



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: July 22, 2019

TIME: 12:10 PM

WSR 19-15-102

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 19-10-033 ; 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 DSHS Division of Child Support (DCS) is proposing to amend WAC 388-14A-5400 in order to clarify that the *Debt Adjustment Notice* process described in that section applies not only to court orders for child support, but to any child support order. WAC 388-14A-5400 is entitled: **How does the division of child support tell the custodial parent when DCS adjusts the amount of debt owed on the case?**

The *Debt Adjustment Notice* process is used to provide notice to a custodial parent (CP) that DCS has reduced the amount of support debt on a case if that reduction was due to specific reasons listed in the rule; this notice gives the CP a right to hearing if the CP objects to the debt adjustment. Those reasons are: (1) a mathematical error in the debt calculation; (2) A typographical error in the stated debt; (3) proof that DCS should have suspended the support obligation for all or part of the time period involved in the calculation; or proof that the noncustodial parent (NCP) made payments that DCS had not previously credited against the support debt.

The current rule provides that this process is used for adjustment of debt owed under a court order for child support, but DCS uses this process for any child support order. Occasionally, an administrative law judge will dismiss a hearing based on a *Debt Adjustment Notice* based on the reduction of debt under an administrative child support order. Such a technical reading has a due process impact and DCS is amending the rule to ensure that all custodial parents have the same right to notice and a hearing when DCS reduces the support debt on a case.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 27, 2019	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 August 28, 2019 (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 p.m. August 27, 2019

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) August 13, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To clarify that DCS may use the Debt Adjustment Notice process under RCW 74.20.101 in any case, no matter if the child support obligation is established by a court order or administrative order.

Reasons supporting proposal: The current version of WAC 388-14A-5400, which deals with the *Debt Adjustment Notice* process, refers specifically to debt owed under *court orders* for child support. DCS is amending the rule to clarify that the *Debt Adjustment Notice* process can be used for any child support order. This will ensure that due process will be provided and all custodial parents are entitled to notice and a hearing when DCS reduces the support debt on a case.

Statutory authority for adoption: RCW 26.23.030(3), RCW 26.23.110(14), RCW 74.08.090, RCW 74.20.040, RCW 74.20.101

Statute being implemented: RCW 74.20.101

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: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, PO Box 9162, Olympia WA 98507	360-664-5065
Implementation: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, PO Box 9162, Olympia WA 98507	360-664-5065
Enforcement: Coordinator	Nancy Koptur, DCS Rules	DCS HQ, PO Box 9162, Olympia WA 98507	360-664-5065

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: Although this rule may meet the definition of a significant legislative rule under RCW 34.05.328, the requirement for a cost-benefit analysis does not apply under RCW 34.05.328(5)(b)(vii).

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 checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input 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 checked="" 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 19.85.025(4).

Explanation of exemptions, if necessary: This proposal does not affect 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: July 18, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-14A-5400 How does the division of child support tell the custodial parent when DCS adjusts the amount of debt owed on the case?

(1) The division of child support (DCS) mails a debt adjustment notice to the payee under a ~~((court))~~ child support order within thirty days of the date DCS reduces the amount of the ~~((court-ordered))~~ support debt it intends to collect if that reduction was due to:

- (a) A mathematical error in the debt calculation;
- (b) A typographical error in the stated debt;
- (c) Proof that DCS should have suspended the support obligation for all or part of the time period involved in the calculation; or
- (d) Proof the noncustodial parent (NCP) made payments that DCS had not previously credited against the support debt.

(2) The debt adjustment notice must contain the following information:

- (a) The amount of the reduction;
- (b) The reason DCS reduced the support debt, as provided under subsection (1) of this section;
- (c) The name of the NCP and a statement that the NCP may attend and participate as an independent party in any hearing requested by the payee under this section; and
- (d) A statement that DCS continues to provide support enforcement services whether or not the payee objects to the debt adjustment notice.

(3) A debt adjustment notice served in Washington becomes final unless the payee, within twenty days of service of the notice in Washington, files a request with DCS for a hearing under subsection (4) of this section. The effective date of a hearing request is the date DCS receives the request.

(4) A debt adjustment notice served in another state becomes final according to WAC 388-14A-7200.

(5) A hearing under this section is for the limited purpose of determining if DCS correctly reduced the support debt as stated in the notice of debt adjustment.

(6) A payee who requests a late hearing must show good cause for filing a late hearing request if it is filed more than one year after the date of the notice of debt adjustment.