



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: May 13, 2021

TIME: 11:20 AM

WSR 21-11-046

Agency: Department of Social and Health Services, Economic Services Administration

Original Notice

Supplemental Notice to WSR 20-23-050

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-12-095 ; 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 388-482-0005, How does being a student of higher education affect my eligibility for Washington basic food program?.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 22, 2021	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Street SE Olympia, WA 98504 Or held virtually	Public parking at 11th and Jefferson. A map is available at: https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2 Due to the COVID 19 pandemic, hearing may be held virtually, see DSHS website for most up to date information.

Date of intended adoption: Not earlier than June 23, 2021 (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. June 22, 2021

Assistance for persons with disabilities:

Contact Katherine I. Vasquez , DSHS Rules Coordinator

Phone: 360-664-6097

Fax: 360-664-6185

TTY: 711 Relay Service

Email: katherine.vasquez@dshs.wa.gov

Other:

By (date) June 9, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The original proposed amendments to WAC 388-482-0005 clarify language regarding student eligibility for Basic Food. This supplemental proposal to amend WAC 388-482-0005 expands Supplemental Nutrition Assistance Program (SNAP) eligibility for higher education students due to the indefinite conditions of the Coronavirus (COVID-19) pandemic as provided under Section 702 of the Consolidated Appropriation Act, 2021 (H.R. 133), signed into law on December 27, 2020.

These amendments are currently in place under emergency rule since February 1, 2021 under WSR 21-04-110.

Reasons supporting proposal: These amendments more accurately align rule language with that of federal regulation related to student eligibility for the Supplemental Nutrition Assistance Program (SNAP).

Statutory authority for adoption: RCW 43.20A.760, RCW 74.04.500, RCW 74.04.510, RCW 74.08A.120

Statute being implemented:

Is rule necessary because of a:
Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION: 7 C.F.R. 273.5 and Section 702 of the H.R. 133

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 Private Public Governmental

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Ivette Dones-Figueroa	PO Box 45470 Olympia, WA 98504	360-725-4651
Implementation:	Ivette Dones-Figueroa	PO Box 45470 Olympia, WA 98504	360-725-4651
Enforcement:	Ivette Dones-Figueroa	PO Box 45470 Olympia, WA 98504	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)(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: May 13, 2021

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-482-0005 How does being a student of higher education affect my eligibility for the Washington basic food program? (1)

~~((For basic food, we consider you a student of higher education))~~ If you are enrolled at least half-time in an institution of higher education, you are ineligible for basic food unless you qualify for an exemption in subsection (4) of this section.

(2) You are considered a student of higher education for basic food purposes if you are:

~~(a) ((Age eighteen through forty-nine;~~

~~(b) Physically and mentally able to work (we determine if you are unable to work);~~

~~(e))~~ Enrolled in an institution of higher education at least half-time as defined by the institution; and

~~((d))~~ (b) Enrolled in coursework considered to be higher education.

~~((2))~~ (3) An institution of higher education is:

(a) Any educational institution that requires a high school diploma or high school equivalency certificate;

(b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or

(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

~~((3))~~ (4) If you are a student of higher education, you must also meet at least one of the following ((conditions)) exemptions to be eligible for basic food:

(a) You are age seventeen or younger;

(b) You are age fifty or older;

(c) You are physically or mentally unable to work (we determine if you are unable to work);

(d) You have paid employment and work an average of at least twenty hours per week each month;

~~((b))~~ (e) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

~~((e))~~ (f) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this ((condition)) exemption, you must:

(A) Have approval for work study at the time of application for basic food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends; or

(B) We find out you refused a work study assignment.

(g) Starting January 16, 2021, you are determined eligible to participate in state or federal work study by your institution of higher education during the regular school year. Requirements under subsections (4)(f)(i)-(iii) of this section are suspended until the

COVID-19 federal public health emergency ends as described under subsection (5) of this section.

~~((d))~~ (h) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

~~((e))~~ (i) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

- (i) Attend class and satisfy the twenty-hour work requirement; or
- (ii) Take part in a work study program.

~~((f))~~ (j) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

~~((g))~~ (k) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

- (i) The child's parents; or
- (ii) Your spouse.

~~((h))~~ (l) You participate in the WorkFirst program under WAC 388-310-0200;

~~((i))~~ (m) You receive TANF or SFA benefits;

~~((j))~~ (n) You attend an institution of higher education through:

- (i) The Workforce Investment Act (WIA);
- (ii) The basic food employment and training program under chapter 388-444 WAC;
- (iii) An approved state or local employment and training program;

or

(iv) Section 236 of the Trade Act of 1974.

(o) Starting January 16, 2021, you have an expected family contribution (EFC) of zero dollars in the current academic year as determined by part F of Title IV of the Higher Education Act of 1965.

~~((4))~~ (5) The conditions in subsection (4)(g) and (o) of this section will continue as follows:

(a) For initial applications, until thirty days after the COVID-19 federal public health emergency ends.

(b) For recertifications, no earlier than your first recertification thirty days after COVID-19 federal public health emergency ends.

(6) If you are a student of higher education, your status as a student:

- (a) Begins the first day of the school term; and
- (b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.

~~((5))~~ (7) We do not consider you a student of higher education if you:

- (a) Graduate;
- (b) Are suspended or expelled;
- (c) Drop out; or
- (d) Do not intend to register for the next normal school term other than summer school.