



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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FILED

DATE: March 27, 2020

TIME: 2:54 PM

WSR 20-08-090

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 19-09-034 ; 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 amendments to 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:
May 5, 2020	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 May 6, 2020 (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. May 5, 2020

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) April 21, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Amendments to WAC 388-460-0010 are proposed in compliance with changes to federal regulations regarding the amount of basic food benefits returned to recipients that leave substance use treatment centers and group homes. Proposed amendments align with federal regulations, including a state option to prorate benefits when a recipient leaves a treatment center after the 15th day of a month. This option is in the best interest of recipients, allowing remaining basic food benefits to be returned to their electronic benefit transfer (EBT) card upon departure from the treatment center.

Reasons supporting proposal: The United States Department of Agriculture, Food and Nutrition Service (FNS) enforces the provisions of the federal Supplemental Nutrition Assistance Program (SNAP). The department amends its rules to ensure that they are consistent with federal statutes, regulations, and guidance. Proposed amendments align department rule with federal regulations.

Statutory authority for adoption: RCW 74.04.500, RCW 74.04.510, RCW 74.08A.120, and 7 C.F.R. 273.11 (e) and (f).

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)(6)

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:	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: The 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 statutes or regulations"

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 (e)(6). Consequences of not adopting these amendments 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 _____.

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: March 27, 2020	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

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, a designated treatment center employee (~~must~~) may apply for your basic food benefits, and the center will act as your authorized representative.

(3) When the qualified drug and alcohol treatment (~~facility~~) center or qualified DDA group home is your authorized representative, it must:

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

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

- (a) (~~Either~~) Account for any benefits withdrawn;
- (b) Return your basic food allotment as follows:

(i) Return (~~to you a prorated amount~~) all of your basic food allotment (~~for that month based on the number of days remaining in the month~~) if you leave the center or group home and no benefits have been spent on your behalf; ((or))

(ii) Return one-half of your basic food allotment if you leave the center or group home on or before the fifteenth of the month; or

(iii) Return a prorated amount of your basic food allotment based on the number of days remaining in the month if you leave a qualified drug and alcohol treatment center on or after the sixteenth of the month;

(c) Notify the department (~~(, within five days of your departure,))~~ that the facility is unable to refund your prorated share anytime during the month;

(~~b~~) (d) Notify the department of your change in address (~~(, new address if available,))~~ and other change of circumstances and that the facility is no longer your authorized representative; and

(~~e~~) (i) 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)) (ii) Return your EBT card to the department (~~within five days~~) by the end of the month if they are unable to provide it to you.