



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: March 02, 2021

TIME: 10:49 AM

WSR 21-06-093

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

**Title of rule and other identifying information:** (describe subject) WAC 388-14A-5015 "What is a pass-through payment?" and WAC 388-14A-5100 "How does the division of child support notify the custodial parent about support collections?"

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

**Background:** Between October 1, 2008 and April 30, 2011, state law directed the Division of Child Support (DCS) to pass through a portion of child support collections to a family receiving TANF. A pass-through payment is the portion of a support collection applied to assigned support that the state elects to pay a family receiving TANF at the time the collection was received. Due to budget constraints during the Great Recession, the Legislature repealed the statutory authority to issue these pass-through payments. At that time, DCS amended its pass-through payment rules to sunset the policy (see WAC 388-14A-5015).

During the 2020 session, the Legislature re-enacted pass-through payments in 2SSB 5144 (Chapter 349, Laws of 2020). DCS is now directed to issue pass-through payments under RCW 26.23.035 effective February 1, 2021.

**Issue:** The language in WAC 388-14A-5015 and WAC 388-14A-5100 must be updated to align with current state law in RCW 26.23.035.

**Proposed solution:** DCS proposes to amend WAC 388-14A-5015 and WAC 388-14A-5100 to clarify that pass-through payments are authorized again beginning February 1, 2021. These changes relate to internal governmental operations, are non-controversial, and align with statutory provisions in RCW 26.23.035. If objections are made during the expedited rulemaking process, DCS will withdraw the CR-105 and start the permanent rulemaking process under chapter 34.05 RCW.

**Reasons supporting proposal:** DCS has a strong interest in ensuring that its rules align with relevant statutory provisions. Pass-through payments provide significant relief and assistance to families and DCS rules should reflect the existing policy found in RCW 26.23.035.

**Statutory authority for adoption:** RCW 26.09.105(20); RCW 26.18.170(21); RCW 26.23.050; RCW 26.23.110(14); RCW 43.20A.550; RCW 74.04.055; RCW 74.04.057; RCW 74.08.090, RCW 74.20A.310

**Statute being implemented:** RCW 26.23.035

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

|   |  |
|---|--|
| <b>Name of proponent:</b> (person or organization) Department of Social and Health Services | <input type="checkbox"/> Private                 |
|   | <input type="checkbox"/> Public                  |
|   | <input checked="" type="checkbox"/> Governmental |

| <b>Name of agency personnel responsible for:</b> |                  |                                    |              |
|--|------------------|------------------------------------|--------------|
|  | Name             | Office Location                    | Phone        |
| Drafting:  | Brady Horenstein | PO Box 9162, Olympia WA 98507-9162 | 360-664-5291 |
| Implementation:                                  | Brady Horenstein | PO Box 9162, Olympia WA 98507-9162 | 360-664-5291 |
| Enforcement:                                     | Brady Horenstein | PO Box 9162, Olympia WA 98507-9162 | 360-664-5291 |

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

Relates only to internal governmental operations that are not subject to violation by a person;

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

Content is explicitly and specifically dictated by statute;

Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

The rule is no longer necessary because of changed circumstances; or

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.


**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The proposed amendments relate only to DCS operations and are authorized by statute (RCW 26.23.035).

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: DSHS Rules Coordinator  
 Agency: Department of Social and Health Services  
 Address: PO Box 45850, Olympia, WA 98504-5850  
 Phone: 360-664-6097  
 Fax: 360-664-6185  
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov  
 Other:

**AND RECEIVED BY** (date) 5:00 p.m. May 4, 2021

|                                      |   |
|--------------------------------------|---|
| <b>Date:</b> February 25, 2021       | <b>Signature:</b><br> |
| <b>Name:</b> Katherine I. Vasquez    |   |
| <b>Title:</b> DSHS Rules Coordinator |   |

AMENDATORY SECTION (Amending WSR 11-14-063, filed 6/30/11, effective 7/31/11)

**WAC 388-14A-5015 What is a pass-through payment?** (1) Between October 1, 2008 and April 30, 2011 and beginning again on February 1, 2021, the division of child support (DCS) (~~passed~~) passes through a portion of child support collections to a family receiving TANF.

(2) A pass-through payment (~~was~~) is the portion of a support collection applied to assigned support that the state (~~elected~~) elects to pay to a family receiving TANF at the time the collection (~~was~~) is received.

(3) Between October 1, 2008 and April 30, 2011, the pass-through payment was paid in the following amounts:

(a) Up to one hundred dollars per month to a family with one child in the assistance unit.

(b) Up to two hundred dollars per month to a family with two or more children in the assistance unit.

~~((3))~~ (4) Beginning February 1, 2021, the pass-through payment is paid in the following amounts:

(a) Up to fifty dollars per month to a family with one child in the assistance unit.

(b) Up to one hundred dollars per month to a family with two or more children in the assistance unit.

(5) The pass-through (~~was~~) is paid from collections distributed to either current support or assigned arrears.

~~((4))~~ (6) The pass-through amount for any month (~~could not~~) cannot exceed the amount collected in that month.

AMENDATORY SECTION (Amending WSR 11-14-063, filed 6/30/11, effective 7/31/11)

**WAC 388-14A-5100 How does the division of child support notify the custodial parent about support collections?** (1) The division of child support (DCS) mails a distribution and disbursement statement once each month to the last known address of a person for whom it received a support collection during the month, except as provided under subsection (6) of this section.

(2) DCS includes the following information in the distribution and disbursement statement:

(a) The amount of support collections DCS received and the date of collection;

(b) A description of how DCS distributed each support collection between current support and the support debt and any fees required by state or federal law;

(c) The amount DCS claims as reimbursement for public assistance paid, if applicable;

(d) The amount kept by the state to repay public assistance paid to the family;

(e) The amount disbursed to the family as a pass-through payment under WAC 388-14A-5015 (~~for collections received between October 1, 2008 and April 30, 2011~~);

(f) The amount disbursed to the family as a payment on support owed to the family;

(g) The amount kept by the state to pay the twenty-five dollar annual fee, if applicable; and

(h) The amount kept by the state to repay child support paid to the family in error.

(3) The person to whom a distribution and disbursement statement is sent may file a request for a hearing under subsection (4) of this section within ninety days of the date of the statement to contest how DCS distributed the support collections, and must make specific objections to the statement. The effective date of a hearing request is the date DCS receives the request.

(4) A hearing under this section is for the limited purpose of determining if DCS correctly distributed the support money described in the contested statement.

(a) There is no hearing right regarding fees that have been charged on a case.

(b) If a custodial parent (CP) wants to request a hardship waiver of the fee, the CP may request a conference board under WAC 388-14A-6400.

(5) A person who requests a late hearing must show good cause for being late.

(6) This section does not require DCS to send a distribution and disbursement statement to a recipient of payment services only.