



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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FILED

DATE: October 02, 2023
TIME: 12:01 PM

WSR 23-20-091

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

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-16-024 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR ; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW .**

Title of rule and other identifying information: (describe subject) The department is proposing to amend WAC 388-418-0005, "How will I know what changes to report?", 388-470-0005, "How do resources affect my eligibility for cash assistance and basic food?", 388-470-0045, "How do my resources count toward the resource limits for cash assistance?" and 388-470-0070, "How vehicles are counted toward the resource limit for cash assistance."

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 7, 2023	10:00 am	Virtually via Teams or call in	Hearings are being held virtually. Please see the DSHS website for the most up to date information

Date of intended adoption: Not before November 8, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850 Olympia, WA 98504
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax: 360-664-6185
 Other:
 By (date) November 7, 2023, at 5:00 p.m.

Assistance for persons with disabilities:

Contact Shelley Tencza, DSHS Rules Consultant
 Phone: 360-664-6036
 Fax: 360-664-6185
 TTY: 711 Relay Service
 Email: Tencza@dshs.wa.gov
 Other:
 By (date) October 24, 2023, at 5:00 p.m.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Effective February 1, 2024, these amendments will expand resource exemptions for CSD cash programs and increase the cash resource limit from \$6,000 to \$12,000. These amendments are necessary to implement Second Substitute House Bill 1447 (Chapter 418, Laws of 2023). As needed, amendments also make additional changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Reasons supporting proposal: See above

Statutory authority for adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090

Statute being implemented: Second Substitute House Bill 1447 (Chapter 418, Laws of 2023)

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Social and Health Services

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Patrick Budde	PO Box 45470, Olympia WA 98504-5770	360-764-0068
Implementation:	Patrick Budde	PO Box 45470, Olympia WA 98504-5770	360-764-0068
Enforcement:	Patrick Budde	PO Box 45470, Olympia WA 98504-5770	360-764-0068

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

No: Please explain: This amendment is exempt as allowed under RCW 34.05.328(5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW 34.05.328(5)(b)(vii).

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rules do not impact small businesses. They only impact DSHS clients.

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

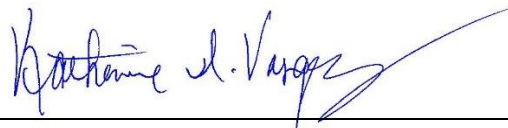
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 27, 2023

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-418-0005 How will I know what changes to report? (1)

You must report changes to the department based on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

(a) If you receive **cash** benefits, you need to tell us if:

(i) You move;

(ii) Someone moves out of your home;

(iii) Your total gross monthly income goes over the:

(A) (~~Payment standard~~) Income limit under WAC (~~388-478-0033~~) 388-478-0090 if you receive ABD cash or HEN referral; or

(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;

(iv) You have liquid resources more than (~~six thousand dollars~~) \$12,000; or

(v) You have a change in employment, you need to tell us if:

(A) You get a job or change employers;

(B) Your schedule changes from part-time to full-time or full-time to part-time;

(C) You have a change in your hourly wage rate or salary; or

(D) You stop working.

(b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

(i) You move;

(ii) The child you are caring for moves out of the home;

(iii) Anyone related to the child you are caring for moves into or out of the home;

(iv) There is a change in the recipient child's earned or unearned income unless they are in school full-time as described in WAC 388-450-0070;

(v) The recipient child has liquid resources more than (~~six thousand dollars~~) \$12,000;

(vi) A recipient child in the home becomes a foster child; or

(vii) You legally adopt the recipient child.

(2) If you do not receive cash assistance but you do receive benefits from basic food, you must report changes for the people in your assistance unit under chapter 388-408 WAC, and tell us if:

(a) Your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060;

(b) You or a member of your household receives substantial lottery or gambling winnings in a single game that is equal to or over the elderly or disabled resource limit under WAC 388-470-0005 (8)(a); or

(c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below (~~twenty~~) 20 hours per week.

WAC 388-470-0005 How do resources affect my eligibility for cash assistance and basic food? (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.
(b) **"You"** means a person applying for or getting benefits from the department.

(c) **"Fair market value"** or **"FMV"** means the price at which you could reasonably sell the resource.

(d) **"Equity value"** means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or basic food when:

(a) It is a resource we must count under WAC 388-470-0045 for cash assistance or WAC 388-470-0055 for basic food;

(b) You own the resource and we consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that does not have a title;

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within 20 days.

(3) For cash assistance, you must try to make your resources available even if it will take you more than 20 days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance, there is an equity value resource limit of (~~(\$6,000)~~) \$12,000.

(7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for basic food.

(8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for basic food:

(a) \$4,250 if your AU has either an elderly or disabled individual; or

(b) \$2,750 for all other AUs.

(9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For basic food, we count the entire amount unless you can prove that the entire amount is not available to you.

(10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household;

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of a resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.

AMENDATORY SECTION (Amending WSR 23-06-039, filed 2/23/23, effective 3/26/23)

WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance? (1) We count the following resources toward your assistance unit's resource limits for cash assistance to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources not specifically excluded in subsection (2) of this section, including but not limited to:

(i) Cash on hand;

(ii) Money in checking or savings accounts;

(iii) Money market accounts or certificates of deposit (CD) less any withdrawal penalty;

~~(iv) ((Available retirement funds or pension benefits less any withdrawal penalty;~~

~~(v))~~ Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;

~~((vi))~~ (v) Available trusts or trust accounts;

~~((vii))~~ (vi) Lump sum payments as described in chapter 388-455 WAC; and

~~((viii))~~ (vii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of exempt resources by members of a federally recognized tribe that are in the form of countable resources;

(b) The cash surrender value (CSV) of whole life insurance policies;

(c) The CSV over \$1,500 of revocable burial insurance policies or funeral agreements;

(d) The amount of a child's irrevocable educational trust fund that is over \$4,000 per child;

(e) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220;

(f) Any real property like a home, land, or building not specifically excluded in this section;

(g) The equity value of vehicles as described in WAC 388-470-0070;

(h) Resources of a sponsor as described in WAC 388-470-0060;

(i) Sales contracts; and

(j) Personal property that is not:

(i) A household good;

(ii) Needed for self-employment; or

(iii) Of great sentimental value due to personal attachment or hobby interest.

(2) The following types of liquid resources do not count when we determine your eligibility:

(a) Bona fide loans, including student loans;

(b) Basic food benefits;

(c) Income tax refunds for 12 months from the date of receipt;

(d) Earned income tax credit (EITC) in the month received and for up to 12 months;

(e) Advance earned income tax credit payments;

(f) Washington's working families tax credit (WFTC);

(g) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(h) Individual development accounts (IDAs) established under RCW 74.08A.220;

(i) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a department decision;

(j) Underpayments received under chapter 388-410 WAC;

(k) Educational benefits that are excluded as income under WAC 388-450-0035;

(l) The income and resources of an SSI recipient;

(m) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;

(n) Foster care payments provided under Title IV-E, state foster care maintenance payments, or both;

(o) Adoption support payments;

(p) All funds in an achieving a better life experience (ABLE) account;

(q) Self-employment accounts receivable that the client has billed to the customer but has been unable to collect;

(r) Retirement funds or pension benefits; and

~~((r))~~ (s) Resources specifically excluded by federal law.

(3) The following types of real property do not count when we determine your eligibility:

(a) Your home and the surrounding property that you, your spouse, or your dependents live in;

(b) A house you do not live in, if you plan to return to the home and are out of the home because of:

(i) Employment;

(ii) Training for future employment;

(iii) Illness; or

- (iv) Natural disaster or casualty;
- (c) Indian lands held jointly with a tribe or land that can be sold only with the approval of the Bureau of Indian Affairs; and
- (d) Property that:
 - (i) You are making a good faith effort to sell;
 - (ii) You intend to build a home on, if you do not already own a home;
 - (iii) Produces income consistent with its fair market value, even if used only on a seasonal basis; or
 - (iv) A household member needs for employment or self-employment.
- (4) Property excluded under subsection (3)(d)(iv) of this section used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.
- (5) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.
- (6) If you sell your home, you have 90 days to reinvest the sale proceeds into an exempt resource.
- (7) If you do not reinvest within 90 days, we will determine whether there is good cause to allow more time. If we determine you have good cause, we will give you more time based on your circumstances. If you do not have good cause, we will count your sale proceeds as a resource. Some examples of good cause include:
 - (a) Closing on your new home is taking longer than anticipated;
 - (b) You are unable to find a new home that you can afford;
 - (c) Someone in your household is receiving emergent medical care;
 - (d) Your children are in school and moving would require them to change schools.

AMENDATORY SECTION (Amending WSR 19-01-105, filed 12/18/18, effective 2/1/19)

WAC 388-470-0070 How vehicles are counted toward the resource limit for cash assistance. (1) A vehicle is any device for carrying persons and objects by land, water, or air.

(2) The entire value of a licensed vehicle needed to transport a physically disabled assistance unit member is excluded.

(3) The ~~((equity))~~ entire value of one vehicle ~~((up to 10,000 dollars))~~ is excluded when the vehicle is used by the assistance unit or household as a means of transportation.