



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: March 18, 2022

TIME: 5:13 PM

WSR 22-07-076

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

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-22-097 ; 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 adoption of chapter 388-394 WAC, Transitional Cash Assistance: WAC section 388-394-0010, What is the transitional cash assistance (TCA) program?; and amendments to WAC 388-408-0035, Who is in my assistance unit for basic food?; WAC 388-489-0005, Who is eligible for transitional food assistance?; WAC 388-489-0010, How is my transitional food assistance benefit calculated?; and WAC 388-489-0015, How long will my household receive transitional food assistance?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 26, 2022	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/office-of-the-secretary/driving-directions-office-bldg-2 Due to the COVID 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 April 27, 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

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. April 26, 2022

Assistance for persons with disabilities:

Contact Shelley Tencza, DSHS Rules Consultant

Phone: 360-664-6036

Fax: 360-664-6185

TTY: 711 Relay Service

Email: Tencza@dshs.wa.gov

Other:

By (date) 5:00 p.m. April 12, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rulemaking actions support implementation of Substitute House Bill 1151 (Chapter 9, Laws of 2021), effective July 1, 2022. Section 2 of this legislation creates the Transitional Cash Assistance (TCA) program, a state-funded cash assistance benefit available to households with children, not simultaneously receiving TANF, who terminate basic food benefits due to exceeding the gross income limit or voluntary closure. Families receiving TCA are eligible for Transitional Food Assistance for a period of five months.

Reasons supporting proposal: See above.

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.04.680, RCW 74.08.090

Statute being implemented: RCW 74.04.680

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:	Troy Burgess	PO Box 45470 Olympia, WA 98504	360-584-5162
Implementation:	Troy Burgess	PO Box 45470 Olympia, WA 98504	360-584-5162
Enforcement:	Troy Burgess	PO Box 45470 Olympia, WA 98504	360-584-5162

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 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: March 17, 2022

Name: Katherine I. Vasquez

Title: Rules Coordinator

Signature:

**Chapter 388-394 WAC
TRANSITIONAL CASH ASSISTANCE**

NEW SECTION

WAC 388-394-0010 What is the transitional cash assistance (TCA) program?

(1) The transitional cash assistance program is a state-funded benefit administered by the department of social and health services and provides an additional cash benefit to low income families who meet specific criteria.

(2) The following definitions apply to this program:

(a) "Family" means an assistance unit with a qualifying child;

(b) "Qualifying child" means a child meeting the following conditions:

(i) Under age 18; or

(ii) Under age 19 and participating full-time in a secondary school program as described in WAC 388-404-0005.

(3) Who is eligible for the transitional cash assistance program?

You may be eligible for transitional cash assistance for the last month you receive basic food benefits if you meet all of the following:

(a) Your basic food assistance is ending because:

(i) Your assistance unit exceeds the maximum gross monthly income limit for your household size under WAC 388-478-0060; or

(ii) You asked us to stop your benefits.

(b) No one in your basic food assistance unit receives temporary assistance for needy families, including tribal TANF, or state family assistance;

(c) Your food assistance unit includes a family with a qualifying child; and

(d) You reside in Washington state as required under WAC 388-468-0005.

(4) What benefits will I receive if I am eligible for the transitional cash assistance program?

(a) Your assistance unit will receive a separate \$10 cash assistance benefit.

(b) We deposit the cash assistance benefit to your EBT card.

(5) How do I apply for the transitional cash assistance program?

(a) You do not have to apply for the transitional cash assistance program.

(b) We will determine if your assistance unit is eligible and automatically provide the benefit to you.

(6) There is no limit to the number of times your family can receive transitional cash assistance.

(7) Continuance of the program is contingent on state funds specifically for the transitional cash assistance program. The department may discontinue the program when funding is no longer available.

WAC 388-408-0035 Who is in my assistance unit for basic food?

(1) ~~((For basic food, a))~~ A person must be in your assistance unit ~~((AU))~~ if they live in the same home as you and ~~((:~~

~~(a) Regularly))~~ regularly buy food or prepare meals with you. ~~((:~~
or

~~(b) You provide meals for them and they pay less than a reasonable amount for meals.))~~

(2) If the following people live with you, they must be in your ~~((AU))~~ assistance unit even if you do not usually buy or prepare food together:

(a) Your spouse;

(b) Your parents if you are under age ~~((twenty-two (even if you are married)))~~ 22;

(c) Your children under age ~~((twenty-two))~~ 22;

(d) The parent of a child who must be in your ~~((AU))~~ assistance unit;

(e) A child ~~((other than a foster child))~~ under age ~~((eighteen))~~ 18 who ~~((doesn't))~~ does not live with their parent unless the child:

(i) Is a foster child;

~~((i))~~ (ii) Is emancipated; or

~~((ii))~~ (iii) Is not financially dependent on an adult in the
~~((AU))~~ assistance unit.

(3) If any of the people in subsections (1) or (2) of this section already receive transitional food assistance under chapter 388-489 WAC, ~~((you))~~ they can only receive benefits if they choose to reapply for basic food as described in WAC 388-489-0022.

(4) If you live in an institution where you may be eligible for basic food under WAC 388-408-0040, we decide who is in your ~~((AU))~~ as-
sistance unit as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your ~~((AU))~~ assistance unit under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your ~~((AU))~~ assistance unit under subsection (2) of this ~~((rule))~~ section, and other residents you choose to apply with.

(5) Anyone who must be in your ~~((AU))~~ assistance unit under subsection (1) or (2) of this section is an ineligible ~~((AU))~~ assistance unit member if they:

(a) Are disqualified for an intentional program violation ~~((IPV))~~ under WAC 388-446-0015;

(b) Do not meet ~~((ABAWB))~~ work requirements under WAC 388-444-0030 ~~((:~~

~~(c) Do not meet work requirements under))~~ or WAC 388-444-0055;

~~((d))~~ (c) Do not provide a ~~((Social Security))~~ social security
number under WAC 388-476-0005;

~~((e))~~ (d) Do not meet the citizenship or alien status require-
ments under chapter 388-424 WAC;

~~((f))~~ (e) Are fleeing a felony charge or violating a condition
of parole or probation under WAC 388-442-0010.

(6) If your ~~((AU))~~ assistance unit has an ineligible member:

(a) We count the ineligible member's income as part of your
~~((AU))~~ assistance unit's income under WAC 388-450-0140;

(b) We count all the ineligible members resources to your ((AU)) assistance unit; and

(c) We do not use the ineligible member to determine your ((AU)) assistance unit's size for the maximum income amount or allotment under WAC 388-478-0060.

(7) If the following people live in the same home as you, you can choose if we include them in your ((AU)) assistance unit:

(a) A permanently disabled person who is age ((~~sixty~~)) 60 or over and cannot make their own meals if the total income of everyone else in the home, ((+)) not counting the elderly and disabled person's spouse((+)) is not more than the ((~~one hundred sixty five percent~~)) 165% standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your ((AU)) as-
sistance unit, the boarder cannot get basic food benefits in a separate ((AU)) assistance unit;

(c) A person placed in your home for foster care. If you do not include this person in your ((AU)) assistance unit, they cannot get basic food benefits in a separate ((AU)) assistance unit;

(d) Roomers; or

(e) Live-in attendants even if they buy or prepare food with you.

(8) If someone in your ((AU)) assistance unit moves out of your home for at least a full issuance month, they are not eligible for benefits as a part of your ((AU)) assistance unit, unless you receive transitional food assistance.

(9) ((~~For~~)) Your transitional food assistance ((~~, your TFA AU~~)) unit includes the people who were in your basic food ((AU)) assistance unit the month you received transitional cash assistance or for the last month you received:

(a) Temporary assistance for needy families;

(b) State family assistance; or

(c) Tribal TANF benefits.

(10) If someone in your assistance unit received basic food ((~~or food stamps~~)) or transitional food assistance in another ((AU)) assis-
tance unit or another state, they cannot receive benefits in your ((AU)) assistance unit for the same period of time unless they ((~~with one exception. If you already received basic food, food stamp, or transitional food assistance benefits:~~

~~(a) In another state, you are not eligible for basic food for the period of time covered by the benefits you received from the other state; or~~

~~(b) In another AU, you are not eligible for basic food in a different AU for the same period of time;~~

~~(c) In another AU, but you)) left the ((AU)) assistance unit to live in a shelter for battered women and children under WAC 388-408-0045((~~, you may be eligible to receive benefits in a separate AU~~)).~~

(11) ((~~The following people who live in your home are not members of your AU. If they are eligible for basic food, they may be a separate AU:~~

~~(a) Someone who usually buys and prepares food separately from your AU if they are not required to be in your AU; or~~

~~(b) Someone who lives in a separate residence.~~

~~(12))~~ A student who is ineligible for basic food under WAC 388-482-0005 is not a member of your ((AU)) assistance unit.

WAC 388-489-0005 Who is eligible for transitional food assistance? You are eligible for transitional food assistance for up to five months if you meet the following eligibility criteria:

~~(1) ((If your))~~ Your family stops receiving cash assistance to include temporary assistance for needy families ((cash benefits)), ((including benefits from a)) tribal ((program)) TANF, ((you will be eligible for transitional food assistance for up to five months if you meet all the following eligibility requirements:)) or state family assistance, or:

~~(2) Your family receives transitional cash assistance,~~
~~((1))~~ (3) Your family was receiving basic food at the time we determined you were no longer eligible for ((temporary assistance for needy families)) cash assistance described in subsection (1) of this section, or when you received transitional cash assistance;

~~((2))~~ (4) After your family stops receiving ((temporary assistance for needy families)) cash assistance described in subsection (1) of this section, or receives transitional cash assistance, no other member of your basic food assistance unit ((continues to receive)) receives temporary assistance for needy families, tribal TANF, or state family assistance;

~~((3))~~ (5) Your family did not move out of the state of Washington as described in ((+)WAC 388-468-0005((+));

~~((4))~~ (6) At the time your family's cash assistance ended, ((Your)) your family was not in sanction status((at the time your temporary assistance for needy families grant ended)). Sanction status means:

(a) We reduced or stopped your family's temporary assistance for needy families grant payment because a family member is not:

(i) Meeting WorkFirst program requirements (WAC 388-310-1600); or
(ii) Cooperating with the division of child support (WAC 388-422-0100); or

(b) We decided that a member of your family was not eligible for temporary assistance for needy families because the member:

(i) Failed to meet teen parent living arrangement (WAC 388-486-0005) or teen parent school attendance requirements (WAC 388-410-0010); or

(ii) Was convicted of unlawful practices (WAC 388-446-0005) or for receiving temporary assistance for needy families in two or more states at the same time (WAC 388-446-0010); or

(c) If you are receiving temporary assistance for needy families benefits from a tribal program, your family's grant is reduced or stopped for a reason that is the same as one of the reasons listed in ~~((4)(a))~~ (6)(a) or ~~((4)(b))~~ (6)(b) of this section.

~~((5))~~ (7) At the time your family's temporary assistance for needy families grant ended, your basic food assistance unit did not become ineligible because:

(a) You were applying for recertification of your basic food benefits and refused to cooperate with the application process; or

(b) All members of your assistance unit are ineligible for basic food for the reasons stated in WAC 388-489-0025(3).

~~((6))~~ (8) There is no limit to the number of times your family ((may leave temporary assistance for needy families and)) can receive transitional food assistance.

AMENDATORY SECTION (Amending WSR 10-23-119, filed 11/17/10, effective 12/18/10)

WAC 388-489-0010 How is my transitional food assistance benefit calculated? (1) We base your transitional food assistance benefit amount on the regular monthly benefit allotment issued to your basic food assistance unit for the last month your household received temporary assistance for needy families or the month you qualified for transitional cash assistance. We will not count your last temporary assistance for needy families grant payment when we calculate your transitional food assistance benefit amount. For example:

(a) If your basic food assistance unit's only income was temporary assistance for needy families, the transitional food assistance benefit will be the amount your household would have received if you had no income.

(b) If your basic food benefit was calculated using temporary assistance for needy families plus income from another source, we will count only the income from the other source when calculating the transitional food assistance amount.

(2) We will adjust your transitional food assistance benefits if:

(a) Someone who gets transitional food assistance with you leaves your assistance unit and is found eligible to receive basic food in another assistance unit. We will adjust your benefits by:

(i) Reducing your assistance unit size by the number of persons who left your assistance unit; and

(ii) Removing the income and expenses clearly belonging to the persons who left your assistance unit.

(b) A change to the maximum allotment for basic food under WAC 388-478-0060 results in an increase in benefits for basic food assistance units.

(c) You got an overpayment of basic food benefits and we need to adjust the amount we deduct from your monthly benefits to repay the overpayment as required in WAC 388-410-0033. This includes:

(i) Starting a new monthly deduction;

(ii) Changing the amount of the monthly deduction; and

(iii) Ending the monthly deduction when the amount you owe has been paid off.

AMENDATORY SECTION (Amending WSR 10-13-047, filed 6/9/10, effective 8/1/10)

WAC 388-489-0015 How long will my household receive transitional food assistance? (1) If your basic food assistance unit is eligible for transitional food assistance according to WAC 388-489-0005, you will receive transitional food assistance for up to five months (~~after your household leaves temporary assistance for needy families.~~) beginning:

(a) The month after your household

~~((1) If you))~~ stopped getting temporary assistance for needy families, or

(b) The month after you receive (~~from the department, you are eligible for~~) transitional cash assistance (~~(benefits beginning the month after your household received their last grant)~~).

(2) If you stopped receiving tribal TANF benefits, you are eligible for transitional benefits:

(a) With the next monthly issuance after we update your case to show you no longer have tribal TANF income, if the tribal TANF end date is the end of the current month or the end of a prior month; or

(b) On the first of the month following the tribal TANF end date, if the tribal TANF end date is the end of a future month.

(3) If necessary, we will extend or shorten your basic food assistance unit's current certification period to match the five-month transition period.

(4) You may choose to end your five-month transition period early by submitting an application for regular basic food under WAC 388-489-0022 or by asking us to terminate your benefits.

(5) We send you a notice before the end of your five-month transition period so you can reapply for regular basic food benefits and continue to receive benefits without interruption as described in WAC 388-434-0010.

(6) We may terminate your transitional food assistance early for the reasons stated in WAC 388-489-0025.