



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: December 05, 2017

TIME: 11:12 AM

WSR 17-24-080

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 17-19-086 ; 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 388-310-0300 "WorkFirst—Infant care exemptions for mandatory participants", WAC 388-310-0400 "WorkFirst—Entering the WorkFirst program as a mandatory participant", and WAC 388-310-1450 "Pregnancy to employment".

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-----------------|------------|--|---|
| January 9, 2018 | 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 January 10, 2018 (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 January 9, 2018

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) December 26, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Existing language in WAC 388-310-0300, WAC 388-310-0400, and WAC 388-310-1450 states that the Infant Exemption is available for up to twelve months in a lifetime for families with a child under one year old. The department is proposing to amend these sections in order to implement an extension of the lifetime limit to 24 months for families with a child under two years old.

Reasons supporting proposal: Engrossed Substitute Senate Bill 5898 passed the legislature amending RCW 74.08A.260 and RCW 74.08A.270, extending the lifetime limit for the WorkFirst Infant Exemption to 24 months for families with a child under the age of two years old.

Statutory authority for adoption: RCW 74.08A.270, RCW 74.04.050, RCW 74.04.057, RCW 74.08.090, RCW 74.04.055, and chapter 74.12 RCW

Statute being implemented: RCW 74.08A.260 and RCW 74.08A.270

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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: | Angela Aikins | PO Box 45470 Olympia, WA 98504 | 360-725-4784 |
| Implementation: | Angela Aikins | PO Box 45470 Olympia, WA 98504 | 360-725-4784 |
| Enforcement: | Angela Aikins | PO Box 45470 Olympia, WA 98504 | 360-725-4784 |

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: This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(iii) which states in part "This section does not apply to...rules adopting or incorporating by reference without material change...Washington state statutes

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:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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 ____.

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: November 30, 2017

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 15-09-037, filed 4/9/15, effective 5/10/15)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) ~~When ((ean))~~ may I be exempted from participating in WorkFirst activities if I am a mandatory participant?

Either you or the other parent ~~((+))~~, living in the household ~~((+ean))~~, may claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under ~~((one-year))~~ two years of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime ~~((twelve-month))~~ twenty-four month infant exemption.

(2) **If I choose my infant exemption, ((ean)) may I still be required to participate in the WorkFirst program?**

You are required to participate up to twenty hours per week in parenting education ~~((or-parent))~~, parenting skills training, mental health ((and/or)) treatment, chemical dependency treatment, or any combination of these, if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

(3) **(((Can)) May I volunteer to participate in WorkFirst while I have a child under ((one)) two years of age?**

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under ~~((one-year))~~ two years of age. If you decide later to stop participating and you still qualify for an exemption, you will ~~((be put back into))~~ return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) ((above)) of this section.

(4) **Does an infant exemption from participation affect my sixty-month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?**

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 10-22-062, filed 10/29/10, effective 12/1/10)

WAC 388-310-0400 WorkFirst—Entering the WorkFirst program as a mandatory participant. (1) **What happens when I enter the WorkFirst program as a mandatory participant?**

~~((If you are a mandatory participant,))~~ You must follow instructions as written in your individual responsibility plan ~~((+see))~~ (IRP) as required under WAC 388-310-0500 ~~((+))~~, which is written after you have participated in a comprehensive evaluation of elements related to your employability. If you have been identified as someone who needs necessary supplemental accommodation (NSA) services ~~((+))~~ as defined in chapter 388-472 WAC ~~((+))~~, your ~~((case-manager))~~ WorkFirst worker will first develop an accommodation plan to help you access WorkFirst

services. The ~~((ease manager))~~ WorkFirst worker will use the accommodation plan to help develop your IRP with you. If you have been identified as a victim of family violence ~~((+))~~ as defined in WAC 388-61-001~~((+))~~, you and your ~~((ease manager))~~ WorkFirst worker will develop an IRP to help you with your situation, including referrals to appropriate services.

~~((If you are a mandatory participant,))~~ Your ~~((ease manager))~~ WorkFirst worker will refer you to WorkFirst activities unless any of the following applies to you:

(a) You work thirty-two or more hours a week (or, if you are a member of a two-parent family, you work thirty-five hours or more a week). "**Work**" means to engage in any legal, income generating activity ~~((which))~~ that is taxable under the United States tax code or ~~((which))~~ would be taxable with or without a treaty between an Indian nation and the United States;

(b) You participate the equivalent of twenty or more hours a week (or if you are a member of a two-parent family, you participate the equivalent of thirty or more hours a week) in job search, vocational education, issue resolution, or paid or unpaid work that meets the federal definition of core activities, which may include work of sixteen or more hours a week in the federal or state work study program, and you attend a Washington state community or technical college at least half time;

(c) You work twenty or more hours a week (or if you are a member of a two-parent family, you work thirty or more hours a week) in unsubsidized employment and attend a Washington state community or technical college at least half time;

(d) You are under the age of eighteen, have not completed high school, GED, or its equivalent and are in school full time;

(e) You are eighteen or nineteen years of age and are attending high school or an equivalent full time;

(f) You are pregnant or have a child under the age of ~~((twelve months))~~ two years old, and are participating in other pregnancy to employment activities~~((.-See))~~ as defined in WAC 388-310-1450;

(g) Your situation prevents you from looking for a job and you are conducting activities identified on your IRP to help you with your situation~~((.-))~~ (for example, you may be unable to look for a job while you have health problems or you are homeless); or

(h) Your situation prevents you from looking for work because you are a victim of family violence and you are conducting activities on your IRP to help you with your situation.

(2) How will I know what my participation requirements are?

(a) Your ~~((individual responsibility plan))~~ IRP will describe what you need to do to be able to enter job search or other WorkFirst activities and then find a job ~~((+see))~~ as described in WAC 388-310-0500 and 388-310-0700~~((+))~~.

(b) If you enter the pregnancy to employment pathway ~~((+))~~ as described in WAC 388-310-1450(3)~~((+))~~, you must take part in an assessment.

(3) What happens if I do not follow my WorkFirst requirements?

If you do not participate in creating an ~~((individual responsibility plan))~~ IRP, job search, or in the activities listed in your ~~((individual responsibility plan))~~ IRP, and you do not have a good reason, the department will follow the sanction rules in WAC 388-310-1600.

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on (~~TANF/SFA~~) temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of (~~one year~~) two years, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to help you learn how to work, look for work, or prepare for work while still meeting your child's needs. You and your (~~case manager or social~~) WorkFirst worker will decide which variety of services you need, such as:

- (i) Parenting education or parenting skills training;
- (ii) Safe and appropriate child care;
- (iii) Mental health treatment;
- (iv) Chemical dependency treatment;
- (v) Domestic violence services; or
- (vi) Employment services.

(b) The (~~case manager or social~~) WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social (~~worker~~) service specialist and based on the results you will:

(a) Work with your (~~case manager/social~~) WorkFirst worker to decide which required activities best meet your needs(~~(-)~~) (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)(~~(-)~~); and

(b) Be required to participate in the activities identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours (~~(+see)~~) as described under WAC 388-310-1600(~~(+)~~).

(b) During your third trimester of pregnancy will be up to twenty hours per week in parenting education (~~(or)~~) parenting skills training, mental health (~~(and/or)~~) treatment, chemical dependency treatment, or any combination of these, if:

- (i) The comprehensive evaluation or assessment indicates a need; and
- (ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption (~~(+See)~~) under WAC 388-310-0300(~~(+)~~) or volunteer to participate in WorkFirst activities to the fullest of your abilities (~~(+see)~~) under WAC 388-310-0400(~~(+)~~).

(6) What if I have used my (~~(twelve-month)~~) twenty-four month lifetime infant exemption?

If you have another child after using all (~~twelve~~) twenty-four months of the infant exemption, you will be:

(a) Eligible for a twelve-week postpartum deferral period to personally take care of an infant less than twelve weeks of age(~~. During the twelve week postpartum deferral period, you~~) but will be required to participate up to twenty hours per week in parenting education, parenting skills training, mental health (~~and/or~~) treatment, chemical dependency treatment, or any combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required (~~(unless otherwise exempt or you have good reason to participate fewer hours)~~) to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns twelve(~~(-)~~)weeks old(~~(. Activities)~~) in (~~(which you are required to participate include)~~) one or more of the following activities:

(i) Work;

(ii) Looking for work; (~~(or)~~)

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) **Will I be sanctioned if I refuse to participate?**

(a) You are required to participate in the WorkFirst program (~~(see)~~) under WAC 388-310-0200(~~(+)~~) subject to sanction (~~(see)~~) under WAC 388-310-1600(~~(+)~~) unless you have good reason and you:

(i) Are in your third trimester of pregnancy; (~~(or)~~)

(ii) Have not used up your (~~twelve-month~~) twenty-four month lifetime infant exemption and have a child under the age of (~~one year~~) two years old; or

(iii) Have used up your (~~twelve-month~~) twenty-four month lifetime infant exemption and have a child under twelve weeks.

(b) You may be sanctioned if you stop participating in required parenting education (~~(or)~~), parenting skills training, mental health (~~and/or~~) or chemical dependency treatment (~~even-if~~) when you are in your third trimester, claiming the infant exemption, or using a twelve-week postpartum deferral period.