

WSR 23-20-038
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 27, 2023, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-026.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-447-0120 How does alcohol or drug dependence affect my eligibility for referral to the housing and essential needs (HEN) program? and 388-449-0220 How does alcohol or drug dependence affect my eligibility for the ABD cash and pregnant women assistance programs?

Hearing Location(s): On November 7, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than November 8, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 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, by October 24, 2023, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments implement provisions of ESHB 1260 (chapter 289, Laws of 2023) that expand circumstances where good cause for failing to participate in substance use disorder assessment or treatment as a condition of eligibility must be found for the aged, blind, or disabled (ABD), HEN referral, and pregnant women assistance (PWA) programs. These amendments are in effect as of July 23, 2023, under emergency rule filed as WSR 23-16-002.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, and 74.62.030.

Statute Being Implemented: RCW 74.04.805 and 74.62.005.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sarah Mintzer, P.O. Box 45470, Olympia, WA 98504-5770, 360-764-0050.

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. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply 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."

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

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

Explanation of exemptions: The proposed rules do not impact small businesses. They only impact DSHS clients.

Scope of exemption for rule proposal:
Is fully exempt.

September 22, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4982.3

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0120 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for referral to the housing and essential needs (HEN) program? (1) ~~((When we have information that indicates you may be chemically dependent,))~~ You must complete a ~~((chemical dependency))~~ substance use disorder assessment ~~((unless you have good cause to not do so))~~ when we have information that indicates you may have a substance use disorder.

(2) You must participate in ~~((drug or alcohol))~~ substance use treatment if a certified ~~((chemical dependency))~~ substance use disorder professional indicates a need for treatment, unless you have good cause ~~((to not do so))~~. Good cause includes, but is not limited to, ~~((3) We consider))~~ the following reasons ~~((to be good cause for not following through with a chemical dependency assessment or treatment))~~:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment ~~((+))~~.

(b) The outpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available in the county where you live ~~((+ or))~~.

(c) The inpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available at a location you can reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

~~((4))~~ (3) If you refuse or ~~((fail to))~~ do not complete an assessment or treatment without good cause, your HEN referral eligibility will end ~~((following advance notification rules under WAC 388-458-0030))~~ until you provide proof you are pursuing an assessment or treatment as required.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.08.025, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-044, § 388-447-0120, filed 11/26/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0220 ~~How does ((alcohol or drug dependence)) sub-~~
~~stance use affect my eligibility for the aged, blind, or disabled~~
~~(ABD) cash and pregnant women assistance (PWA) programs?~~ (1) ~~((You))~~
~~For purposes of ABD, you must complete a ((chemical dependency)) sub-~~
~~stance use disorder~~ assessment when we have information that indicates
you may ~~((be chemically dependent)) have a substance use disorder.~~

~~(2) For purposes of PWA, you must complete a substance use disor-~~
~~der assessment when we have information that indicates you may have a~~
~~substance use disorder.~~

~~((2)) (3) You must ((accept an assessment referral and)) par-~~
~~ticipate in ((drug or alcohol)) substance use disorder treatment if a~~
~~certified ((chemical dependency counselor)) substance use disorder~~
~~professional indicates a need for treatment, unless you ((meet one~~
~~of)) have good cause. Good cause includes, but is not limited to, the~~
~~following ((good cause)) reasons:~~

(a) We determine that your physical or mental health impairment
prevents you from participating in treatment.

(b) The outpatient ~~((chemical dependency)) substance use disorder~~
treatment you need isn't available in the county you live in.

(c) You need inpatient ~~((chemical dependency)) substance use dis-~~
~~order~~ treatment at a location that you can't reasonably access.

~~(d) You are a parent or other relative personally providing care~~
~~for a minor child or an incapacitated individual living in your house-~~
~~hold, child care or day care is necessary for you to participate in~~
~~substance use disorder treatment, and such care is not available.~~

(3) If you refuse or ~~((fail to)) do not~~ complete an assessment or
treatment without good cause, your benefits will end until you provide
proof you are pursuing an assessment or treatment as required.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057,
74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655,
74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, §
388-449-0220, filed 4/27/12, effective 6/1/12.]