



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

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

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) April 1, 2017

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose:

The department is amending WAC 388-400-0047 "What is the heat and eat program and are you eligible?" in order to remove the pure Food Assistance Program (FAP) households from the Heat and Eat program to be consistent with federal requirements for the Low Income Home Energy Assistance Program (LIHEAP).

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-400-0047
 Suspended: None

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.04.515, RCW 74.08.090, RCW 74.04.500, RCW 74.08A.010, RCW 74.08A.903, Food and Nutrition Act of 2008 (P.L. 110-246, 7 U.S.C.) as amended by PL 113-79.

Other authority: RCW 74.08A.120

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

Changes proposed under this filing are expected to impact benefits for certain households receiving the Washington Basic Food program and the state-funded Food Assistance Program (FAP) for legal immigrants.

Under RCW 74.08A.120, rules for FAP shall follow exactly the rules of the federal food stamp program (SNAP) except for the provisions pertaining to immigrant status.

Date adopted:

March 17, 2017

NAME (TYPE OR PRINT)

Katherine Vasquez

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 31, 2017

TIME: 8:56 AM

WSR 17-08-052

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>1</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____

WAC 388-400-0047 What is the heat and eat program and are you eligible? (1) What is the heat and eat program?

(a) The heat and eat program is a special energy assistance program for certain assistance units that receive basic food, Washington combined application project (WASHCAP), or the food assistance program for legal immigrants (FAP).

(b) An assistance unit (AU) in heat and eat program receives up to twenty dollars and one cent in federal low income home energy assistance program (LIHEAP) benefits. This U.S. Department of Health and Human Services, Administration for Children and Families LIHEAP benefit makes the AU eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(2) If you receive WASHCAP, you will get LIHEAP and your AU is eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(3) Is your (~~assistance unit~~) AU eligible for heat and eat?

Your AU is eligible for heat and eat if you meet all of the following:

(a) You receive at least one dollar in basic food or FAP benefits prior to any recoupments;

(b) Your basic food or FAP AU includes at least one U.S. citizen or qualified alien as defined under WAC 388-424-0001 as required by 8 U.S.C. Sec. 1611(a)(1);

(c) You do not receive transitional food assistance (TFA);

~~((e))~~ (d) You are not eligible for the standard utility allowance (SUA) under WAC 388-450-0195 based on having out_of_pocket costs for heating or cooling;

~~((d))~~ (e) You have not received a regular LIHEAP benefit amount of more than twenty dollars in the past twelve months; and

~~((e))~~ (f) You (~~do not~~) do not receive the maximum allotment for your AU size under WAC 388-478-0060 without using the SUA.

(4) How do you receive heat and eat?

(a) If you are eligible for heat and eat, we deposit the benefit on your EBT card.

(b) The heat and eat benefit is good for twelve months.

(c) After twelve months, we look at your circumstances to see if you are still eligible for heat and eat.

(5) How do you apply for heat and eat?

(a) You do not apply for heat and eat.

(b) We will determine if your AU is eligible to receive heat and eat and automatically provide the benefit to you.