



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: November 20, 2018

TIME: 2:40 PM

WSR 18-23-099

**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** 18-18-104 ; 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 388-460-0010 "Do I have an authorized representative for Basic Food if I live in a treatment center or group home?".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
December 26, 2018	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>

**Date of intended adoption:** Not earlier than December 27, 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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. December 26, 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](mailto:Kildaja@dshs.wa.gov)

Other:

By (date) December 12, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Changes proposed under this filing will amend WAC 388-460-0010 to align with changes to federal regulations regarding use of basic food by authorized representatives.

**Reasons supporting proposal:** This change is necessary to comply with changes in federal regulations.

**Statutory authority for adoption:** RCW 74.04.500, RCW 74.04.510, 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 checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: 7 CFR 273.11 (e) and (f)

**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

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

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Ezra Paskus	712 Pear St SE, Olympia, WA 98501	360-725-4611
Implementation:	Ezra Paskus	712 Pear St SE, Olympia, WA 98501	360-725-4611
Enforcement:	Ezra Paskus	712 Pear St SE, Olympia, WA 98501	360-725-4611

**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:

- 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 19.85.030.

Explanation of exemptions, if necessary: The proposed rule does not have an economic impact on small businesses.

**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 19, 2018

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**

**WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home?** (1) If you live in a qualified developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for basic food benefits:

- (a) On your own behalf;
- (b) Through an authorized representative of your choice; or
- (c) Through the DDA group home acting as your authorized representative.

(2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, ~~((you **must** have an employee of the facility as your authorized representative))~~ a designated treatment center employee must apply for your basic food benefits, and the center will act as your authorized representative.

(3) ~~When the ((person acting as authorized representative for residents in a))~~ qualified drug and alcohol treatment facility or qualified DDA group home is your authorized representative, it must:

- (a) Be aware of ~~((the resident's))~~ your circumstances;
- (b) Notify the department of any changes in your income, resources, or circumstances within ten days of the change;
- (c) Use ~~((the resident's))~~ your basic food benefits for meals served to ~~((the resident))~~ you; and

(d) ~~((Keep enough benefits in the facility's account to transfer one-half of a client's monthly allotment to the client's own account. If the client leaves the facility on or before the fifteenth of the month, the facility must return one-half of the client's Basic Food allotment for that month))~~ Give you a change in circumstances report form, when the center or group home learns you plan to leave, and advise you to report any changes as required under WAC 388-418-0005 to the department within ten days of the date of change.

(4) When a ~~((facility assigns an employee as the))~~ center or group home is an authorized representative for residents, the facility accepts responsibility for:

- (a) Any misrepresentation or intentional program violation; and
- (b) Liability for basic food benefits held at the facility on behalf of ~~((the resident))~~ residents.

(5) When you leave a facility and the center or group home is your authorized representative, it must:

- (a) Either:
  - (i) Return to you a prorated amount of your basic food allotment for that month based on the number of days remaining in the month; or
  - (ii) Notify the department, within five days of your departure, that the facility is unable to refund your prorated share;
- (b) Notify the department of your change in address, new address if available, and that the facility is no longer your authorized representative; and

(c) Provide you with your electronic benefits transfer (EBT) card within five days of leaving the facility if the facility was in possession of the card; or

(d) Return your EBT card to the department within five days if they are unable to provide it to you.