



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

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

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) November 1, 2014 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

The Community Services Division, Economic Services Administration is amending WAC 388-310-1600 to reduce the time period before closure of TANF/SFA due to failure to meet WorkFirst requirements without good cause, and to add home visitation prior to sanction for WorkFirst participants who fail to attend a good cause appointment.

The amendments are necessary to implement the WorkFirst program changes outlined in the Agency Detail, Rec Sums for the Supplemental Budget (ESSB 6002) that passed the Legislature on March 13, 2014.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 388-310-1600
Suspended: None

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08.025 and chapters 74.08A and 74.12 and ESSB 6002 Agency Detail, Rec Sums.

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-15-126 on July 22, 2014.

Describe any changes other than editing from proposed to adopted version:

The Department filed an initial CR-102, Filing Authority WSR: 14-09-109 on April 23, 2014. A public hearing was held May 27, 2014. Based on comments received as part of the public hearing process, the Department revised the proposed text and filed a supplemental CR-102 notice, WSR 14-15-126 on July 22, 2014. A second public hearing was held August 26, 2014, and no comments were received. Only editing changes were made to the adopted version from the version proposed with the supplemental CR-102. Changes were made to numbering in sections (3) and (14) for clarity and in (6) we added the word "level" to "supervisory employee", so it more clearly reads "supervisory level employee."

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: September 25, 2014

NAME (TYPE OR PRINT)

Katherine Vasquez

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 30, 2014

TIME: 12:09 PM

WSR 14-20-104

**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	_____
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The number of sections adopted in 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	_____

WAC 388-310-1600 WorkFirst-Sanctions. Effective ((July 1, 2010)) November 1, 2014.

(1) **What WorkFirst requirements do I have to meet?**

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) **What happens if I don't meet WorkFirst requirements?**

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do, and inviting you to a noncompliance ((sanction)) case staffing. The letter will also schedule a home visit that will happen if you don't attend your noncompliance case staffing. We may schedule an alternative meeting, instead of a home visit, when there are safety or access issues.

(i) A noncompliance case staffing is a meeting with you, your case manager, and other people who are working with your family, such as representatives from tribes, community or technical colleges, employment security, the children's administration, family violence advocacy providers or limited-English proficient (LEP) pathway providers to review your situation and compliance with your participation requirements.

(ii) You will be notified when your noncompliance ((sanction)) case staffing is scheduled so you can attend.

(iii) You may invite anyone you want to come with you to your noncompliance case staffing.

(b) You will have ten days to contact us so we can talk with you about your situation. You can contact us in writing, by phone, by going to the noncompliance ((sanction)) case staffing appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation and that we provided necessary supplemental accommodations as required by chapter 388-472 WAC. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an ((IRP)) individual responsibility plan to help you with your situation, including referrals to appropriate services.

(e) If you do not attend your noncompliance case staffing, and we determine you did not have a good reason, we will conduct the home visit (or alternative meeting) to review your circumstances and discuss next steps and options.

(3) What is considered a good reason for not doing what WorkFirst requires?

You have a good reason if you were not able to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5)) due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

(a) You had an emergent or severe physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your copayment would under the working connections child care program in chapter 170-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

~~((+iv))~~ (d) You could not locate other care services for an incapacitated person who lives with you and your children.

~~((+d))~~ (e) You had an immediate legal problem, such as an eviction notice; or

~~((+e))~~ (f) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

(4) What happens in my noncompliance (~~(sanetion)~~) case staffing?

(a) At your noncompliance case staffing we will ensure you were offered the opportunity to participate and discuss with you:

(i) Whether you had a good reason for not meeting WorkFirst requirements.

~~((+ii))~~ (ii) What happens if you are sanctioned (~~(and stay in sanetion)~~);

~~((+iii))~~ (iii) How you can participate and get out of sanction status;

~~((+iii))~~ (iv) How you and your family benefit when you participate in WorkFirst activities;

~~((+iv))~~ (v) That ~~((if you continue to refuse to participate, without good cause,))~~ your case may be closed after you have been in sanction status for ~~((four))~~ two months in a row;

~~((+v))~~ (vi) How you plan to care for and support your children if your case is closed. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44.030;

~~((+vi))~~ (vii) How to reapply if your case is closed; and

~~((+vii))~~ (viii) That upon your third (~~(noncompliance)~~) sanction case closure after March 1, 2007, you may be permanently disqualified from receiving TANF/SFA. If you are permanently disqualified, your entire household is ineligible for TANF/SFA.

(b) If you do not come to your noncompliance (~~(sanetion)~~) case staffing, we will make a decision based on the information we have and

send you a letter letting you know whether we found that you had a good reason for not meeting WorkFirst requirements.

(5) What happens if we do a home visit because you didn't attend your noncompliance case staffing?

If you didn't attend your noncompliance case staffing, and we determined you did not have a good reason for failure to meet WorkFirst requirements, we will attempt to contact you during your scheduled home visit (or alternative meeting).

(a) If we are able to contact you, we will review the information that we planned to discuss at your noncompliance case staffing, including whether you had a good reason for failing to meet WorkFirst requirements and how you can participate and get out of sanction status. If you don't have a good reason, we will follow the process to place you in sanction status.

(b) If we are unable to contact you, we will follow the process to place you in sanction status based on the determination we made at your noncompliance case staffing.

(6) What if we decide that you did not have a good reason for not meeting WorkFirst requirements?

(a) Before you are placed in sanction, a ~~((supervisor))~~ supervisory level employee will review your case to make sure:

(i) You knew what was required;

(ii) You were told how to end your sanction;

(iii) We tried to talk to you and encourage you to participate;

and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) If we decide that you did not have a good reason for not meeting WorkFirst requirements, and a ~~((supervisor))~~ supervisory level employee approves the sanction and sanction penalties, we will send you a letter that tells you:

(i) What you failed to do;

(ii) That you are in sanction status;

(iii) Penalties that will be applied to your grant;

(iv) When the penalties will be applied;

(v) How to request ~~((a fair))~~ an administrative hearing if you disagree with this decision; and

(vi) How to end the penalties and get out of sanction status.

(c) If your case is closed because you failed to attend your non-compliance case staffing and home visit (or alternative meeting), this information will be included in your termination letter.

(d) We will also provide you with information about resources you may need if your case is closed. If you are sanctioned, then we will actively attempt to contact you another way so we can talk to you about the benefits of participation and how to end your sanction.

~~((+6))~~ **(7) What is sanction status?**

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't do what is required and you can't prove that you had a good reason, you ~~((do not qualify for your full grant. This is called being))~~ are placed in WorkFirst sanction status.

~~((+7))~~ **(8) Are there penalties when you or someone in your household goes into sanction status?**

~~((+a))~~ When you or someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements. There are different penalties depending on if you attended your noncompliance case staffing or home

visit(or alternative meeting). Your household will only enter sanction status if we determine that you or someone else in your household did not have a good reason for failing to meet the WorkFirst requirements.

((+b+)) (a) If you attended your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status, you will receive a grant reduction sanction penalty.

(i) Your grant is reduced by one person's share or forty percent, whichever is more.

(ii) The reduction is effective the first of the month following ten-day notice from the department; and

(iii) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

(b) If you did not attend your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status you will receive a case closure sanction penalty.

(i) Your case may be closed the first of the month following the ten-day notice from the department.

(ii) If your case is reopened under subsection (14)(b), you will remain in sanction status and receive a grant reduction sanction penalty.

(A) Your grant is reduced by one person's share or forty percent, whichever is more.

(B) The reduction is effective the first of the month that your grant is reopened; and

(C) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

(9) What happens before your case is closed due to sanction?

Before we close your case due to sanction status, we will send you a letter to tell you:

(a) What you failed to do;

(b) When your case will be closed;

(c) How you can request an administrative hearing if you disagree with this decision;

(d) How you can end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (13).

(10) What happens if my sanction grant reduction penalty started before November 1, 2014?

If you are in sanction and entered sanction before November 1, 2014, your case may be closed after you have been in sanction for four months in a row.

((+8+)) (11) How do I end the penalties and get out of sanction status?

To ~~((stop))~~ end the penalties and get out of sanction status:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, twenty-eight calendar days). The four weeks starts on the day you complete your comprehensive evaluation and you agree to your individual responsibility plan activities.

((+e+)) (12) What happens when I get out of sanction status before my case is closed?

When you ~~((leave))~~ get out of sanction status before your case is closed, your grant will be restored to the level you are eligible for beginning the first of the month following your four weeks of par-

ticipation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

~~((9))~~ **(13) What if I reapply for TANF or SFA ((and I was in sanction status when my case closed)) and I was in sanction status when my case closed?**

If your case closed due to sanction, you will need to follow the sanction reapplication process in subsection (14). If your case ((closes)) closed for another reason while you ((are)) were in sanction status and is reopened, you will ((start out where you left off in)) reopen in month two of sanction status.

~~((That is, if you were in month two of sanction when your case closed, you will be in month three of sanction when you are approved for TANF or SFA.~~

~~(10) What happens if I stay in sanction status?~~

~~(a) We will send information to a supervisor or designee with a recommendation to close your case.~~

~~(b) A supervisor or designee will make the final decision.~~

~~(c) If the supervisor or designee approves case closure, your case will be closed after you have been in sanction for four months in a row.~~

~~(11) What happens when a supervisor or designee approves closure of my case?~~

~~When a supervisor or designee approves closure of your case, we will send you a letter to tell you:~~

~~(a) What you failed to do;~~

~~(b) When your case will be closed;~~

~~(c) How to request a fair hearing if you disagree with this decision;~~

~~(d) How to end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and~~

~~(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (12).~~

~~(12))~~ **(14) What if I reapply for TANF or SFA after ((a supervisor or designee approved case closure and my case was closed)) my case is closed due to sanction?**

~~((If a supervisor or designee approves case closure and we close your case,)) (a) Except as specified in subsection (14)(b) if you reapply for TANF or SFA after your case is closed due to sanction, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.~~

(b) We will take the actions below if you received the sanction penalty in subsection (8)(b), you reapply for TANF or SFA after your case is closed due to sanction and you complete the interview required under WAC 388-452-0005 by the end of the month that your benefits stopped. For example, if your benefits stop effective July 1, you must reapply and complete the interview by July 31. If you meet this time-frame:

(i) We will undo your case closure sanction penalty, and we will not count the closure toward permanent disqualification under subsection (15); and,

(ii) If you are determined eligible, we will reopen your grant in sanction status with a grant reduction sanction penalty, going back to the effective date of your case closure.

((13)) (15) What happens if a (~~supervisor or designee~~) supervisory level employee approves case closure for the third time?

If we close your case for sanction at least three times after March 1, 2007, you will be permanently disqualified from receiving TANF/SFA. If you are permanently disqualified, any household you are in will also be ineligible for TANF/SFA.