



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 16, 2020

TIME: 3:12 PM

WSR 20-19-088

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

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 emergency WAC 388-437-0020, Availability of pandemic EBT benefits, to clarify the deadline for receipt of all Pandemic EBT (P-EBT) applications.

H.R. 6201 (116th Congress) Families First Coronavirus Response Act signed into law on March 18, 2020 allows for households with school age children participating in Free or Reduced-Price Lunch program to receive benefits after the school closes for 5 consecutive days due to the COVID-19 public health emergency declaration. P-EBT payments to eligible families end September 30, 2020, with the exception of case-by-case review and approval by the US Department of Agriculture (USDA) Food and Nutrition Service (FNS). The department will not accept applications for P-EBT past 5:00 PM on September 11, 2020 for online and paper applications, and 3:00 PM on September 16, 2020 for telephonic applications to allow benefit authorization to all eligible applicants by the end date of September 30, 2020.

This second emergency adoption amends the emergency rule adopted under WSR 20-19-059.

Citation of rules affected by this order:

- New: WAC 388-437-0020
- Repealed: None
- Amended: None
- Suspended: None

Statutory authority for adoption: RCW 74.04.005; RCW 74.04.050; RCW 74.04.055; RCW 74.04.057; RCW 74.04.500; RCW 74.04.510; RCW 74.08.090; RCW 74.08A.120

Other authority: H.R. 6201

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.

Reasons for this finding: The USDA approved Washington's state plan to provide emergency Supplemental Nutrition Assistance Program (SNAP) benefits to households with children who would otherwise receive free or reduced-price school meals if not for school closures due to the COVID-19. In the time since the existing emergency P-EBT program rule was adopted under WSR 20-14-030, the USDA has approved an amendment to the original plan allowing children under 5 years old, as of October 1, 2019, to receive P-EBT if eligible to receive free and reduced-price lunches. The USDA FNS has also since provided an end date for benefits to be authorized and advised states to set a deadline for P-EBT applications that allots sufficient time to process applications and make the disbursements by that date. Due to the disasters facing our state, including the wildfires and intermittent power outages, we have experienced a larger than normal forced disconnect rate on our call center and have received feedback this has adversely impacted customers' ability to meet the September 11, 2020 application deadline for the P-EBT program.

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

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

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

New	___	Amended	___	Repealed	___
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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	___

Date Adopted: September 16, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



NEW SECTION

WAC 388-437-0020 Availability of pandemic EBT benefits. (1)

Pandemic EBT benefits are available to households that include:

(a) School age children whose schools closed due to the COVID-19 pandemic as described in WAC 388-437-0010 filed under WSR 20-14-030; and

(b) Children regardless of age who:

(i) Would normally receive free or reduced price meals under the Richard B. Russell National School Lunch Act if not for school closures due to the COVID-19 pandemic.

(ii) Attend a school of early learning that followed school district closure dates of March 16, 2020 through June 19, 2020.

(2) Pandemic EBT benefits as described in subsection (1) of this section and in WAC 388-437-0010 filed under WSR 20-14-030 must be received no later than September 30, 2020, except when reviewed and approved on a case-by-case basis by the US department of agriculture's food and nutrition service. Online and paper applications for pandemic EBT will not be accepted after 5:00 p.m. on September 11, 2020. Telephonic applications for pandemic EBT will not be accepted after 3:00 p.m. on September 16, 2020.