



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 17, 2021

TIME: 11:09 AM

WSR 21-17-120

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 21-13-107 ; 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 388-444-0010 "Who is exempt from work registration while receiving basic food".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 21, 2021	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504 Or virtual	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2 Due to the COVID 19 pandemic hearings are being held virtually. Please see the DSHS website for the most up to date information.

Date of intended adoption: Not earlier than September 22, 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. September 21, 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: DSHSRPAURulesCoordinator@dshs.wa.gov

Other:

By (date) 5:00 pm September 7, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In 2020, the Washington Legislature passed Third Substitute Senate Bill 5164 (Chapter 136, Laws of 2020) allowing undocumented individuals applying for T and U visas, asylum, and "victims of human trafficking" to be eligible for the state-funded Food Assistance Program (FAP). As these individuals are not eligible to work in the United States they cannot register for work, which is currently required by FAP. This proposed amendment will add an exemption from work registration for individuals who are not legally able to work due to their immigration status.

Reasons supporting proposal: Planned amendments are necessary to implement Third Substitute Senate Bill 5164 (Chapter 136, Laws of 2020) which takes effect on February 1, 2022, and assists survivors of certain crimes..

Statutory authority for adoption:

RCW 74.04.005, 74.04.050, 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.08.090, 74.08A.120, and 74.09.035

Statute being implemented: RCW 74.04.005, 74.08A.120, and 74.09.035

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. 273.10(g)(1)(ii)

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:	Patrick Budde	PO Box 45470 Olympia, WA 98504	360-764-0068
Implementation:	Patrick Budde	PO Box 45470 Olympia, WA 98504	360-764-0068
Enforcement:	Patrick Budde	PO Box 45470 Olympia, WA 98504	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 statues or regulations, Washington state statues... Also exempt under RCW 34.05.328 (5)(b)(vii).

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 C.F.R. 273.10(g)(1)(ii)

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 exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions, if necessary: Applies only to DSHS client 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: August 16, 2021

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

WAC 388-444-0010 Who is exempt from work registration while receiving basic food? If you receive basic food, you are exempt from work registration and the requirements in chapter 388-444 WAC if you meet any one of the following conditions:

- (1) Are age sixteen or seventeen, and:
 - (a) Not the head of household;
 - (b) Attend school; or
 - (c) Are enrolled at least half time (using the institutions definition) in an employment and training program under:
 - (i) The Workforce Innovation and Opportunity Act of 2014 (WIOA);
 - (ii) Section 236 of the Trade Act of 1974; or
 - (iii) A state or local employment and training program.
- (2) You are a student age eighteen or older enrolled at least half time as defined by the institution in:
 - (a) Any accredited school;
 - (b) A training program; or
 - (c) An institution of higher education. If you are enrolled in higher education, you must meet the requirements under WAC 388-482-0005 to be eligible for basic food benefits.
- (3) You are an employed or self-employed person working at least thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty;
- (4) You are complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);
- (5) You receive unemployment compensation (UC) benefits or have an application pending for UC benefits;
- (6) You are responsible to care for:
 - (a) A dependent child under age six; or
 - (b) A person with an incapacity that meets the requirements of WAC 388-310-0350 (1)(d)(i), (ii), (iv), and (v), except the person does not need to be related to you as stated in (1)(d)(v).
- (7) You are physically or mentally unable to work as determined below:
 - (a) A DSHS SSI facilitator has assessed you as likely to be approved for SSI or other benefits and are required to apply for SSI or another type of federal disability benefit (such as railroad retirement or Social Security disability) and your SSI application status may be verified through either the SSI facilitator or state data exchange, or both;
 - (b) You have a severe and chronic mental, physical, emotional, or cognitive disability that prevents you from participating in work or work activities for at least thirty hours a week; or
 - (c) We verify your disability using documentation from DDA, DVR, HCS, MHD, or RSN, or by one of the medical or mental health professionals listed in WAC 388-310-0350(2).
- (8) You regularly participate in a drug addiction or alcoholic treatment and rehabilitation program as defined by the Food Stamp Act of 1977.
- (9) You are not legally able to work due to your immigration status.