

WSR 22-22-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 31, 2022, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-13-020.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-400-0030 Who is eligible for refugee cash assistance?, 388-466-0120 Refugee cash assistance (RCA), and 388-466-0150 Refugee employment and training services.

Hearing Location(s): On December 6, 2022, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID[-19] pandemic, hearings are being held virtually. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: No earlier than December 7, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by December 6, 2022, 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, by November 22, 2022, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments are necessary to align department policies with authorization from the Office of Refugee Resettlement (ORR) director to expand the eligibility period for RCA from eight months to 12 months pursuant to 45 C.F.R. § 400.211 and ORR P.L. 22-12.

Related amendments (effective June 2, 2022) are currently in place via emergency adoption (see WSR 22-13-013 and 20-20-071 [22-20-071]).

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120.

Rule is necessary because of federal law, 45 C.F.R. § 400.211(b).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Max Gibbs-Ruby, P.O. Box 45470, Olympia, WA 98504-5470, Max.Gibbs-Ruby@dshs.wa.gov.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. No cost-benefit analysis is required; this amendment is exempt under RCW 34.05.328 (5) (b) (vii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because 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. Citation of the specific federal statute or regulation and description of the consequences to the state

if the rule is not adopted: This rule proposal is exempt under RCW 19.85.061 because it is being adopted solely to conform with federal policy issued under 45 C.F.R. § 400.211(b). Failure to adopt this rule would not align with federal policy and be a determinant to public health, safety, and welfare.

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS clients.

Scope of exemption for rule proposal:

Is fully exempt.

October 28, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4930.5

AMENDATORY SECTION (Amending WSR 04-19-135, filed 9/21/04, effective 10/22/04)

WAC 388-400-0030 Who is eligible for refugee cash assistance?

- (1) To be eligible for refugee cash assistance (RCA), you must:
- (a) Provide the name of the voluntary agency (VOLAG) which resettled you;
 - (b) Meet the immigration status requirements of WAC 388-466-0005;
 - (c) Meet employment and training requirements of WAC 388-466-0150;
 - (d) Meet income and resource requirements of WAC 388-466-0140;
- and
- (e) Report changes of circumstances as required under WAC 388-418-0005.
- (2) You are not eligible to receive RCA if you:
- (a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income;
 - (b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or
 - (c) Are a full-time student in an institution of higher education.
- (3) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.
- (4) If you are eligible for RCA you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.
- (5) If you meet the requirements of this section you are eligible for refugee cash assistance only during the (~~eight~~) 12-month period beginning in the first month you entered the United States (WAC 388-466-0120).

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-19-135, § 388-400-0030, filed 9/21/04, effective 10/22/04. Statutory Authority: RCW 74.08.090, 74.04.050, 74.08A.320, and 7 C.F.R. § 400.65, § 400.66, § 400.67, § 400.68, and § 400.69. WSR 02-09-051, § 388-400-0030, filed 4/12/02, effective 5/13/02. Statutory Authority:

RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 01-06-031, § 388-400-0030, filed 3/2/01, effective 4/1/01; WSR 98-16-044, § 388-400-0030, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 20-24-073, filed 11/24/20, effective 12/25/20)

WAC 388-466-0120 Refugee cash assistance (RCA). (1) Who can apply for refugee cash assistance (RCA)?

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within (~~thirty~~) 30 days.

(2) How do I know if I qualify for RCA?

You may be eligible for RCA if you meet all of the following conditions:

(a) You have resided in the United States for less than (~~eight~~) 12 months;

(b) You meet the immigration status requirements of WAC 388-466-0005;

(c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;

(d) You meet the work and training requirements of WAC 388-466-0150; and

(e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

(3) What are the other reasons for not being eligible for RCA?

You may not be able to get RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income (SSI); or

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within (~~thirty~~) 30 consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999, as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000, and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, (~~eighteen~~) 18 years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter;

(b) A child victim under the age of (~~eighteen~~) 18, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(6) Does getting a onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make an eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the (~~eighth~~) 12th month starting with the month of your arrival to the United States. Count the (~~eight~~) 12 months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, (~~2000~~) 2022, May is your first month and (~~December 2000~~) April 2023 is your last month of RCA.

(b) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA.

(c) You may receive RCA benefits for more months if the federal office of refugee resettlement extends the eligibility period.

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income (~~and~~) or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if (~~he/she~~) they arrive(~~s~~) in the U.S. after me?

When your spouse arrives in the United States, DSHS determines (~~his/her~~) their eligibility for RCA and (~~for~~) other income assistance programs.

(a) Your spouse may be eligible for up to (~~eight~~) 12 months of RCA based on (~~his/her~~) their date of arrival into the United States.

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on you and your spouse's combined income and resources (WAC 388-466-0140).

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or an administrative hearing (WAC 388-02-0090). Your request must be made within (~~ninety~~) 90 days of the date of the decision or action.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250 and 45 C.F.R. § 400.300, 8 U.S.C. § 1522 (e) (1). WSR 20-24-073, § 388-466-0120, filed 11/24/20, effective 12/25/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250 and 2011 1st sp.s. c 15. WSR 13-03-137, § 388-466-0120, filed 1/23/13, effective 2/23/13; WSR 12-19-037, § 388-466-0120, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320, Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement State Letter 09-17 from April 9, 2009; and federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture. WSR 09-21-046, § 388-466-0120, filed 10/14/09, effective 11/4/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-466-0120, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.08.090, 74.08A.320. WSR 02-04-057, § 388-466-0120, filed 1/30/02, effective 2/1/02.]

AMENDATORY SECTION (Amending WSR 16-05-034, filed 2/9/16, effective 3/15/16)

WAC 388-466-0150 Refugee employment and training services. (1)

What are refugee employment and training services?

Refugee employment and training services provided to eligible refugees may include information and referral, employment oriented case management, job development, job placement, job retention, wage progression, skills training, on-the-job training, counseling and orientation, English as a second language, and vocational English training.

(2) Am I required to participate in refugee employment and training services?

If you are receiving refugee cash assistance (RCA) you are required to participate in refugee employment and training services, unless you are exempt.

(3) How do I know if I am exempt from mandatory employment and training requirements?

You may be exempt from participation in employment and training requirements if you are:

(a) An adult with a severe and chronic disability as defined below:

(i) You have been assessed by a DSHS SSI facilitator as likely to be approved for SSI and are required to apply for SSI. Your SSI application status may be verified through the SSI facilitator (~~(and/)~~) or state data exchange; or

(ii) Your disability is a severe and chronic mental, physical, emotional, or cognitive impairment that prevents you from working and is expected to last at least (~~(twelve))~~ 12 months. Your disability must be verified by documentation from a behavioral health organization (BHO), (~~(and/or)~~) regional service area (RSA), or evidence from another medical or mental health professional; or

(b) Required to be in the home to care for another adult with disabilities when:

(i) The adult with disabilities cannot be left alone for significant periods of time;

(ii) No adult other than yourself is available and able to provide the care;

(iii) The adult with the disability is related to you;

(iv) You are unable to participate in work activities because you are required to be in the home to provide care; and

(v) The disability and your need to care for your disabled adult relative is verified by documentation from the developmental disabilities administration (DDA), division of vocational rehabilitation (DVR), home and community services (HCS), division of behavioral health and recovery (DBHR), ~~((and/or))~~ a behavioral health organization (BHO), ~~((and/or))~~ regional service area (RSA), or evidence from another medical or mental health professional.

(c) ~~((Sixty))~~ 60 years of age or older.

(d) Unable to participate in work activities because you are the victim of family violence.

(4) If I am required to participate, what do I have to do?

You are required to:

(a) Register with your employment service provider;

(b) Accept and participate in all employment opportunities, training, or referrals, determined appropriate by the department.

(5) What happens if I do not follow these requirements?

If you refuse without good reason to cooperate with the requirements, you are subject to the following penalties:

(a) If you are applying for refugee cash assistance, you will be ineligible for ~~((thirty))~~ 30 days from the date of your refusal to accept work or training opportunity; or

(b) If you are already receiving refugee cash assistance, your cash benefits will be subject to financial penalties.

(c) The department will notify your voluntary agency (VOLAG) if financial penalties take place.

(6) What are the penalties to my grant?

The penalties to your grant are:

(a) If the assistance unit includes other individuals as well as yourself, the cash grant is reduced by the sanctioned refugee's amount for three months after the first occurrence. For the second occurrence, the financial penalty continues for the remainder of the sanctioned refugee's ~~((eight))~~ 12-month eligibility period.

(b) If you are the only person in the assistance unit your cash grant is terminated for three months after the first occurrence. For the second occurrence, your grant is terminated for the remainder of your ~~((eight))~~ 12-month eligibility period.

(7) How can I avoid the penalties?

You can avoid the penalties, if you accept employment or training before the last day of the month in which your cash grant is closed.

(8) What is considered a good reason for not being able to follow the requirements?

You have a good reason for not following the requirements if it was not possible for you to stay on the job or to follow through on a required activity due to an event outside of your control. See WAC 388-310-1600(3) for examples.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.08.090. WSR 16-05-034, § 388-466-0150, filed 2/9/16, effective 3/15/16. Statutory

Authority: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and 2011 1st sp.s. c 15. WSR 13-18-004, § 388-466-0150, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.08.090. WSR 00-22-085, § 388-466-0150, filed 10/31/00, effective 12/1/00.]