



# 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: December 15, 2021  
TIME: 9:24 AM

WSR 22-01-140

**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 21-17-026 ; 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 388-437-0005, Changes to food assistance in response to the COVID-19 pandemic.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 25, 2022	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504  <b>Or virtually</b>	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>  <b>Due to the impacts of COVID-19, hearings are being held virtually. Please see the DSHS website for the most current information.</b>

**Date of intended adoption:** Not earlier than January 26, 2022 (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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) January 25, 2022, 5:00 p.m.

**Assistance for persons with disabilities:**

Contact Shelley Tencza, DSHS Rules Consultant

Phone: 360-664-6198

Fax: 360-664-6185

TTY: 711 Relay Service

Email: [Tencza@dshs.wa.gov](mailto:Tencza@dshs.wa.gov)

Other:

By (date) January 11, 2022, 5:00pm\_

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Proposed amendments define that households that receive a zero benefit are not eligible for emergency adjustments to food assistance benefit issuances and households that are eligible to receive an emergency adjustment will receive a minimum of \$95, as implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302). These policies are currently in place under emergency rule filed as WSR 22-01-035.

**Reasons supporting proposal:** Rules were created and amended via emergency adoption in response to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302), updated guidance from Food and Nutrition Services issued on April 1, 2021, and a clarification from Food and Nutrition Services issued on April 21, 2021. The department is proposing permanent adoption of these rules and amendments.

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

**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: H.R. 6201, Section 2302

**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	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)(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:

- 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: The proposed 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:** December 15, 2021

**Name:** Katherine I. Vasquez

**Title:** Rules Coordinator

**Signature:**

**WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic.** Starting March 2020, assistance units (AUs) eligible for either federal or state-funded food assistance, or both, will receive emergency allotments that bring the AU up to the maximum benefit for their household size.

(1) The amount is the maximum food assistance benefit allotment for your AU size under WAC 388-478-0060(1) less the amount received under WAC 388-450-0162 (4)(b).

(2) Beginning April 2021, AUs that receive less than \$95.00 in emergency allotments under WAC 388-437-0005(1) will receive a minimum emergency allotment of \$95.00.

(3) AUs receiving zero benefits due to income do not qualify for an emergency allotment unless the zero benefit is due to a prorated issuance in the first month of eligibility, as described in WAC 388-412-0015(4), with ongoing months above zero benefits.

(4) Emergency allotments will continue each month until:

(a) The secretary for health and human services rescinds the public health emergency declaration that was issued on January 27, 2020, under section 319 of the Public Health Service Act;

(b) The state-issued emergency or disaster declaration expires;  
or

(c) The food and nutrition service directs otherwise.

~~((3))~~ (5) Emergency allotments for state-funded food assistance will continue each month, contingent on the availability of state funds.