependents (ABAWD) (~~under~~) and are not eligible due to nonparticipation in the work requirements of WAC 388-444-0030, you (~~can~~) may regain eligibility after reapplying for basic food by:

(a) Working eighty hours or more during a thirty-day period;

(b) Participating in and meeting the requirements of a work program as outlined in WAC 388-444-0030 for eighty hours or more during a thirty-day period;

(c) Participating in and meeting the requirements of the community service part of a workfare program; or

(d) Meeting any of the work requirements in (a) through (c) of this subsection in the thirty days after the date you have applied for basic food.

(2) If you regain eligibility for food assistance under subsection (1) of this section, you are eligible for basic food (~~from the date you applied for Basic Food and as long as you continue to meet the requirements of WAC 388-444-0030~~).

(3) If you meet all other requirements for basic food and you have regained eligibility under subsection (1) of this section, you (~~may~~) will receive an additional three consecutive months of basic food benefits when you:

(a) Lose employment; or

(b) (~~Lose the opportunity to participate~~) Stop participating in a work or workfare program.

(4) We only allow the additional three months of basic food (~~under subsection (3)~~) once in each thirty-six month period under subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 13-21-126, filed 10/22/13, effective 11/22/13)

WAC 388-444-0065 Am I eligible for basic food if I quit my job or reduce my work effort? (1) You are not eligible for basic food if you voluntarily quit your current job without good cause as defined in WAC 388-444-0070, and:

(a) You were working or self-employed (~~and working~~) for thirty hours or more per week or you had weekly earnings at least equal to the federal minimum wage multiplied by thirty hours; (~~and~~)

(b) The day you quit or the last day you worked was within (~~sixty~~) thirty days before you applied for basic food or any time after application; and

(c) At the time (~~of~~) you quit or the last day you worked, you would have been required to register for work as defined in WAC 388-444-0005.

(2) You are not eligible for basic food if you voluntarily reduce your work effort without good cause as defined in WAC 388-444-0070, and:

(a) You were working or self-employed (~~and working~~) for thirty hours or more per week or you had weekly earnings at least equal to the federal minimum wage multiplied by thirty hours; (~~and~~)

(b) (~~The reduction was~~) You reduced your work effort within (~~sixty~~) thirty days before you applied for basic food or any time after application; (~~and~~)

(c) (~~If~~) After the reduction, you are working less than thirty hours per week or your weekly earnings are not at least equal to the federal minimum wage multiplied by thirty hours; and

(d) At the time of the reduction you would have been required to register for work as defined in WAC 388-444-0005.

(3) You are not eligible to receive basic food if you have participated in a strike against a federal, state, or local government and have lost your employment because of such participation within thirty days of application.

(4) The following are not considered voluntary quits:

(a) Ending a self-employment enterprise; or

(b) Resigning at the request of the employer.