



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 28, 2020

TIME: 1:59 PM

WSR 20-22-046

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 DSHS Division of Child Support (DCS) files this subsequent CR-103E, *Rule-Making Order*, to extend emergency rules amending WAC 388-14A-3205 in order to implement Sections 1 and 2 of Substitute House Bill 2302 (SHB 2302, Chapter 227, Laws of 2020) regarding income calculation. Relevant provisions of SHB 2302 took effect on June 11, 2020. The department filed a CR-101 Preproposal Statement of Inquiry as WSR 20-14-021 on June 22, 2020 to begin the permanent rulemaking process.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-14A-3205
 Suspended: None

Statutory authority for adoption: Emergency rulemaking is authorized under RCW 34.05.350(1)(a) and (b) in order to implement sections 1 and 2 of Substitute House Bill 2302 (SHB 2302, Chapter 227, Laws of 2020), which takes effect on June 11, 2020. Further authority is found in RCW 26.09.105, 26.18.170, 26.19.011, 26.19.071, 26.23.050, 26.23.110, 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20A.055, 74.20A.056.

Other authority:

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 Legislature enacted SHB 2302 during the 2020 Legislative Session. Several provisions, including amendments to RCW 26.19.011 and 26.19.071, had a June 11, 2020 effective date. These provisions change the definition of full-time earnings to 32 hours a week for imputation purposes and clarify certain criteria for income calculation. Emergency rulemaking is necessary to effectuate these statutory changes. There was insufficient time between enactment of this legislation and the effective date to implement without emergency rules.

**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 1 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 27, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-14A-3205 How does DCS calculate my income? (1) The division of child support (DCS) calculates a parent's income using the best available information. If a parent is voluntarily unemployed or underemployed, either DCS or the administrative law judge (ALJ), or both may impute income to that parent. In the absence of records of a parent's actual earnings, either DCS ((and/or)) or the administrative law judge (ALJ), or both may impute a parent's income under RCW 26.19.071(6) in the following order of priority:

(a) Full-time earnings at the current rate of pay;
(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) ~~((Full-time))~~ Earnings of thirty-two hours per week at minimum wage in the jurisdiction where the parent resides if the parent ((has a recent history of minimum wage earnings,)) is on or recently coming off ((public assistance, disability lifeline benefits)) temporary assistance for needy families or recently coming off aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a ((high school student or)) recent high school graduate. Imputation at thirty-two hours per week under this subsection is a rebuttable presumption; ((or))

(e) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, has never been employed and has no earnings history, or has no significant earnings history; or

(f) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports.

(2) When a parent is currently enrolled in high school full-time, either DCS or the ALJ, or both may consider the totality of the circumstances of both parents when determining whether each parent is voluntarily unemployed or voluntarily underemployed. If the parent who is enrolled in high school is determined to be voluntarily unemployed or voluntarily underemployed, either DCS or the ALJ, or both may impute earnings of twenty hours per week at minimum wage in the jurisdiction where the parent resides. Imputation of earnings at twenty hours per week under this subsection is a rebuttable presumption.

(3) DCS and the ALJ impute ((full-time)) earnings of thirty-two hours per week at the minimum wage to a TANF recipient in the absence of actual income information. You may rebut the imputation of income if you are excused from being required to work while receiving TANF, because:

(a) You are either engaged in other qualifying WorkFirst activities which do not generate income, such as job search; or

(b) You are excused or exempt from being required to work in order to receive TANF, because of other barriers such as family violence or mental health issues.