



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: May 19, 2025

TIME: 11:06 AM

WSR 25-11-063

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 25-06-077 ; 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 the following WAC sections: WAC 388-400-0040, "Am I eligible for benefits through the Washington Basic Food program?", 388-408-0050, "Does the department consider me homeless for basic food benefits?", and 388-444-0035, "Who is exempt from ABAWD time limits and minimum work requirements?"

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 24, 2025	10:00am	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of intended adoption: Not earlier than June 25, 2025 (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

Beginning (date and time) May 21, 2025, at noon

By (date and time) June 24, 2025, by 5:00 pm

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) June 10, 2025, by 5:00 pm

Purpose of the proposal and its anticipated effects, including any changes in existing rules: These amendments clarify certain exceptions to work requirements for Basic Food recipients who are able-bodied adults without dependents (ABAWDs), and expand the definitions of "homeless" and "veteran" to align with the Fiscal Responsibility Act (FRA). As applicable, these amendments 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 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120

Statute being implemented: N/A)

Is rule necessary because of a:

Federal Law?

☒ Yes ☐ No

Federal Court Decision?

☐ Yes ☒ No

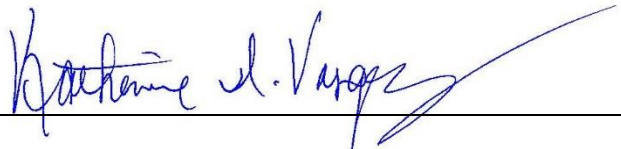
State Court Decision?

☐ Yes ☒ No

If yes, CITATION: 7 CFR 273.24(c)(7) and (c)(8)

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

Name of proponent: (person or organization) Department of Social and Health Services Type of proponent: <input type="checkbox"/> Private. <input type="checkbox"/> Public. <input checked="" type="checkbox"/> Governmental.			
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting	Mike Rybak	PO Box 45470, Olympia, WA 98504-5470	564-669-8457
Implementation	Mike Rybak	PO Box 45470, Olympia, WA 98504-5470	564-669-8457
Enforcement	Mike Rybak	PO Box 45470, Olympia, WA 98504-5470	564-669-8457
Is a school district fiscal impact statement required under RCW 28A.305.135?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, insert statement here: <div style="margin-top: 20px;"> The public may obtain a copy of the school district fiscal impact statement by contacting: <div style="margin-left: 20px;"> Name Address Phone Fax TTY Email Other </div> </div>			
Is a cost-benefit analysis required under RCW 34.05.328?			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: <div style="margin-left: 20px;"> Name Address Phone Fax TTY Email Other </div>			
<input checked="" type="checkbox"/> No: Please explain: These rules are 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):			
<input checked="" type="checkbox"/> 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: Public Law 118-42, the Consolidated Appropriations Act of 2024, Division G, Title II, Section 209(f); 8 U.S.C. §§1612, 1613(b)(3) and 1641(b)(8). Consequence would be out of compliance with federal statute.			
<input type="checkbox"/> 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.			
<input type="checkbox"/> 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.			

<input checked="" type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3) . Check all that apply:	
<input checked="" type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input checked="" 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)
<input checked="" type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) . (Does not affect small businesses).	
<input checked="" type="checkbox"/> 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: These amendments do not impact small businesses. They only impact DSHS customers.	
(2) Scope of exemptions: <i>Check one.</i>	
<input checked="" type="checkbox"/> The rule proposal: Is fully exempt. (<i>Skip section 3.</i>) Exemptions identified above apply to all portions of the rule proposal.	
<input type="checkbox"/> The rule proposal: Is partially exempt. (<i>Complete section 3.</i>) 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):	
<input type="checkbox"/> The rule proposal: Is not exempt. (<i>Complete section 3.</i>) No exemptions were identified above.	
(3) Small business economic impact statement: <i>Complete this section if any portion is not exempt.</i>	
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?	
<input type="checkbox"/> No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____	
<input type="checkbox"/> 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: <div style="margin-left: 20px;"> Name Address Phone Fax TTY Email Other </div>	
Date: 5/14/2025	Signature:
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program? The Washington Basic Food program (Basic Food) is a federally funded nutrition program to help low-income individuals and families buy food and obtain employment. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0034 and 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of:

(a) The most current version of the Food and Nutrition Act of 2008;

(b) Federal regulations adopted by the U.S. Department of Agriculture, Food and Nutrition Services (FNS) related to the supplemental nutrition assistance program (SNAP); and

(c) Standards FNS publishes each year for income limits, resource limits, income deductions, and benefit amounts for SNAP.

(3) To be eligible for Basic Food benefits, each AU member must:

(a) Meet the citizenship or alien status requirements of WAC 388-424-0020.

(b) Be a resident of the state of Washington as required under WAC 388-468-0005;

(c) Give us their Social Security number as required under WAC 388-476-0005;

(d) Give us proof of identity as required under WAC 388-490-0005;

(e) Meet the Basic Food work requirements under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(4) To be eligible for Basic Food, your AU must:

(a) Have total monthly income before taxes and deductions at or under the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as part of your AU's gross monthly income;

(b) Have net income at or under the net monthly income standard under WAC 388-478-0060. We subtract deductions allowed under WAC 388-450-0185 to determine your AU's net monthly income.

(c) Have resources we must count under WAC 388-470-0055 that are at or below your AU's resource limit under WAC 388-470-0005;

(d) Report changes of circumstances as required under WAC 388-418-0005; and

(e) Complete a mid-certification review and provide proof of any changes if required under WAC 388-418-0011.

(5) If your AU is categorically eligible for Basic Food under WAC 388-414-0001, your AU can have income over the gross or net income standard, and have resources over the resource limit and still be eligible for benefits.

(6) If your AU has income at or under the gross income standard or is categorically eligible for Basic Food, we determine if you are eligible for Basic Food and calculate your monthly benefits as described under WAC 388-450-0162.

(7) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to receive more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470 WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for a portion of the out-of-pocket medical expenses for the elderly or disabled individual as described under WAC 388-450-0200; and

(d) Being exempt from the **gross monthly income** standard under WAC 388-478-0060.

(8) For Basic Food, **elderly** means a person who is age ((~~sixty~~)) 60 or older;

(9) For Basic Food, **disabled** means a person who:

(a) Receives SSI;

(b) Receives disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Receives disability retirement benefits from a state, local, or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Receives state general assistance benefits based on blindness or disability criteria under chapter 388-449 WAC;

(e) Receives disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for medicare.

(f) Receives disability-related medical assistance under Title XIX of the Social Security Act;

(g) Is a veteran and receives disability payments based on ((~~one hundred percent~~)) 100% disability;

(h) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the U.S.C..

(10) If a person in your household attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not count this person as a member of your AU under WAC 388-408-0035.

(11) If your AU currently receives food benefits under WASHCAP or lives on or near an Indian reservation and receives benefits from a tribal food distribution program approved by FNS, your AU is not eligible for food assistance benefits through the Washington Basic Food program.

(12) If a person in your AU is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

(b) Persons fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;

(c) Persons who do not attest to citizenship or alien status as defined in WAC 388-424-0001;

(d) Persons who are ineligible aliens under WAC 388-424-0020;

(e) Persons disqualified for an intentional program violation under WAC 388-446-0015;

(f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or

(g) Persons who failed to meet work requirements under chapter 388-444 WAC.

AMENDATORY SECTION (Amending WSR 03-19-118, filed 9/16/03, effective 11/1/03)

WAC 388-408-0050 Does the department consider me homeless for basic food benefits? The department considers you as homeless if you do not have ~~((a regular nighttime residence))~~ or will imminently lose your nighttime residence, or when you stay primarily in a:

(1) Supervised shelter that provides temporary living or sleeping quarters;

(2) Halfway house that provides a temporary residence for persons going into or coming out of an institution;

(3) Residence of another person that is temporary and the client has lived there for ~~((ninety))~~ 90 days or less; or

(4) A place not usually used as sleeping quarters for humans.

AMENDATORY SECTION (Amending WSR 24-05-071, filed 2/20/24, effective 3/22/24)

WAC 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements? Some people who receive basic food are exempt from able-bodied adult without dependents (ABAWD) time limits and minimum work requirements. You are exempt from ABAWD time limits and work requirements under WAC 388-444-0030 if you meet any one or more of the following:

(1) You are exempt from work requirements under WAC 388-444-0010;

(2) You are under age 18 or are age:

(a) 51 or older from September 1, 2023, to September 30, 2023;

(b) 53 or older beginning October 1, 2023, through September 30, 2024; and

(c) 55 or older beginning October 1, 2024.

(3) You receive temporary or permanent disability benefits issued by a governmental or private source;

(4) You are obviously mentally or physically unfit for employment as determined by the department; however, if the unfitness is not obvious, you must provide a statement that you are physically or mentally unfit for employment from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, social worker, or any other medical personnel the department determines appropriate;

(5) You are an adult in a basic food assistance unit that has a family member who is under the age of 18;

(6) You are pregnant;

(7) You are homeless , including individuals who will imminently lose their nighttime residence;

(8) You are a veteran ~~((as defined under the James M. Inhofe National Defense Authorization Act of 2023))~~ defined as an individual

who, regardless of the conditions of their discharge or release from, served in the United States Armed Forces (such as Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, and National Guard), including an individual who served in a reserve component of the Armed Forces, or served as a commissioned officer of the Public Health Service, Environmental Scientific Services Administration, or the National Oceanic and Atmospheric Administration;

(9) You are 24 or younger, and were:

(a) In foster care as defined in RCW 74.13.020 at the time of your 18th birthday; or

(b) Under extended foster care services as defined in RCW 74.13.336;

(10) You live in an area approved as exempt by U.S. Department of Agriculture (USDA); or

(11) You are eligible for one of the approved exemption slots under the USDA discretionary exemptions rule.