



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 14, 2021

TIME: 10:59 AM

WSR 21-11-060

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 21-07-128 ; 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 amend WAC 388-412-0025, "How do I receive my benefits?".

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 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 8, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments to WAC 388-412-0025 support the department's processes and procedures when suspending electronic benefit transfer (EBT) benefits for incarcerated individuals, and recoupment of unused benefits on EBT cards.

Reasons supporting proposal: The proposed amendments to WAC 388-412-0025 will align rule language with that of current federal regulations.

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.08.090

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 C.F.R. 274.2(i)

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:	Patrick Budde	PO Box 45470, Olympia, WA 98504-5470	360-764-0068
Implementation:	Patrick Budde	PO Box 45470, Olympia, WA 98504-5470	360-764-0068
Enforcement:	Patrick Budde	PO Box 45470, Olympia, WA 98504-5470	360-764-0068

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 statutes or regulations, Washington state statutes...".

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:

- 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: These amendments do not impact small businesses. 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:

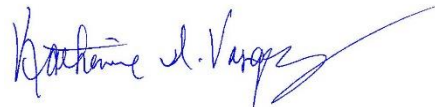
Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

Date: May 14, 2021

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-412-0025 How do I receive my benefits? (1) You can choose to get your cash benefits by:

(a) Electronic benefit transfer (EBT), which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;

(b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;

(c) A warrant (check) to an approved authorized representative (AREP);

(d) A warrant (check) to a payee who is not approved for direct deposit; or

(e) A warrant (check) to you if you get:

(i) Diversion cash assistance (DCA) that is not paid directly to a vendor;

(ii) Ongoing additional requirements (OAR) that cannot be paid directly to a vendor; or

(iii) Clothing and personal incidentals (CPI) payments.

(2) We send your **basic food** benefits to you by EBT.

(3) EBT accounts:

(a) We set up an EBT account for the head of household of each assistance unit (AU) that receives benefits by EBT.

(b) You use a Quest debit card to access your benefits in your EBT account. You select a personal identification number (PIN) that you must enter when using this card.

(c) You must use your cash and basic food benefits from your EBT account. We cannot transfer cash to your bank account or change cash or basic food benefits to checks.

(d) Unused EBT benefits: If you do not use your EBT account within three hundred sixty-five days, we cancel the cash and basic food benefits on your account.

(4) **Suspended EBT benefits:**

(a) We suspend access to benefits from your EBT account if:

(i) You are a single-person household; and

(ii) We are notified that you are incarcerated over thirty days.

(b) You must contact the department upon release to activate your EBT account for use within forty-eight hours.

(5) **Unused EBT benefits:**

(a) If you do not use your EBT account within two-hundred seventy-four days, we cancel the cash and basic food on your account; or

(b) Benefits on your account will be canceled upon verification you and all members of your household are deceased.

(6) **Replacing benefits:**

(a) Replacing basic food benefits:

(i) We **can replace** cancelled benefits we deposited **less than three hundred sixty-five days** from the date you ask for us to replace your benefits.

(ii) We **cannot replace** cancelled benefits deposited **three hundred sixty-five or more days** from the date you ask us to replace your benefits.

(b) **Replacing cash benefits:** We **can replace** cancelled cash benefits for you or another member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(c) **Replacing cash warrants:**

(i) If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(ii) If we issued the benefits as a warrant one hundred sixty or fewer days ago, your local office can replace the warrant.

(iii) If we issued the benefits as a warrant more than one hundred sixty days ago, the Office of Accounting Services (OAS) can replace the warrant. We will contact OAS with the request.

~~((+5+))~~ (7) **Correcting your EBT balance:** When you make a purchase with your EBT card a system error can occur where the purchase amount is not deducted from your EBT account. When the error is discovered the following will happen:

(a) You will be notified in writing of the system error before the money is removed from your account; and

(b) You will have ninety days to request an administrative hearing. If you ask for an administrative hearing within ten calendar days, the money will not be removed from your EBT account unless:

(i) You withdraw your administrative hearing request in writing;

(ii) You do not follow through with the administrative hearing process; or

(iii) The administrative law judge tells us in writing to remove the money.