



# 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: January 10, 2023

TIME: 11:15 AM

WSR 23-03-049

**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 22-20-075 ; 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 388-444-0055, "What are the penalties if I refuse or fail to meet basic food work requirements?"

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
February 21, 2023	10:00AM	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504  <b>Or virtually</b>	Public parking at 11th and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/office-of-the-secretary/drivingdirections-office-bldg-2">https://www.dshs.wa.gov/office-of-the-secretary/drivingdirections-office-bldg-2</a>  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 February 22, 2023 (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) February 21, 2023, at 5:00 p.m.

**Assistance for persons with disabilities:**  
 Contact Shelley Tencza, DSHS Rules Consultant  
 Phone: 360-664-6036  
 Fax: 360-664-6185  
 TTY: 711 Relay Service  
 Email: [shelley.tencza@dshs.wa.gov](mailto:shelley.tencza@dshs.wa.gov)  
 Other:  
 By (date) February 7, 2023, at 5:00 p.m.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Proposed amendments will more accurately align with federal regulations related to Basic Food disqualification and clarify that a Basic Food sanction can be lifted effective the first of the following month when a client meets work requirements or becomes exempt from work requirements during a Basic Food sanction.

**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

**Statute being implemented:** N/A

**Is rule necessary because of a:**

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**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:	Joyce Hensen	PO Box 45470, Olympia WA, 98504-5470	425-999-5162
Implementation:	Joyce Hensen	PO Box 45470, Olympia WA, 98504-5470	425-999-5162
Enforcement:	Joyce Hensen	PO Box 45470, Olympia WA, 98504-5470	425-999-5162

**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 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: 7 CFR 273.7(g).
- 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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(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 customers.

**(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:

<b>Date:</b> January 9, 2023	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

**WAC 388-444-0055 What are the penalties if I refuse or fail to meet basic food work requirements?** (1) If we register you for work you must meet the work requirements under WAC 388-444-0005 or 388-444-0030 unless you have good cause as defined in WAC 388-444-0050. If you do not follow these rules, you will become an ineligible assistance unit member as described under WAC 388-408-0035. The remaining members of the assistance unit continue to be eligible for basic food.

(2) If you do not meet basic food work requirements and we find that you did not have good cause, you cannot receive basic food for the following periods of time and until you meet program requirements:

- (a) For the first failure, one month;
- (b) For the second failure, three months; and
- (c) For the third or subsequent failure, six months.

(3) If you become exempt under WAC 388-444-0010 and are otherwise eligible, you may begin to receive basic food.

(4) If you do not comply with the work requirements of the following programs, you cannot receive basic food unless you meet one of the conditions described under WAC 388-444-0010 (~~(except subsections (4) or (5))~~):

- (a) WorkFirst;
- (b) Unemployment compensation;
- (c) The refugee cash assistance program.

(5) Within (~~ten~~) 10 days after learning of your refusal to participate in your program, (~~the financial worker~~) we will send you a notice that your basic food benefits will end unless you comply with your program requirements.

(6) If you do not comply within (~~ten~~) 10 days, you will be issued a notice disqualifying you from receiving basic food until you comply with your program, or until you meet the work registration disqualification requirements in subsection (2) of this section.

(7) (~~After the penalty period in subsection (2) of this section is over, and you meet work requirements and you are otherwise eligible, you may receive basic food:~~

- ~~(a) If you are alone in the assistance unit and apply to reestablish eligibility; or~~
- ~~(b) If you are a member of an assistance unit, you may resume receiving basic food.~~

~~(8))~~ During the penalty period, if you begin to participate in (~~one~~) any of the programs listed in subsection (4)(a) through (c) (~~and that penalty is removed,~~) of this section or meet one of the conditions described under WAC 388-444-0010, the work registration disqualification also ends. If you are otherwise eligible, you may begin to receive basic food effective the first of the month following the change.

(8) After the penalty period in subsection (2) of this section is over, and you meet work requirements, and you are otherwise eligible, you may receive basic food:

- (a) If you are alone in the assistance unit and apply to reestablish eligibility; or
- (b) If you are a member of an assistance unit, you may resume receiving basic food.