



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: December 23, 2019

TIME: 1:33 PM

WSR 20-02-047

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) February 1, 2020 (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 388-410-0005 and WAC 388-410-0015 to clarify which members of a household are and are not responsible for repaying cash overpayments, the circumstances where overpayments are recovered by means of a mandatory grant deduction, and that cash overpayments are not recovered from children.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: 388-410-0005, WAC 388-410-0015
 Suspended: None

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.500, RCW 74.04.510, RCW 74.08.090, RCW 74.08A.120.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-21-048 on October 10, 2019 (date).
 Describe any changes other than editing from proposed to adopted version: None

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

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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 on 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New	___	Amended	___	Repealed	___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	<u>2</u>	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>2</u>	Repealed	___

Date Adopted: December 23, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 19-08-066, filed 3/29/19, effective 5/1/19)

WAC 388-410-0005 Cash assistance overpayment amount and liability. (1) The amount of overpayment for cash assistance households is determined by the amount of assistance received to which the assistance unit was not entitled.

(2) Cash overpayments are recovered from:

(a) Any (~~individual~~) adult member of an overpaid assistance unit, whether or not the member is currently a recipient;

(b) Any assistance unit of which ((a)) an adult member of the overpaid assistance unit has subsequently become a member; or

(c) A nonneedy caretaker relative or guardian who received (~~the overpayment on behalf of~~) assistance for a child who is in the assistance unit.

(3) A cash assistance overpayment is not recovered from:

(a) (~~A nonneedy caretaker relative or guardian who did not receive the overpayment on behalf of a child;~~

~~(b))~~) A child who was in the assistance unit at the time the overpayment was accrued;

(~~(c) A nonneedy caretaker relative or guardian who was assessed an overpayment for a child who is not currently part of the assistance unit;~~) or

(~~(d))~~) (b) A person not receiving assistance when an unintentional overpayment of less than thirty-five dollars is discovered, computed, or both.

(4) Overpayments resulting from incorrectly received cash assistance are reduced by:

(a) Cash assistance a household would have been eligible to receive from any other category of cash assistance during the period of ineligibility; and

(b) Child support the department collected for the month of overpayment in excess of the amount specified in (a) of this subsection; or

(c) Any existing grant underpayments.

(5) A cash assistance overpayment cannot be reduced by a food assistance underpayment.

(6) An underpayment from one assistance unit cannot be credited to another assistance unit to offset an overpayment.

(7) All overpayments occurring after January 1, 1982 are required to be repaid by mandatory grant deduction except where recovery is inequitable as specified in WAC 388-410-0010.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-410-0015 Recovery of cash assistance overpayments by mandatory grant deduction. (1) All overpayments of cash assistance are recovered by means of a mandatory deduction from future continuing assistance grants except:

(a) When a nonneedy caretaker relative or guardian was assessed an overpayment for a child who is not currently part of the assistance unit or,

(b) As specified by WAC 388-410-0010.

(2) All adult members of an overpaid assistance unit are responsible for repayment of an overpayment. Repayment may be from:

(a) Resources, ~~((and/or))~~ income, or both; or

(b) Deductions from subsequent grants; and

(c) An assistance unit member's estate.

(3) The mandatory grant deduction of an intentional overpayment is ten percent of the monthly grant payment standard.

(4) A monthly grant deduction of up to one hundred percent of the grant can be established when:

(a) The overpayment is intentional;

(b) The client has liquid resources available but refuses to use these resources in full or partial satisfaction of the overpayment; and

(c) The amount of income and resources remaining available to the assistance unit is not less than ninety percent of the grant payment standard.

(5) An unintentional overpayment is recovered by grant deduction of five percent of the monthly grant payment standard unless the client voluntarily requests a larger deduction in writing.

(6) A monthly deduction for overpayment recovery can be established against the clothing and incidental grant of a recipient in a nursing facility, intermediate care facility, or hospital. A monthly deduction cannot be established against the vendor payment to the nursing facility, intermediate care facility or hospital.

(7) When the monthly grant deduction is equal to or more than the current grant for which the client is eligible had no overpayment occurred, the grant is suspended.

(8) No more than the total amount of an overpayment may be collected by mandatory deduction from a client's public assistance grant. The client will receive compensation for an underpayment resulting from any erroneous monthly deduction.