



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 31, 2022

TIME: 4:35 PM

WSR 22-22-077

Agency: Department of Social and Health Services, Economic Services Administration, Community Services Division

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 22-13-020 ; 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 388-400-0030, Who is eligible for refugee cash assistance?, 388-466-0120, Refugee Cash Assistance (RCA), and 388-466-0150, Refugee employment and training services.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 6, 2022	10:00 am	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/drivingdirections-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: No earlier than December 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) December 6, 2022, at 5:00 pm,

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) November 22, 2022, at 5:00 pm

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Amendments are necessary to align department policies with authorization from the Office of Refugee Resettlement (ORR) director to expand the eligibility period for Refugee Cash Assistance (RCA) from 8 months to 12 months pursuant to 45 CFR §400.211 and ORR P.L. 22-12.

Related amendments (effective June 2, 2022) are currently in place via emergency adoption (see WSR 22-13-013 and WSR 20-20-071).

Reasons supporting proposal: See above

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120.

Statute being implemented:

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION: 45 CFR §400.211(b)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental
Name of proponent: (person or organization) Department of Social and Health Services

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Max Gibbs-Ruby	PO Box 45470, Olympia, WA 98504-5470	Max.Gibbs-Ruby@dshs.wa.gov
Implementation:	Max Gibbs-Ruby	PO Box 45470, Olympia, WA 98504-5470	Max.Gibbs-Ruby@dshs.wa.gov
Enforcement:	Max Gibbs-Ruby	PO Box 45470, Olympia, WA 98504-5470	Max.Gibbs-Ruby@dshs.wa.gov

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: No cost-benefit analysis is required, this amendment is exempt under RCW 34.05.328(5)(b)(vii)

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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 is exempt under RCW 19.85.061 because it is being adopted solely to conform with federal policy issued under 45 CFR §400.211(b). Failure to adopt this rule would not align with federal policy and be a determinant to public health, safety, and welfare.

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:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under [RCW 34.05.328\(5\)\(b\)\(vii\)](#).

Explanation of how the above exemption(s) applies to the proposed rule: These amendments do not impact small businesses. They only impact DSHS clients.

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

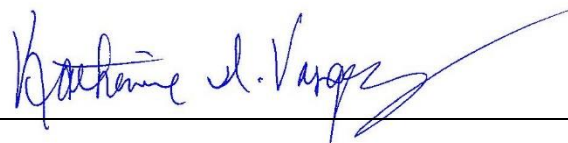
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 28, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 04-19-135, filed 9/21/04, effective 10/22/04)

WAC 388-400-0030 Who is eligible for refugee cash assistance?

- (1) To be eligible for refugee cash assistance (RCA), you must:
- (a) Provide the name of the voluntary agency (VOLAG) which resettled you;
 - (b) Meet the immigration status requirements of WAC 388-466-0005;
 - (c) Meet employment and training requirements of WAC 388-466-0150;
 - (d) Meet income and resource requirements of WAC 388-466-0140; and
 - (e) Report changes of circumstances as required under WAC 388-418-0005.
- (2) You are not eligible to receive RCA if you:
- (a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income;
 - (b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or
 - (c) Are a full-time student in an institution of higher education.
- (3) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.
- (4) If you are eligible for RCA you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.
- (5) If you meet the requirements of this section you are eligible for refugee cash assistance only during the (~~eight~~) 12-month period beginning in the first month you entered the United States (WAC 388-466-0120).

AMENDATORY SECTION (Amending WSR 20-24-073, filed 11/24/20, effective 12/25/20)

WAC 388-466-0120 Refugee cash assistance (RCA). (1) Who can apply for refugee cash assistance (RCA)?

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within (~~thirty~~) 30 days.

(2) How do I know if I qualify for RCA?

You may be eligible for RCA if you meet all of the following conditions:

- (a) You have resided in the United States for less than (~~eight~~) 12 months;
- (b) You meet the immigration status requirements of WAC 388-466-0005;
- (c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;
- (d) You meet the work and training requirements of WAC 388-466-0150; and
- (e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

(3) What are the other reasons for not being eligible for RCA?

You may not be able to get RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income (SSI); or

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within (~~thirty~~) 30 consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999, as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000, and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, (~~eighteen~~) 18 years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter;

(b) A child victim under the age of (~~eighteen~~) 18, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(6) Does getting a onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make an eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the (~~eighth~~) 12th month starting with the month of your arrival to the United States. Count the (~~eight~~) 12 months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, (~~2000~~) 2022, May is your first month and (~~December 2000~~) April 2023 is your last month of RCA.

(b) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA.

(c) You may receive RCA benefits for more months if the federal office of refugee resettlement extends the eligibility period.

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income (~~and~~) or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if ((he/she)) they arrive((s)) in the U.S. after me?

When your spouse arrives in the United States, DSHS determines ((his/her)) their eligibility for RCA and(~~/or~~) other income assistance programs.

(a) Your spouse may be eligible for up to ((eight)) 12 months of RCA based on ((his/her)) their date of arrival into the United States.

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on you and your spouse's combined income and resources (WAC 388-466-0140).

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or an administrative hearing (WAC 388-02-0090). Your request must be made within ((ninety)) 90 days of the date of the decision or action.

AMENDATORY SECTION (Amending WSR 16-05-034, filed 2/9/16, effective 3/15/16)

WAC 388-466-0150 Refugee employment and training services. (1) What are refugee employment and training services?

Refugee employment and training services provided to eligible refugees may include information and referral, employment oriented case management, job development, job placement, job retention, wage progression, skills training, on-the-job training, counseling and orientation, English as a second language, and vocational English training.

(2) Am I required to participate in refugee employment and training services?

If you are receiving refugee cash assistance (RCA) you are required to participate in refugee employment and training services, unless you are exempt.

(3) How do I know if I am exempt from mandatory employment and training requirements?

You may be exempt from participation in employment and training requirements if you are:

(a) An adult with a severe and chronic disability as defined below:

(i) You have been assessed by a DSHS SSI facilitator as likely to be approved for SSI and are required to apply for SSI. Your SSI application status may be verified through the SSI facilitator ((and/)) or state data exchange; or

(ii) Your disability is a severe and chronic mental, physical, emotional, or cognitive impairment that prevents you from working and is expected to last at least ((twelve)) 12 months. Your disability

must be verified by documentation from a behavioral health organization (BHO), (~~and/or~~) regional service area (RSA), or evidence from another medical or mental health professional; or

(b) Required to be in the home to care for another adult with disabilities when:

(i) The adult with disabilities cannot be left alone for significant periods of time;

(ii) No adult other than yourself is available and able to provide the care;

(iii) The adult with the disability is related to you;

(iv) You are unable to participate in work activities because you are required to be in the home to provide care; and

(v) The disability and your need to care for your disabled adult relative is verified by documentation from the developmental disabilities administration (DDA), division of vocational rehabilitation (DVR), home and community services (HCS), division of behavioral health and recovery (DBHR), (~~and/or~~) a behavioral health organization (BHO), (~~and/or~~) regional service area (RSA), or evidence from another medical or mental health professional.

(c) (~~Sixty~~) 60 years of age or older.

(d) Unable to participate in work activities because you are the victim of family violence.

(4) If I am required to participate, what do I have to do?

You are required to:

(a) Register with your employment service provider;

(b) Accept and participate in all employment opportunities, training, or referrals, determined appropriate by the department.

(5) What happens if I do not follow these requirements?

If you refuse without good reason to cooperate with the requirements, you are subject to the following penalties:

(a) If you are applying for refugee cash assistance, you will be ineligible for (~~thirty~~) 30 days from the date of your refusal to accept work or training opportunity; or

(b) If you are already receiving refugee cash assistance, your cash benefits will be subject to financial penalties.

(c) The department will notify your voluntary agency (VOLAG) if financial penalties take place.

(6) What are the penalties to my grant?

The penalties to your grant are:

(a) If the assistance unit includes other individuals as well as yourself, the cash grant is reduced by the sanctioned refugee's amount for three months after the first occurrence. For the second occurrence, the financial penalty continues for the remainder of the sanctioned refugee's (~~eight~~) 12-month eligibility period.

(b) If you are the only person in the assistance unit your cash grant is terminated for three months after the first occurrence. For the second occurrence, your grant is terminated for the remainder of your (~~eight~~) 12-month eligibility period.

(7) How can I avoid the penalties?

You can avoid the penalties, if you accept employment or training before the last day of the month in which your cash grant is closed.

(8) What is considered a good reason for not being able to follow the requirements?

You have a good reason for not following the requirements if it was not possible for you to stay on the job or to follow through on a required activity due to an event outside of your control. See WAC 388-310-1600(3) for examples.