



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: May 19, 2021

TIME: 2:30 PM

WSR 21-12-005

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) June 1, 2021

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 continues to amend WAC 388-482-0005, How does being a student of higher education affect my eligibility for the Washington basic food program?, under emergency rule to implement changes to student eligibility for Basic Food as provided in the Consolidated Appropriation Act, 2021 (H.R. 133, Section 702) due to the Coronavirus (COVID-19) pandemic.

This filing extends the original emergency rule under WSR 21-04-110 filed on February 1, 2021. The department filed a supplemental *Proposed Rule Making* notice under WSR 21-11-046 to incorporate this amendment and is actively undertaking appropriate procedures to adopt the rule as permanent.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: 388-482-0005
- Suspended: none

Statutory authority for adoption: RCW 43.20A.760, RCW 74.04.500, RCW 74.04.510, and RCW 74.08A.120

Other authority: H.R. 133

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 second emergency rule is required to continue to implement provisions under H.R. 133, Section 702 related to the Supplemental Nutrition Assistance Program (administered as Basic Food in Washington). These provisions support preservation of the public health, safety, or general welfare through access to Basic Food assistance.

**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 ____

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:

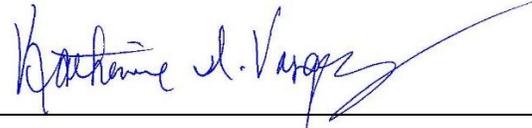
Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	<u>1</u>	Repealed	____

Date Adopted: May 19, 2021

Name: Katherine Iyall Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-482-0005 How does being a student of higher education affect my eligibility for the Washington basic food program? (1) For basic food, we consider you a student of higher education if you are:

- (a) Age eighteen through forty-nine;
- (b) Physically and mentally able to work (we determine if you are unable to work);
- (c) Enrolled in an institution of higher education at least half-time as defined by the institution; and
- (d) Enrolled in coursework considered to be higher education.

(2) An institution of higher education is:

- (a) Any educational institution that requires a high school diploma or high school equivalency certificate;
- (b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or
- (c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

(3) If you are a student of higher education, you must also meet one of the following conditions to be eligible for basic food:

- (a) You have paid employment and work an average of at least twenty hours per week each month;

- (b) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

- (c) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this condition, you must:

- (A) Have approval for work study at the time of application for basic food;

- (B) Have work study that is approved for the school term; and

- (C) Anticipate actually working during that time.

(ii) The work study exemption begins:

- (A) The month in which the school term starts; or

- (B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

- (A) The end of the month in which the school term ends; or

- (B) We find out you refused a work study assignment.

(d) Starting January 16, 2021, you are determined eligible to participate in state or federal work study by your institution of higher education during the regular school year. Requirements under subsections (3)(c)(i)-(iii) of this section are suspended until the COVID-19 federal public health emergency ends as described under subsection (4) of this section.

- (e) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

- ~~((e))~~ (f) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

- (i) Attend class and satisfy the twenty-hour work requirement; or

- (ii) Take part in a work study program.

- ~~((f))~~ (g) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

~~((g))~~ (h) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

- (i) The child's parents; or
- (ii) Your spouse.

~~((h))~~ (i) You participate in the WorkFirst program under WAC 388-310-0200;

~~((i))~~ (j) You receive TANF or SFA benefits;

~~((j))~~ (k) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The basic food employment and training program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program;

or

(iv) Section 236 of the Trade Act of 1974.

(l) Starting January 16, 2021, you have an expected family contribution (EFC) of zero dollars in the current academic year as determined by part F of Title IV of the Higher Education Act of 1965.

(4) The conditions in subsection(3)(d) and (l) will continue as follows:

(a) For initial applications, until thirty days after the COVID-19 federal public health emergency ends.

(b) For recertifications, no earlier than your first recertification thirty days after COVID-19 federal public health emergency ends.

(5) If you are a student of higher education, your status as a student:

(a) Begins the first day of the school term; and

(b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.

~~((5))~~ (6) We do not consider you a student of higher education if you:

(a) Graduate;

(b) Are suspended or expelled;

(c) Drop out; or

(d) Do not intend to register for the next normal school term other than summer school.