



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: January 27, 2023

TIME: 8:51 AM

WSR 23-04-051

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

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 extending emergency amendments to WAC 388-412-0015, General information about your food assistance allotments; 388-450-0185, What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?; 388-450-0190, How does the department figure my shelter cost income deduction for basic food?; 388-450-0195, Does the department use my utility costs when calculating my basic food or WASHCAP benefits?; 388-470-0005, How do resources affect my eligibility for cash assistance and basic food?; and 388-478-0060, What are the income limits and maximum benefit amounts for basic food?

Citation of rules affected by this order:

New: N/A
 Repealed: N/A
 Amended: 388-412-0015; 388-450-0185; 388-450-0190; 388-450-0195; 388-470-0005; 388-478-0060
 Suspended: N/A

Statutory authority for adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250.

Other authority: New standards issued by US Department of Agriculture, Food and Nutrition Services

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The US Department of Agriculture, Food and Nutrition Services issued annual updates to standards for federal fiscal year 2023, effective October 1, 2022. These updates affect the standard deduction, shelter deduction, homeless shelter deduction, utility deduction, minimum and maximum allotments, and resource limits for the Basic Food program.

The Department is concurrently proceeding with the permanent rule-making process. Refer to Preproposal Statement of Inquiry (CR-101) filed as WSR 22-20-084 on October 3, 2022. A Proposed Rule Making notice (CR-102) was filed as WSR 23-04-045 on January 26, 2023. Public hearing is set for March 7, 2023.

**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>6</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 on 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 ____

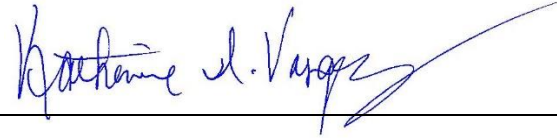
Pilot rule making: New ____ Amended ____ Repealed ____

Other alternative rule making: New ____ Amended 6 Repealed ____

Date Adopted: January 26, 2023

Signature:

Name: Katherine I. Vasquez



Title: DSHS Rules Coordinator

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington basic food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) program is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) **How we determine monthly allotments:**

(a) We calculate your monthly allotment for federally funded basic food as described under WAC 388-450-0162.

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) **Maximum allotment:**

(a) The maximum allotment for the number of people in your AU eligible for federally funded basic food benefits is described under WAC 388-478-0060.

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) **Prorated benefits in the first month.** If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a (~~thirty~~) 30-day month:

(a) If your prorated benefits for the first month are under (~~ten~~) 10 dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(5) **Combined allotment for first and second month's benefits.** If you apply for benefits on or after the (~~sixteenth~~) 16th of the month and we determine you are eligible for food assistance for both the first and second month, we will issue both months' benefits in one allotment.

(6) **Minimum allotment.** Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) (~~Twenty dollars~~) \$23 if your AU has one or two members and at least one person is eligible for federally funded basic food; or

(b) (~~Twenty~~) \$23 dollars if your AU has one or two members and all members of your AU are eligible for state-funded FAP.

(7) **Use of food assistance benefits.** Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 22-09-040, filed 4/13/22, effective 5/14/22)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits? (1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
((3)) 4 or fewer	\$(177)) 193
((4)) 5	\$(184)) 225
((5))	\$(215))
6 or more	\$258

(b) ~~((Twenty percent))~~ 20% of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over \$35 ~~((dollars))~~ a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 22-09-040, filed 4/13/22, effective 5/14/22)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food? The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of ~~((159-dollars))~~ \$166. If the homeless AU has shelter costs in excess of this amount, the AU has the option to claim either:

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2)(a) through (2)(d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of ~~((597-dollars))~~ \$624 if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over ~~((597-dollars))~~ \$624.

AMENDATORY SECTION (Amending WSR 22-09-040, filed 4/13/22, effective 5/14/22)

WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?

(1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than ~~((20-dollars))~~ \$20 in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of ~~((459-dollars))~~ \$462.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of ~~((459-dollars))~~ \$462.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of ~~((361-dollars))~~ \$365.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of ~~((59-dollars))~~ \$59.

- (3) "Utility costs" include the following:
 - (a) Heating or cooling fuel;
 - (b) Electricity or gas;
 - (c) Water;
 - (d) Sewer;
 - (e) Well installation/maintenance;
 - (f) Septic tank installation/maintenance;
 - (g) Garbage/trash collection; and
 - (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

AMENDATORY SECTION (Amending WSR 22-09-040, filed 4/13/22, effective 5/14/22)

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 dollars)~~) \$6,000.

(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) (~~(Three thousand seven hundred fifty dollars)~~) \$4,250 if your AU has either an elderly or disabled individual; or

(b) (~~(Two thousand five hundred dollars)~~) \$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 22-09-040, filed 4/13/22, effective 5/14/22)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?

(1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section.

The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE 10/1/2021

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net (Countable) Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$((1,396)) <u>1,473</u>	\$((1,074)) <u>1,133</u>	\$((250)) <u>281</u>	\$((1,777)) <u>1,869</u>
2	((1,888)) <u>1,984</u>	((1,452)) <u>1,526</u>	((459)) <u>516</u>	((2,396)) <u>2,518</u>
3	((2,379)) <u>2,495</u>	((1,830)) <u>1,920</u>	((658)) <u>740</u>	((3,020)) <u>3,167</u>
4	((2,871)) <u>3,007</u>	((2,209)) <u>2,313</u>	((835)) <u>939</u>	((3,644)) <u>3,816</u>
5	((3,363)) <u>3,518</u>	((2,587)) <u>2,706</u>	((992)) <u>1,116</u>	((4,268)) <u>4,465</u>
6	((3,855)) <u>4,029</u>	((2,965)) <u>3,100</u>	((1,190)) <u>1,339</u>	((4,893)) <u>5,114</u>
7	((4,347)) <u>4,541</u>	((3,344)) <u>3,493</u>	((1,316)) <u>1,480</u>	((5,517)) <u>5,763</u>
8	((4,839)) <u>5,052</u>	((3,722)) <u>3,886</u>	((1,504)) <u>1,691</u>	((6,141)) <u>6,412</u>
9	((5,331)) <u>5,564</u>	((4,101)) <u>4,280</u>	((1,692)) <u>1,902</u>	((6,766)) <u>7,061</u>
10	((5,823)) <u>6,076</u>	((4,480)) <u>4,674</u>	((1,880)) <u>2,113</u>	((7,391)) <u>7,710</u>
Each Additional Member	+((492)) <u>512</u>	+((379)) <u>394</u>	+((153)) <u>211</u>	+((625)) <u>649</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is 60 years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.