



RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: October 06, 2020

TIME: 11:45 AM

WSR 20-20-122

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 extending emergency amendments to WAC 388-412-0046, "What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?" to support implementation of Senate Bill 6136 (Chapter 64, Laws of 2020). This second emergency rule filing is needed to extend the rule while the department completes the permanent rulemaking process. The department filed a CR-102 Proposed Rule-making as WSR 20-16-085 on July 30, 2020, and held a public hearing on September 8, 2020.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-412-0046
 Suspended: None

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.08.580, RCW 74.08.090

Other authority: Chapter 64, Laws of 2020

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: This filing is necessary to extend existing emergency rules originally filed under WSR 20-13-037, reflecting changes in state law regarding restrictions on electronic benefit cards under Senate Bill 6136, effective June 11, 2020.

**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Federal statute:	New	_____	Amended	_____	Repealed	_____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 on 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	____

Date Adopted: October 6, 2020	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? (1) What is the purpose of DSHS cash benefits?

(a) DSHS cash assistance benefits are provided to low-income residents who qualify for public assistance programs. These benefits are intended to help pay for basic living expenses as described under RCW 74.04.770. TANF cash grants must be used for the sole benefit of the children, and we may require proof that you are using your TANF cash assistance to benefit your children as allowed under RCW 74.12.260.

(b) Your electronic benefit transfer (EBT) card or cash assistance benefits may only be used by you, an eligible member of your household, or an authorized representative/protective payee for the purposes of your cash assistance program. You are not allowed to sell, attempt to sell, exchange, or donate your EBT card or benefits to any other person or entity.

(c) You may use your cash benefits to pay a reasonable amount of basic living expenses such as:

(i) Shelter;

(ii) Utilities such as heating, telephone, water, sewer, garbage, and recycling;

(iii) Food;

(iv) Transportation;

(v) Clothing;

(vi) Household maintenance;

(vii) Personal hygiene;

(viii) Employment or school related items; and

(ix) Other necessary incidentals and items.

(d) It is not legal to use electronic benefit transfer (EBT) cards or cash obtained with EBT cards to:

(i) Gamble. Gambling includes:

(A) The purchase of lottery tickets;

(B) The purchase of pull tabs;

(C) Use of punch boards;

(D) Purchase of bingo cards;

(E) Betting on horse racing;

(F) Participating in casino games; and

(G) Participating in other games of chance as found in chapters 9.46, 67.16 and 67.70 RCW.

(ii) Participate in or purchase any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(iii) Purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(iv) Purchase any (~~alcoholic~~) items regulated under Title 66 RCW;

(v) Purchase or participate in any activities in any of the following locations:

(A) Taverns licensed under RCW 66.24.330;

(B) Beer/wine specialty stores licensed under RCW 66.24.371, except if the store is an authorized supplemental nutrition assistance program or women, infants, and children retailer;

(C) Nightclubs licensed under RCW 66.24.600;

(D) (~~Contract liquor stores defined under RCW 66.04.010;~~

~~(E)~~) Bail bond agencies regulated under chapter 18.185 RCW;
~~((F))~~ (E) Gambling establishments licensed under chapter 9.46
RCW;

(F) Tattoo, body piercing, or body art shops regulated under
chapter 18.300 RCW;

(G) Adult entertainment venues with performances that contain
erotic material where minors under the age of eighteen are prohibited
under RCW 9.68A.150;

(H) Any establishments where persons under the age of eighteen
are not permitted.

(e) If you use your electronic benefit transfer (EBT) card or
cash obtained from your EBT card illegally we may:

(i) Assign a protective payee to manage your cash assistance ben-
efits under WAC 388-460-0035;

(ii) For households receiving TANF, require proof that your bene-
fits are being used for the benefit of the children in the household;

(iii) Terminate your cash benefits; or

(iv) Pursue legal action, including criminal prosecution.

(2) What is the purpose of DSHS food assistance benefits?

(a) DSHS food assistance benefits, including those from the basic
food program, state funded basic food program for legal immigrants
(FAP), Washington state combined application project (WASHCAP), and
transitional food assistance (TFA), help low-income individuals and
families have a more nutritious diet by providing food assistance ben-
efits through EBT cards for eligible households to buy groceries.

(b) You, members of your household, or an authorized representa-
tive may use your food assistance benefits to buy food items for your
household from a food retailer authorized to accept supplemental nu-
trition assistance program (SNAP) benefits by the U.S. Department of
Agriculture Food and Nutrition Service (FNS).

(c) You can use your food assistance benefits to buy items such
as:

(i) Breads and cereals;

(ii) Fruits and vegetables;

(iii) Cheese, milk, and other dairy products;

(iv) Meats, fish, poultry, and eggs;

(v) Most other food items that are not prepared hot foods; and

(vi) Seeds and plants that produce food.

(d) It is not legal to:

(i) Give your EBT card or benefits to anyone who is not in your
food assistance household or your authorized representative.

(ii) Use food benefits for any purpose other than to buy food for
eligible household members.

(iii) Exchange food benefits for anything of value (trafficking).
Examples of illegal trafficking include exchanging food benefits or
attempting to exchange food benefits for cash, drugs, weapons, or any-
thing other than food from an authorized retailer.

(iv) Sell, attempt to sell, exchange, or donate an EBT card, EBT
card number, personal identification numbers (PINs), or any benefits
to any person or entity.

(v) Buy, attempt to buy, or steal someone's EBT card, EBT card
number, or PIN.

(vi) Sell or trade any food that was purchased using food assis-
tance benefits for cash, drugs, alcohol, tobacco products, firearms,
or anything of value.

(vii) Use food benefits to buy nonfood items such as cigarettes, tobacco, beer, wine, liquor, household supplies, soaps, paper products, vitamins, medicine, or pet food.

(viii) Commit any other act in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations or any Washington state administrative code relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits.

(e) If you intentionally misuse food assistance benefits, you may be:

(i) Disqualified for an intentional program violation under WAC 388-446-0015 and 388-446-0020. If you are disqualified you will lose your benefits for at least one year and up to a lifetime. The disqualification continues even if you move to another state.

(ii) Subject to fines.

(iii) Subject to legal action, including criminal prosecution. DSHS will cooperate with state, local, and federal prosecuting authorities to prosecute trafficking in food assistance/SNAP benefits.