



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: August 03, 2020

TIME: 12:35 PM

WSR 20-16-130

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 20-11-070 ; 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 proposes repeal of WAC 388-478-0010, Households with obligations to pay shelter costs, and amendments to the following sections: WAC 388-418-0020, How does the department determine the date a change affects my cash and basic food benefits?; WAC 388-478-0005, Cash assistance need and payment standards and grant maximum; WAC 388-478-0006, The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance; WAC 388-478-0015, Need standards for cash assistance; WAC 388-478-0020, Payment standards for TANF, SFA, and RCA; WAC 388-478-0027, What are the payment standards for pregnant women assistance (PWA)?; WAC 388-478-0033, What are the payment standards for aged, blind, or disabled (ABD) cash assistance?; and WAC 388-478-0090, What are the monthly income limits for the aged, blind, and disabled (ABD) cash assistance and housing and essential needs (HEN) referral program?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 8, 2020	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Street SE 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 September 9, 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. September 8, 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) August 25, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Proposed amendments will remove references to a separate standard for households with shelter provided at no cost. With this change, the department will no longer issue reduced grants based on a supplied shelter standard for recipients with no shelter costs.

Reasons supporting proposal: The proposed language supports implementation of policy changes as provided in the 2020 supplemental operating budget (ESSB 6168, Chapter 357, Laws of 2020).

Statutory authority for adoption: RCW 74.04.005, RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.04.655, RCW 74.04.770, RCW 74.04.0052, RCW 74.08.043, RCW 74.08.090, RCW 74.08.335, RCW 74.08A.100, RCW 74.08A.120, RCW 74.08A.230, RCW 74.62.030

Statute being implemented: None

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" 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:

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:	Kathryn Gussett	PO Box 45470, Olympia, WA 98504-5770	509-290-8435
Implementation:	Kathryn Gussett	PO Box 45470, Olympia, WA 98504-5770	509-290-8435
Enforcement:	Kathryn Gussett	PO Box 45470, Olympia, WA 98504-5770	509-290-8435

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)(vii) which states in part, "[t]his 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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input 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 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 34.05.328(5)(b)(vii).

Explanation of exemptions, if necessary: These amendments do not impact small business. They only impact DSHS clients.

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 31, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-418-0020 How does the department determine the date a change affects my cash and basic food benefits? (1) The rules in this chapter refer to cash and basic food benefits unless otherwise specified.

(2) If you report a change that happened between the date you applied for benefits and the date we interview you under WAC 388-452-0005, we take this change into consideration when we process your application for benefits.

(3) If we learn about a change in your circumstances from another person, agency, or by matching with any number of systems, we determine the impact this change has on your benefits. We may request additional information under WAC 388-490-0005 or update your benefits based on this information.

(4) For cash and basic food programs, if you report a change in your income that we expect to continue at least a month beyond the month when you reported the change, we recalculate the income we estimated under WAC 388-450-0215 based on this change.

(5) Changes reported outside of normal business hours, including changes you submitted online, in person, or sent to us by fax, are considered received the next business day.

(6) When a change causes an increase in benefits, you must provide proof of the change before we adjust your benefits.

(a) If you give us the proof within ten days from the date we requested it, we increase your benefits starting the month after the month you reported the change.

(b) If you give us the proof more than ten days after the date we requested it, we increase your benefits starting the month after the month we got the proof.

(c) If you are eligible for more benefits and we have already sent you benefits for that month, we provide you the additional benefits within ten days of the day we got the proof.

(7) When a change causes a decrease in benefits, we reduce your benefit amount without asking for proof.

(a) If you report a change within the time limits in WAC 388-418-0007, and you are not reporting this as part of a mid-certification review, we decrease your benefits starting the first month following the advance notice period. The advance notice period:

(i) Begins on the day we send you a letter about the change; and

(ii) Is determined according to the rules in WAC 388-458-0025.

(b) If you do not report a change you must tell us about under WAC 388-418-0005, or you report a change later than we require under WAC 388-418-0007, we determine your eligibility as if you had reported this on time. If you received more benefits than you should, we set up an overpayment as described under chapter 388-410 WAC.

(8) If we are not sure how the change will affect your benefits, we send you a letter as described in WAC 388-458-0020 requesting information from you.

(a) We give you ten days to provide the information. If you need more time, you can ask for it.

(b) If you do not give us the information in time, we will stop your benefits after giving you advance notice, if required, as described in WAC 388-458-0030.

(9) Within ten days of the day we learn about a change, we send advance notice according to the rules in chapter 388-458 WAC and take necessary action to provide you the correct benefits. If you request a hearing about a proposed decrease in benefits before the effective date or within the notice period as described in WAC 388-458-0040, we wait to take action on the change.

(10) If you disagree with a decision we made to change your benefits, you may request a fair hearing under chapter 388-02 WAC. The fair hearing rules in chapter 388-02 WAC do not apply for a "mass change." A mass change is when we change the rules that impact all recipients and applicants.

(11) When you request a hearing and receive continued benefits:

(a) We keep giving you the same benefits you got before the advance notice of reduction until the earliest of the following events occur:

(i) For basic food only, your certification period expires;
(ii) The end of the month the fair hearing decision is mailed;
(iii) You state in writing that you do not want continued benefits;

(iv) You withdraw your fair hearing request in writing; or
(v) You abandon your fair hearing request;
(vi) An administrative law judge issues a written order that ends continued benefits prior to the fair hearing.

(b) We establish an overpayment claim according to the rules in chapter 388-410 WAC when the hearing decision agrees with the action we took.

(12) Some changes have a specific effective date as follows:

(a) When cash assistance benefits increase because a person is added to your assistance unit, we use the effective date rules for applications in WAC 388-406-0055.

(b) ~~((When cash assistance benefits increase because you start paying shelter costs, we use the date the change occurred.~~

~~(e-))~~ When a change in law or regulation changes the benefit amount, we use the date specified by the law or regulation.

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-478-0005 Cash assistance need and payment standards and grant maximum. (1) Need standards for cash assistance programs represent the amount of income required by individuals and families to maintain a minimum and adequate standard of living. Need standards are based on assistance unit size and include basic requirements for food, clothing, shelter, energy costs, transportation, household maintenance and operations, personal maintenance, and necessary incidentals.

(2) Payment standards for assistance units in medical institutions and other facilities are based on the need for clothing, personal maintenance, and necessary incidentals (see WAC ~~((182-513-1300 and 182-515-1500))~~ 388-478-0006).

(3) Need and payment standards for persons and families who do not reside in medical institutions and other facilities are based on ~~((their obligation to pay for shelter))~~ program grant standards.

~~((a) Eligibility and benefit levels for persons and families who meet the requirements in WAC 388-478-0010 are determined using standards for assistance units with an obligation to pay shelter costs.~~

~~(b) Eligibility and benefit levels for all other persons and families are determined using standards for assistance units who have shelter provided at no cost.~~

~~(c) For recent arrivals to Washington state who apply for temporary assistance for needy families (TANF), see WAC 388-468-0005.)~~

(4) Starting July 1, 2012, the monthly cash assistance grant for an assistance unit cannot exceed the payment standard for a family of eight listed in WAC 388-478-0020(1).

AMENDATORY SECTION (Amending WSR 15-12-021, filed 5/22/15, effective 7/1/15)

WAC 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance. Payment standards for assistance units (AU) in certain facilities and medical institutions are based on the need for clothing, personal maintenance, and necessary incidentals (CPI).

(1) The CPI cash assistance payment standard for recipients of cash assistance is:

(a) Forty-one dollars and sixty-two cents for eligible persons in medical institutions as defined in WAC 182-500-0050; or

(b) Thirty-eight dollars and eighty-four cents for eligible persons in one of the following facilities as defined in WAC 182-513-1100:

(i) Adult residential care (ARC) facility;

(ii) Adult residential rehabilitation centers (ARRC);

(iii) Adult residential treatment facility (ARTF);

(iv) Enhanced adult residential care facility (EARC); or

(v) Developmental disability administration (DDA) group home facilities.

(2) When living situation is other than the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100 refer to ((WAC 388-478-0010 when living situation is other than the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100)) the following:

(a) WAC 388-478-0020 for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA);

(b) WAC 388-478-0027 for pregnant women assistance (PWA); or

(c) WAC 388-478-0033 for aged, blind, or disabled (ABD).

AMENDATORY SECTION (Amending WSR 19-24-032, filed 11/25/19, effective 1/1/20)

WAC 388-478-0015 Need standards for cash assistance. The monthly need and payment standards for cash assistance are based on a determination of the assistance unit size. The need standards for cash assistance units are:

(1) ~~((For assistance units with an obligation to pay shelter costs))~~ Effective January 1, 2020:

Assistance unit size	Need standard
1	\$1,520
2	1,923
3	2,374
4	2,801
5	3,229
6	3,656
7	4,226
8	4,677
9	5,128
10 or more	5,579

(2) ~~((For assistance units with shelter provided at no cost))~~ Effective January 1, 2021:

Assistance unit size	Need standard
1	((695)) <u>\$1,538</u>
2	((880)) <u>1,946</u>
3	((1,086)) <u>2,402</u>
4	((1,281)) <u>2,834</u>
5	((1,477)) <u>3,267</u>
6	((1,672)) <u>3,699</u>
7	((1,933)) <u>4,276</u>
8	((2,139)) <u>4,732</u>
9	((2,346)) <u>5,188</u>
10 or more	((2,552)) <u>5,645</u>

AMENDATORY SECTION (Amending WSR 18-09-088, filed 4/17/18, effective 7/1/18)

WAC 388-478-0020 Payment standards for TANF, SFA, and RCA.

~~((1))~~ The maximum monthly payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA) assistance units ~~((with obligations to pay shelter costs))~~ are:

Assistance unit size	Payment standard	Assistance unit size	Payment standard
1	\$363	6	\$877
2	459	7	1,013
3	569	8	1,121
4	670	9	1,231
5	772	10 or more	1,338

~~((2) The maximum monthly payment standards for TANF, SFA, and RCA assistance units with shelter provided at no cost are:))~~

((Assistance unit size))	((Payment standard))	((Assistance unit size))	((Payment standard))
((1))	(((\$221))	((6))	(((\$532))
((2))	((280))	((7))	((616))
((3))	((345))	((8))	((681))
((4))	((408))	((9))	((749))
((5))	((469))	((10 or more))	((813))

AMENDATORY SECTION (Amending WSR 19-21-056, filed 10/11/19, effective 11/11/19)

WAC 388-478-0027 ~~What ((are)) is the payment ((standards)) standard for pregnant women assistance (PWA)?~~ ~~((+1))~~ The payment ~~((standards))~~ standard for a PWA cash assistance ~~((units with obligations to pay shelter costs are))~~ unit is:

Assistance Unit Size	Payment Standard
1	\$363

~~((2) The payment standards for PWA cash assistance units with shelter provided at no cost are:))~~

((Assistance Unit Size))	((Payment Standard))
((1))	(((\$221))

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-478-0033 ~~What are the payment standards for aged, blind, or disabled (ABD) cash assistance?~~ ~~((+1))~~ The payment standards for aged, blind, or disabled (ABD) cash assistance program assistance units ~~((with obligations to pay shelter costs))~~ are:

Assistance Unit Size	Payment standard
1	\$197
2	\$248

~~((2) The payment standards for aged, blind, or disabled (ABD) cash assistance units with shelter provided at no cost are:))~~

((Assistance Unit Size))	((Payment Standard))
((1))	(((\$120))
((2))	(((\$152))

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-478-0090 What are the monthly income limits for the aged, blind, or disabled (ABD) cash assistance and housing and essential needs (HEN) referral program? You must have countable income, as defined in WAC 388-450-0162, at or below the monthly income limit in order to receive aged, blind, or disabled (ABD) cash assistance or a referral to the housing and essential needs (HEN) program.

(1) The ABD cash assistance and HEN referral monthly income limits for individuals (~~with an obligation to pay shelter costs~~) are:

Assistance Unit Size	Monthly Income Limit
1	\$339
2	\$428

(2) (~~The ABD cash assistance and HEN referral monthly income limits for individuals with shelter provided at no cost are:~~)

(Assistance Unit Size)	(Monthly Income Limit)
((1))	(\$206)
((2))	(\$261)

~~((3))~~ The ABD cash assistance and HEN referral monthly income limits for individuals in medical institutions and group living facilities are:

Facility Type	Assistance Unit Size	Monthly Income Limit
Medical institutions (including nursing homes and hospitals)	1	\$41.62
Adult family homes	1	\$339.00
Boarding homes (including assisted living, enhanced residential centers (EARC), and adult residential centers (ARC))	1	\$38.84
Developmental disability administration (DDA) group homes	1	\$38.84
Mental health adult residential treatment facilities (ARTF)	1	\$38.84

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-478-0010 Households with obligations to pay shelter costs.