



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 27, 2023
TIME: 4:27 PM

WSR 24-02-045

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 23-18-018 ; 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 the following WAC sections: WAC 388-444-0030, "Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food?" and 388-444-0035, "Who is exempt from ABAWD time limits and minimum work requirements?"

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
February 6, 2024	10:00 a.m.	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: Not earlier than February 7, 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
 Fax: 360-664-6185
 Other:
 By (date) February 6, 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: Tencza@dshs.wa.gov
 Other:
 By (date) January 23, 2024, at 5:00pm

Purpose of the proposal and its anticipated effects, including any changes in existing rules: These amendments are necessary to comply with federal regulatory changes under the Fiscal Responsibility Act of 2023, effective September 1, 2023. Related amendments are in effect as of September 1, 2023, under emergency rule filed as WSR 23-18-017 and WSR 24-01-133.

Reasons supporting proposal: See above

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120

Statute being implemented: N/A

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 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

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:	Troy Burgess	PO Box 45470, Olympia WA 98504-5470	360-584-5162
Implementation:	Troy Burgess	PO Box 45470, Olympia WA 98504-5470	360-584-5162
Enforcement:	Troy Burgess	PO Box 45470, Olympia WA 98504-5470	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: 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 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 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:

Date: December 27, 2023	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0030 Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? (1) An able-bodied adult without dependents (ABAWD) is a person who:

- (a) Is age ~~((eighteen))~~ 18 through:
 - (i) ~~((forty-nine))~~ 50 from September 1, 2023, to September 30, 2023;
 - (ii) 52 from October 1, 2023, to September 30, 2024;
 - (iii) 54 beginning October 1, 2024; and
 - (b) Is fit for work and not exempted under WAC 388-444-0035.
- (2) ~~((If you are an ABAWD, you must participate in work activities under subsection (3) of this section. (3-))~~ A nonexempt ABAWD is not eligible to receive food assistance for more than three full months (which do not have to be consecutive months), not including any partial benefit months in a ~~((thirty-six))~~ 36 month period, unless the ABAWD:
- (a) Works an average of ~~((eighty))~~ 80 hours per month, including:
 - (i) Work in exchange for money;
 - (ii) Work in exchange for goods or services ("in kind" work);
 - (iii) Unpaid work that is verified according to department requirements; or
 - (iv) Any combination of (a)(i) through (iii) of this subsection;
 - (b) Participates in one of the following work programs and is meeting the requirements of that work program:
 - (i) The Workforce Innovation and Opportunity Act of 2014;
 - (ii) Section 236 of the Trade Act of 1974;
 - (iii) A state-approved employment and training program at least an average of ~~((eighty))~~ 80 hours per month; or
 - (c) Participates in an unpaid work program as provided in WAC 388-444-0040.

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements? Some people who receive basic food are exempt from able-bodied adult without dependents (ABAWD) time limits and minimum work requirements. You are exempt from ABAWD time limits and work requirements under WAC 388-444-0030 if you meet any one or more of the following:

- (1) You are exempt from work requirements under WAC 388-444-0010;
- (2) You are under age ~~((eighteen))~~ 18 or are age:
 - (a) ~~((fifty))~~ 51 or older from September 1, 2023, to September 30, 2023;
 - (b) 53 or older beginning October 1, 2023, through September 30, 2024; and
 - (c) 55 or older beginning October 1, 2024.
- (3) You receive temporary or permanent disability benefits issued by a governmental or private source;

(4) You are obviously mentally or physically unfit for employment as determined by the department; however, if the unfitness is not obvious, you must provide a statement that you are physically or mentally unfit for employment from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, social worker, or any other medical personnel the department determines appropriate;

(5) You are an adult in a basic food assistance unit that has a family member who is under the age of ~~((eighteen))~~ 18;

(6) You are pregnant;

(7) You are homeless;

(8) You are a veteran as defined under the James M. Inhofe National Defense Authorization Act of 2023;

(9) You are 24 or younger, and were:

(a) In foster care as defined in RCW 74.13.020 at the time of your 18th birthday; or

(b) Under extended foster care services as defined in RCW 74.13.336;

(10) You live in an area approved as exempt by U.S. Department of Agriculture (USDA); or

~~((+8))~~ (11) You are eligible for one of the approved exemption slots under the ((U.S. Department of Agriculture-())USDA(()-fifteen percent exemption)) discretionary exemptions rule.