



# 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: December 18, 2023  
TIME: 10:25 AM

WSR 24-01-092

**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 23-22-053 ; 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 to amend the following WAC sections: 388-450-0185: "What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?", 388-450-0190: "How does the department figure my shelter cost income deduction for basic food?", 388-450-0195: "Does the department use my utility costs when calculating my basic food or WASHCAP benefits?", and 388-478-0060: "What are the income limits and maximum benefit amounts for basic food?"

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 23, 2024	10:00 am	Virtually via Teams or call in	Hearings are being held virtually. Please see the DSHS website for the most up to date information.

**Date of intended adoption:** No earlier than January 24, 2024 (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 23, 2024, 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) January 9, 2024, at 5:00 p.m.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** These amendments comply with federal laws that pertain to cost-of-living adjustments and updated utility values for the Basic Food program for federal fiscal year 2024.

**Reasons supporting proposal:** Income limits and minimum and maximum benefit amounts, deductions, and resource limits are updated annually by the US Department of Agriculture, Food and Nutrition Service, effective October 1, 2023. Related emergency rules are currently in place (effective October 1, 2023) under WSR 23-20-061.

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

**Statute being implemented:** RCW 43.20A.550

**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 type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

If yes, CITATION: Agriculture Improvement Act of 2018 (2018 Farm Bill), Sec 4002

**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:	Alexis Miller	PO Box 45470, Olympia WA 98504-5470	253-579-3144
Implementation:	Alexis Miller	PO Box 45470, Olympia WA 98504-5470	253-579-3144
Enforcement:	Alexis Miller	PO Box 45470, Olympia WA 98504-5470	253-579-3144

**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: These rules are 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:  
 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 checked="" 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: The proposed rules 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:

<b>Date:</b> December 14, 2023	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 23-17-065, filed 8/14/23, effective 9/14/23)

**WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?** (1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
<del>((4))</del> 3 or fewer	<del>((193))</del> \$198
<del>((5))</del> 4	<del>((225))</del> \$208
5	\$244
6 or more	<del>((258))</del> \$279

(b) 20% of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over \$35 a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of (~~(\$166)~~) \$179. If the homeless AU has shelter costs in excess of this amount, the AU has the option to claim either:

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2)(a) through (2)(d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of (~~(\$624)~~) \$672 if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over (~~(\$624)~~) \$672.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?**

(1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than \$20 in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of (~~(\$462)~~) \$483.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of (~~(\$462)~~) \$483.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of (~~(\$365)~~) \$383.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of (~~(\$59)~~) \$58.

(3) "Utility costs" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?** (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section.

The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE (~~(10/1/2021)~~) 10/1/2023

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net (Countable) Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	<del>(\$1,473)</del> <u>\$1,580</u>	<del>(\$1,133)</del> <u>\$1,215</u>	<del>(\$281)</del> <u>\$291</u>	<del>(\$1,869)</del> <u>\$2,005</u>
2	<del>(1,984)</del> <u>2,137</u>	<del>(1,526)</del> <u>1,644</u>	<del>(516)</del> <u>535</u>	<del>(2,518)</del> <u>2,712</u>
3	<del>(2,495)</del> <u>2,694</u>	<del>(1,920)</del> <u>2,072</u>	<del>(740)</del> <u>766</u>	<del>(3,167)</del> <u>3,419</u>
4	<del>(3,007)</del> <u>3,250</u>	<del>(2,313)</del> <u>2,500</u>	<del>(939)</del> <u>973</u>	<del>(3,816)</del> <u>4,125</u>
5	<del>(3,518)</del> <u>3,807</u>	<del>(2,706)</del> <u>2,929</u>	<del>(1,116)</del> <u>1,155</u>	<del>(4,465)</del> <u>4,832</u>
6	<del>(4,029)</del> <u>4,364</u>	<del>(3,100)</del> <u>3,357</u>	<del>(1,339)</del> <u>1,386</u>	<del>(5,114)</del> <u>5,539</u>
7	<del>(4,541)</del> <u>4,921</u>	<del>(3,493)</del> <u>3,785</u>	<del>(1,480)</del> <u>1,532</u>	<del>(5,763)</del> <u>6,246</u>
8	<del>(5,052)</del> <u>5,478</u>	<del>(3,886)</del> <u>4,214</u>	<del>(1,691)</del> <u>1,751</u>	<del>(6,412)</del> <u>6,952</u>
9	<del>(5,564)</del> <u>6,035</u>	<del>(4,280)</del> <u>4,643</u>	<del>(1,902)</del> <u>1,970</u>	<del>(7,061)</del> <u>7,659</u>
10	<del>(6,076)</del> <u>6,592</u>	<del>(4,674)</del> <u>5,072</u>	<del>(2,113)</del> <u>2,189</u>	<del>(7,710)</del> <u>8,366</u>
Each Additional Member	+ <del>(512)</del> <u>557</u>	+ <del>(394)</del> <u>429</u>	+ <del>(211)</del> <u>219</u>	+ <del>(649)</del> <u>707</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is 60 years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E

of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.