



RULE-MAKING ORDER

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

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

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (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 Department is amending WAC 388-444-0005, WAC 388-444-0010, and WAC 388-444-0035 to align WAC with the Code of Federal Regulations (CFR). Proposed changes define Able-bodied Adults without Dependents (ABAWD) as a subset of work registrants, allow the Department to review work registration at recertification, and add policy regarding work registration and ABAWD exemptions related to inability to work.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 388-444-0005, WAC 388-444-0010, and WAC 388-444-0035
Suspended: None

Statutory authority for adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120

Other authority: 7 CFR 273.7 and 7 CFR 273.24

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-19-100 on September 17, 2015 (date).
Describe any changes other than editing from proposed to adopted version:

See Attachment A

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:

January 21, 2016

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: January 27, 2016

TIME: 2:25 PM

WSR 16-04-046

(COMPLETE REVERSE SIDE)

**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Federal statute:	New	_____	Amended	_____	Repealed	_____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	<u>3</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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 in 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>3</u>	Repealed	_____

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

1. WAC 388-444-0005:
 - a. The Department re-worded the question for clarity.
 - b. We kept the reference to the 12 month frequency for work registration and added clarification for when persons are re-registered for work at recertification.
 - c. Added words “the person” in subsection (3)(f) before “...sanctioned under WAC 388-310-1600...”.
 - d. Other minor edits for clarity.
2. WAC 388-444-0010:
 - a. Corrected a typographical error by inserting missing subsection number in citation for WAC 388-310-0350 under subsection (6)(b), and restructured the paragraph for clarity.
 - b. Listed the definitions in subsection (7) previously referenced from WAC 388-310-0350 (1)(b) and made edits to adapt the definitions used for TANF to the Basic Food program.
 - c. Made editorial changes and corrected the word “ten” to read “thirty” in subsection (7).
 - d. Removed the 12-month durational requirement under subsection (7).
 - e. Minor grammatical edits were made for clarity
3. WAC 388-444-0035:
 - a. Decided not to remove original list of exemptions (1) through (12) except that we did remove subsection (3) and added a more detailed way of determining if someone is physically or mentally unable to work.
 - b. Based on overall comments about exemptions for work requirements we wanted to make it clear that any ABAWD exempt from Basic Food work requirements is exempt from ABAWD work requirements and time-limits. With that in mind we added a final exemption in the list that reads: “Otherwise exempt from work requirements under WAC 388-444-0010.”
 - c. Additional minor grammatical edits were made for clarity.

AMENDATORY SECTION (Amending WSR 13-21-126, filed 10/22/13, effective 11/22/13)

WAC 388-444-0005 Am I required to work, register for work, or look for work in order to be eligible for Basic Food? Some people must register for work to receive Basic Food.

(1) If you receive Basic Food, we register you for work if you are:

(a) Age sixteen through fifty-nine (~~((with dependents))~~); and

(b) (~~((Age sixteen or seventeen, not attending secondary school and not the head of household;~~

~~(c) Age fifty through fifty nine with no dependents; or~~

~~(d) Age eighteen through forty nine, able bodied and with no dependents as provided in WAC 388-444-0030))~~ Not exempt from work registration under WAC 388-444-0010.

(2) (~~((Unless you are exempt from work registration under WAC 388-444-0010))~~ If you are required to register for work, we register you ((for work)):

(a) When you apply for Basic Food benefits or are added to someone's assistance unit; and

(b) At least once every twelve months thereafter or at recertification if your work registration status changes.

(3) If we register you for work, you must:

(a) Contact us as required;

(b) Provide information regarding your employment status and availability for work if we ask for it;

(c) Report to an employer if we refer you;

(d) Not voluntarily quit a job or reduce your work effort as defined under WAC 388-444-0065 unless you have good cause under WAC 388-444-0070; (~~and~~))

(e) Accept a bona fide offer of suitable employment. We define unsuitable employment under WAC 388-444-0060(~~(-)~~); and

(f) Not be in sanction status under WAC 388-310-1600 (if you are a mandatory WorkFirst participant).

(4) If we register you for work, you must meet all of the requirements under subsection (3) of this section. If you do not meet these requirements, we disqualify you from receiving benefits as described in WAC 388-444-0055, unless you meet the good cause conditions as defined in WAC 388-444-0050.

AMENDATORY SECTION (Amending WSR 13-24-043, filed 11/26/13, effective 1/1/14)

WAC 388-444-0010 Who is exempt from work registration while receiving Basic Food? If you receive Basic Food, you are exempt from work registration and the requirements in chapter 388-444 WAC if you meet any one of the following conditions:

(1) (~~((You are))~~) Are age sixteen or seventeen, and:

(a) Not the head of household(~~(-, and+))~~;

~~((+a))~~) (b) Attend school ((such as high school or high school equivalency programs)); or

~~((+b))~~) (c) Are enrolled at least half time (using the institutions definition) in an employment and training program under:

(i) The Workforce ((Investment)) Innovation and Opportunity Act of 2014 (WIOA);

(ii) Section 236 of the Trade Act of 1974; or

(iii) ((Another)) A state or local employment and training program.

(2) You are a student age eighteen or older enrolled at least half time as defined by the institution in:

(a) Any accredited school;

(b) A training program; or

(c) An institution of higher education. If you are enrolled in higher education, you must meet the requirements under WAC 388-482-0005 to be eligible for Basic Food benefits.

(3) You are an employed or self-employed person working at least thirty hours ((or more)) per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty;

(4) You are complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);

(5) You receive unemployment compensation (UC) benefits or have an application pending for UC benefits;

(6) You are responsible to care for:

(a) A dependent child under age six; or

(b) ((Someone who is incapacitated)) An adult with an incapacity that meets the requirements of WAC 388-310-0350 (1)(d)(i), (ii), (iv), and (v), except the person does not need to be related to you as stated in (1)(d)(v).

(7) ((We determine that)) You are physically or mentally unable to work as determined below:((+or))

(a) A DSHS SSI facilitator has assessed you as likely to be approved for SSI or other benefits and are required to apply for SSI or another type of federal disability benefit (such as railroad retirement or Social Security disability) and your SSI application status may be verified through either the SSI facilitator or state data exchange, or both;

(b) You have a severe and chronic mental, physical, emotional, or cognitive disability that prevents you from participating in work or work activities for at least thirty hours a week; or

(c) We verify your disability using documentation from DDA, DVR, HCS, MHD, or RSN, or by one of the medical or mental health professionals listed in WAC 388-310-0350(2).

(8) You regularly participate in a drug addiction or alcoholic treatment and rehabilitation program.

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

WAC 388-444-0035 Who is exempt from the ABAWD time limits and minimum work requirements? Some persons receiving Basic Food are exempt from ABAWD time limits and minimum work requirements. You are exempt from the ABAWD work requirements and time limits under WAC 388-444-0030 if you are any one or more of the following:

(1) Under eighteen or fifty years of age or older;

~~(2) ((Determined to be physically or mentally unable to work;))~~
Receiving temporary or permanent disability benefits issued by a governmental or private source;

~~(3) ((A member of a household with responsibility for a person who is incapacitated;))~~ Obviously mentally or physically unfit for employment as determined by the department. If the unfitness is not obvious, you must provide a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel we determine is appropriate, that you are physically or mentally unfit for employment.

(4) An adult in a ((household)) basic food assistance unit that has a family member who is under the age of eighteen((, even if the child is not eligible for Basic Food));

(5) Pregnant;

(6) Living in an area approved as exempt by U.S. Department of Agriculture (USDA);

(7) Complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);

(8) Applying for or receiving unemployment compensation;

(9) A student enrolled at least half time as defined by the institution in:

(a) Any accredited school;

(b) Training program; or

(c) Institution of higher education. A student enrolled in higher education must meet the requirements under WAC 388-482-0005 in order to be eligible for Basic Food.

(10) Participating in a chemical dependency treatment and rehabilitation program;

(11) Employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate multiplied by thirty hours;

(12) Eligible for one of the ((annual-federal)) approved exemption slots under the USDA fifteen percent exemption rule((-));

(13) A recipient of the state-funded food assistance program (FAP) under WAC 388-400-0050; or

(14) Otherwise exempt from work requirements under WAC 388-444-0010.