



# RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: March 04, 2021

TIME: 9:09 AM

WSR 21-07-004

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

**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 adopting WAC 388-447-0130, What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency?; and WAC 388-449-0230, What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency?, to mitigate impacts ABD and HEN Referral program clients and their medical providers during the Coronavirus (COVID-19) pandemic and future states of emergency.

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

New: WAC 388-447-0130, WAC 388-449-0230  
 Repealed: None  
 Amended: None  
 Suspended: None

**Statutory authority for adoption:** RCW 74.04.005, RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.04.655, RCW 74.04.770, RCW 74.08.025, RCW 74.08.043, RCW 74.08.090, RCW 74.08.335, RCW 74.09.530, RCW 74.08A.100.

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 20-23-075 on November 16, 2020 (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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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	<u>2</u>	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	<u>2</u>	Amended	___	Repealed	___

**Date Adopted:** March 3, 2021

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



NEW SECTION

**WAC 388-447-0130 What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency?** During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your HEN referral program eligibility beyond the twelve month period if the department determines you are not eligible for the aged, blind, or disabled (ABD) program at the time of your incapacity review. The postponement of this review may occur retroactively to the date the governor declares a state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "supplemental medical evidence" source in subsection (2) of WAC 388-447-0005, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond ninety days of the date of application or incapacity review, or otherwise waive the requirement of WAC 388-447-0010 (3)(c) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for referral to the HEN program.

(5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for referral to the HEN program.

NEW SECTION

**WAC 388-449-0230 What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency?** During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your ABD cash eligibility beyond the twenty-four month period required in WAC 388-449-0150. The postponement of this review may occur retroactively to the date the governor declares the state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "treating medical source" in subsection (2) of WAC 388-449-0010, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond ninety days of the date of application or forty-five days before the month of disability review, or otherwise waive the requirement of WAC 388-449-0015 (3)(e) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for the ABD program.

(5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for the ABD program.