



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 05, 2019

TIME: 11:18 AM

WSR 19-22-067

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 19-12-108 ; 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 create WAC 388-483-0005 "Do I qualify for food assistance if I have a substantial lottery or gambling win?" and to amend WAC 388-414-0001 "Do I have to meet all eligibility requirements for Basic Food?", WAC 388-418-0005 "How will I know what changes to report?", and WAC 388-489-0025 "Can my transitional food assistance benefits end before the end of my five-month transition period?".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 10, 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/office-of-the-secretary/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than December 11, 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. December 10, 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) November 26, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal is necessary to implement federal changes to the Supplemental Nutrition Assistance Program (SNAP) prohibiting individuals with substantial lottery and gambling winnings from receiving SNAP benefits. This change is required by Section 4009 of the Agricultural Act of 2014, implemented by United States Department of Agriculture (USDA) Food and Nutrition services final rule, published on 04/15/2019, adopting provisions in 7 CFR 273.11(r).

Reasons supporting proposal: The proposed rules ensure SNAP (Basic Food) program administration aligns with federal statute and regulations.

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.500, RCW 74.04.510, RCW 74.08.090, RCW 74.08A.010, RCW 74.08A.120, RCW 74.08A.250, 7 CFR 273, 84 FR 15083

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(r)

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:	Ivette Dones-Figueroa	PO Box 45470, Olympia, WA 98504-5470	360-725-4651
Implementation:	Ivette Dones-Figueroa	PO Box 45470, Olympia, WA 98504-5470	360-725-4651
Enforcement:	Ivette Dones-Figueroa	PO Box 45470, Olympia, WA 98504-5470	360-725-4651

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 federal statues or regulations, Washington state statues...".

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: 7 CFR 273.11(r) Disqualification for Substantial Lottery or Gambling Winnings. Consequences of not adopting these rules include federal audit findings leading to potential loss of federal program funding.

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 34.05.328 (5)(b)(vii).

Explanation of exemptions, if necessary: Relating to client financial eligibility.

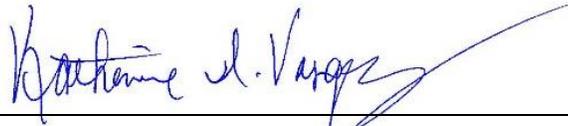
COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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 31, 2019	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-414-0001 Do I have to meet all eligibility requirements for basic food? (1) What is "categorically eligible" (CE)?

(a) Being categorically eligible (CE) means that you have already met requirements for the program. If you are CE, you do not have to meet **every** program requirement to be eligible for basic food.

(b) If your assistance unit (AU) is CE, you automatically meet the following requirements for basic food:

- (i) Countable resource limit under WAC 388-470-0005;
- (ii) Maximum gross monthly income under WAC 388-478-0060; and
- (iii) Maximum net monthly income under WAC 388-478-0060.

(c) If your AU is CE and the information is available from another program, you do not need to provide the following for basic food:

- (i) Social Security number information under WAC 388-476-0005;
- (ii) Sponsored alien information under WAC 388-450-0155; and
- (iii) Residency under WAC 388-468-0005.

(d) Being CE does not mean that your AU is guaranteed to get basic food benefits. If your AU is CE:

(i) You must still meet the other basic food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) **Who is categorically eligible for basic food?** Your basic food AU is CE when your household meets the conditions in subsection (2)(a) or (b) below:

(a) Your AU's income that we do not exclude under WAC 388-450-0015 is at or under two hundred percent of the federal poverty guidelines we use for department programs.

(i) The federal government publishes the federal poverty guidelines on the health and human services web site. These are currently posted at <http://aspe.hhs.gov/poverty/index.shtml>.

(ii) The department uses the monthly value of the income guidelines for the current year beginning the first of April every year.

(iii) If your income is not over two hundred percent of the federal poverty guidelines, we provide your AU information about the department programs and resources in the community.

(b) Everyone in your AU receives one of the following cash assistance programs:

(i) Temporary assistance for needy families (TANF)/state family assistance (SFA) or tribal TANF under WAC 388-400-0005 and WAC 388-400-0010;

(ii) Aged, blind, or disabled (ABD) cash assistance under WAC 388-400-0060;

(iii) Supplemental security income (SSI) under Title XVI of the Social Security Act; or

(iv) Diversion cash assistance (DCA) under WAC 388-432-0005. DCA makes the basic food AU CE for the month it receives DCA and the following three months.

(3) **Who is not CE even if my AU meets the above criteria?**

(a) Even if your AU is CE, members of your AU are not eligible for basic food if they:

- (i) Are not eligible because of their alien or student status;

- (ii) Were disqualified from basic food under WAC 388-444-0055 for failing work requirements;
 - (iii) Are not eligible for failing to provide or apply for a Social Security number;
 - (iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or
 - (v) Live in an institution not eligible for basic food under WAC 388-408-0040.
- (b) If a person in your AU is not eligible for basic food, we do not include them as an **eligible member** of your CE AU.
- (c) Your AU is not CE if:
- (i) Your AU lost eligibility due to substantial lottery or gambling winnings as indicated under WAC 388-483-0005;
 - (ii) Your AU is not eligible because of striker requirements under WAC 388-480-0001;
 - ~~((iii))~~ (iii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;
 - ~~((iii))~~ (iv) Your AU refused to cooperate in providing information that is needed to determine your eligibility;
 - ~~((iv))~~ (v) The head of household for your AU failed to meet work requirements; or
 - ~~((v))~~ (vi) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015.

AMENDATORY SECTION (Amending WSR 19-01-105, filed 12/18/18, effective 2/1/19)

WAC 388-418-0005 How will I know what changes to report? (1)

You must report changes to the department based on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

- (a) If you receive **cash** benefits, you need to tell us if:
 - (i) You move;
 - (ii) Someone moves out of your home;
 - (iii) Your total gross monthly income goes over the:
 - (A) Payment standard under WAC 388-478-0033 if you receive ABD cash; or
 - (B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;
 - (iv) You have liquid resources more than six thousand dollars; or
 - (v) You have a change in employment, you need to tell us if:
 - (A) You get a job or change employers;
 - (B) Your schedule changes from part-time to full-time or full-time to part-time;
 - (C) You have a change in your hourly wage rate or salary; or
 - (D) You stop working.
- (b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:
 - (i) You move;
 - (ii) The child you are caring for moves out of the home;

(iii) Anyone related to the child you are caring for moves into or out of the home;

(iv) There is a change in the recipient child's earned or unearned income unless they are in school full-time as described in WAC 388-450-0070;

(v) The recipient child has liquid resources more than six thousand dollars;

(vi) A recipient child in the home becomes a foster child; or

(vii) You legally adopt the recipient child.

(2) If you do not receive cash assistance but you do receive benefits from basic food, you must report changes for the people in your assistance unit under chapter 388-408 WAC, and tell us if:

(a) Your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060; (~~or~~)

(b) You or a member of your household receives substantial lottery or gambling winnings in a single game that is equal to or over the elderly or disabled resource limit under WAC 388-470-0005(8)(a); or

(c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below twenty hours per week.

Chapter 388-483 WAC SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS

NEW SECTION

WAC 388-483-0005 Do I qualify for food assistance if I have a substantial lottery or gambling win? (1) Any household certified to receive food assistance will lose eligibility upon receipt of a substantial lottery or gambling win by any household member.

(2) A substantial lottery or gambling win is a cash prize that is:

(a) Equal to or over the elderly or disabled resource limit for food assistance, before taxes or other withholdings, under WAC 388-470-0005(8)(a); and

(b) Won in a single game as result of a single hand, bet, or ticket.

(3) If multiple individuals shared in the purchase of the ticket, hand, or similar bet, then we count only the portion of the winnings allocated to members of your household.

(4) You must report a substantial lottery or gambling win for food assistance as required under chapter 388-418 WAC.

(5) The loss of eligibility in subsection (1) of this section begins the first of the month following our termination letter under WAC 388-458-0030.

(6) If your AU lost eligibility due to a substantial win, your AU:

(a) Will not be CE under WAC 388-414-0001 when reapplying for food assistance; and

(b) Is not eligible for transitional food assistance (TFA) under WAC 388-489-0025.

(7) An AU that loses eligibility for food assistance due to a substantial win will remain ineligible until meeting the following criteria as part of a new food assistance application eligibility determination:

- (a) The countable resource limit under WAC 388-470-0005;
- (b) Maximum gross monthly income under WAC 388-478-0060; and
- (c) Maximum net monthly income under WAC 388-478-0060.

(8) If you regain eligibility for food assistance, your AU may become CE upon certification of the new basic food application if you meet CE criteria under WAC 388-414-0001.

AMENDATORY SECTION (Amending WSR 12-18-024, filed 8/27/12, effective 9/27/12)

WAC 388-489-0025 Can my transitional food assistance benefits end before the end of my five-month transition period? Your transitional food assistance benefits will end early if:

(1) Someone who gets transitional food assistance with you applies and is approved for temporary assistance for needy families while still living in your home. You may reapply to have your eligibility for basic food determined;

(2) We learn that you and your household are no longer residing in the state of Washington; or

(3) **All members** of your household are ineligible to get basic food for any of the following reasons:

(a) Refusal to cooperate with quality assurance (WAC 388-464-0001);

(b) Substantial lottery or gambling win (WAC 388-483-0005);

(c) Transfer of property to qualify for basic food assistance (WAC 388-488-0010);

~~((e))~~ (d) Intentional program violation (WAC 388-446-0015 and 388-446-0020);

~~((d))~~ (e) Fleeing felon or violating a condition of probation or parole (WAC 388-442-0010);

~~((e))~~ (f) Alien status (WAC 388-424-0020 and 388-424-0030);

~~((f))~~ (g) Employment and training requirements (WAC 388-444-0055 and 388-444-0075);

~~((g))~~ (h) Work requirements for able-bodied adults without dependents (WAC 388-444-0030);

~~((h))~~ (i) Student status (WAC 388-482-0005);

~~((i))~~ (j) Living in an institution where residents are not eligible for basic food (WAC 388-408-0040); or

~~((j))~~ (k) Deceased.