



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: August 03, 2022

TIME: 11:03 AM

WSR 22-16-118

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 22-09-052 ; 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 388-310-0300, WorkFirst-Infant care exemptions for mandatory participants and 388-310-1450, Pregnancy to employment.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 6, 2022	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504 Or Virtually	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 September 7, 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. on September 6, 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: tenczsa@dshs.wa.gov

Other:

By (date) 5:00 p.m. on August 23, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Proposed amendments to WAC 388-310-0300 and 388-310-1450 will connect WorkFirst participants with home visiting and parent support providers on a statewide scale and reduce occurrences of adverse action while in the pregnancy to employment pathway.

Reasons supporting proposal: See above.

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.270.

Statute being implemented:

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:	Jake Deskins	PO Box 45470, Olympia, WA 98504-5770	360-480-3411
Implementation:	Jake Deskins	PO Box 45470, Olympia, WA 98504-5770	360-480-3411
Enforcement:	Jake Deskins	PO Box 45470, Olympia, WA 98504-5770	360-480-3411

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)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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: August 1, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

AMENDATORY SECTION (Amending WSR 18-03-059, filed 1/10/18, effective 2/10/18)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When may I be exempted from participating in WorkFirst activities if I am a mandatory participant?

Either you or the other parent, living in the household, may claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under two years of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime (~~(twenty-four)~~) 24 month infant exemption.

(2) If I choose my infant exemption, may I still be required to participate in the WorkFirst program?

You are required to participate up to (~~(twenty)~~) 20 hours per week in (~~(parenting education, parenting skills training,)~~) mental health treatment, chemical dependency treatment, or (~~(any)~~) a combination of these, if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

(3) May I volunteer to participate in WorkFirst while I have a child under two years of age?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under two years of age. If you decide later to stop participating and you still qualify for an exemption, you will return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) of this section.

(4) Does an infant exemption from participation affect my (~~(sixty-ty-)~~) 60 month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your (~~(sixty-ty-)~~) 60 month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 18-03-059, filed 1/10/18, effective 2/10/18)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of two years, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to (~~(help you learn how to work,)~~) look (~~(for work, or)~~) and prepare for work while (~~(still meet-~~

ing)) supporting your child's needs. You and your WorkFirst worker will decide which variety of services you need(~~(, such as:)~~). Service may include one or more of the items listed in (i) through (vi) of this section:

(i) ~~((Parenting education or parenting skills training))~~ Home visiting or other parent supports;

(ii) Safe and appropriate child care;

(iii) Mental health treatment;

(iv) Chemical dependency treatment;

(v) Domestic violence services; or

(vi) Employment services.

(b) The WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(c) You will be offered a voluntary referral to either home visiting or other parent supports at various times in the pregnancy to employment pathway.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social service specialist and based on the results you will:

(a) Work with your WorkFirst worker to decide which required activities best meet your needs (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)); and

(b) Be required to participate in ~~((the activities))~~ those activities, as identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours as described under WAC 388-310-1600.

(b) During your third trimester of pregnancy will be up to ~~((twenty))~~ 20 hours per week in either ~~((parenting education, parenting skills training,))~~ mental health treatment~~((,))~~ or chemical dependency treatment~~((, or any combination of these)),~~ if:

(i) The comprehensive evaluation or assessment indicates a need; and

(ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption under WAC 388-310-0300 or volunteer to participate in Work-First activities to the fullest of your abilities under WAC 388-310-0400.

(6) What if I have used my ~~((twenty-four))~~ 24 month lifetime infant exemption?

If you have another child after using all ~~((twenty-four))~~ 24 months of the infant exemption, you will be:

(a) Eligible for a ~~((twelve-))~~ 12 week postpartum deferral period to personally take care of an infant less than ~~((twelve))~~ 12 weeks of age but will be required to participate up to ~~((twenty))~~ 20 hours per week in ~~((parenting education, parenting skills training,))~~ mental health ~~((treatment,))~~ or chemical dependency treatment, or ~~((any))~~ a combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns (~~twelve~~) 12 weeks old in one or more of the following activities:

(i) Work;

(ii) Looking for work;

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) **Will I be sanctioned if I refuse to participate?**

(a) You are required to participate in the WorkFirst program under WAC 388-310-0200 subject to sanction under WAC 388-310-1600 unless you have good reason and you:

(i) Are in your third trimester of pregnancy;

(ii) Have not used up your (~~twenty-four~~) 24 month lifetime infant exemption and have a child under the age of two years old; or

(iii) Have used up your (~~twenty-four~~) 24 month lifetime infant exemption and have a child under (~~twelve~~) 12 weeks.

(b) You may be sanctioned if you stop participating in required (~~parenting education, parenting skills training,~~) mental health or chemical dependency treatment when you are:

(~~±~~) (i) In your third trimester of pregnancy(~~(τ)~~);

(~~e~~) (ii) Claiming the infant exemption(~~(τ)~~); or

(~~u~~) (iii) Using a (~~twelve~~) 12 week postpartum deferral period.