



# 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: July 19, 2023

TIME: 1:36 PM

WSR 23-16-002

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

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) July 23, 2023

**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 adopting emergency amendments to WAC 388-447-0120, How does alcohol or drug dependence affect my eligibility for referral to the housing and essential needs (HEN) program?, and 388-449-0220, How does alcohol or drug dependence affect my eligibility for the ABD cash and pregnant women assistance programs?, to expand good cause reasons for not participating in substance use disorder assessment or treatment as a condition of eligibility for the Aged, Blind, or Disabled (ABD), Housing and Essential Needs (HEN) Referral, and Pregnant Women Assistance programs. These amendments are necessary to implement Engrossed Substitute House Bill 1260 (Chapter 289, Laws of 2023), effective July 23, 2023.

**Citation of rules affected by this order:**

New: None  
 Repealed: None  
 Amended: WAC 388-447-0120 and 388-449-0220  
 Suspended: None

**Statutory authority for adoption:** RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030

**Other authority:** Engrossed Substitute House Bill 1260 (Chapter 289, Laws of 2023)

**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:** These amendments are necessary to implement Engrossed Substitute House Bill 1260 (Chapter 289, Laws of 2023), effective July 23, 2023. The Department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 23-13-026 on June 9, 2023.

**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>2</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:**

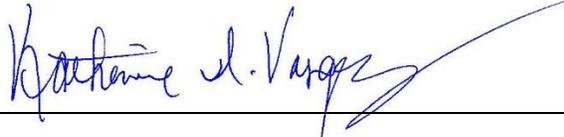
New \_\_\_\_ Amended \_\_\_\_ Repealed \_\_\_\_

**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>2</u>	Repealed	____

<b>Date Adopted:</b> July 18, 2023	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0120 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for referral to the housing and essential needs (HEN) program?** (1) ~~((When we have information that indicates you may be chemically dependent,))~~ You must complete a ~~((chemical dependency))~~ substance use disorder assessment ~~((unless you have good cause to not do so))~~ when we have information that indicates you may have a substance use disorder.

(2) You must participate in ~~((drug or alcohol))~~ substance use treatment if a certified ~~((chemical dependency))~~ substance use disorder professional indicates a need for treatment, unless you have good cause ~~((to not do so))~~. Good cause includes, but is not limited to,

~~((3))~~ We consider the following reasons ~~((to be good cause for not following through with a chemical dependency assessment or treatment))~~:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment ~~((+))~~.

(b) The outpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available in the county where you live ~~((+ or))~~.

(c) The inpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available at a location you can reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

~~((4))~~ (3) If you refuse or ~~((fail to))~~ do not complete an assessment or treatment without good cause, your HEN referral eligibility will end ~~((following advance notification rules under WAC 388-458-0030))~~ until you provide proof you are pursuing an assessment or treatment as required.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-449-0220 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for the aged, blind, or disabled (ABD) cash and pregnant women assistance (PWA) programs?** (1) ~~((You))~~ For purposes of ABD, you must complete a ~~((chemical dependency))~~ substance use disorder assessment when we have information that indicates you may ~~((be chemically dependent))~~ have a substance use disorder.

(2) For purposes of PWA, you must complete a substance use disorder assessment when we have information that indicates you may have a substance use disorder.

~~((2))~~ (3) You must ~~((accept an assessment referral and))~~ participate in ~~((drug or alcohol))~~ substance use disorder treatment if a certified ~~((chemical dependency counselor))~~ substance use disorder professional indicates a need for treatment, unless you ~~((meet one of))~~ have good cause. Good cause includes, but is not limited to, the following ~~((good cause))~~ reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient (~~(chemical dependency)~~) substance use disorder treatment you need isn't available in the county you live in.

(c) You need inpatient (~~(chemical dependency)~~) substance use disorder treatment at a location that you can't reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

(3) If you refuse or (~~fail to~~) do not complete an assessment or treatment without good cause, your benefits will end until you provide proof you are pursuing an assessment or treatment as required.