

WSR 23-20-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 3, 2023, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-093.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) proposes to amend WAC 388-484-0005 There is a five-year (sixty-month) time limit for TANF, SFA, and GA-S cash assistance and 388-484-0006 TANF/SFA time limit extensions.

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: No 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: Proposed amendments will remove the 60-month time limit for child-only temporary assistance for needy families and state family assistance households with an ineligible parent, per 2SHB 1447 (chapter 418, Laws of 2023). Related emergency rules are currently in place (effective July 1, 2023) under WSR 23-14-070.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.010, and 74.08A.015.

Statute Being Implemented: 2SHB 1447 (chapter 418, Laws of 2023).

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 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."

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

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 28, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4980.6

AMENDATORY SECTION (Amending WSR 12-05-039, filed 2/10/12, effective 3/12/12)

WAC 388-484-0005 There is a five-year ((sixty)) 60-month time limit for TANF, SFA, and GA-S cash assistance. (1) What is the ((sixty)) 60-month time limit?

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of ((sixty)) 60 months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, support services, food assistance, or medicaid.

(2) When did the ((sixty)) 60-month time limit go into effect?

The ((sixty)) 60-month time limit applies to cash assistance received on or after August 1, 1997, for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999, through July 31, 1999.

(3) Does the time limit apply to me?

((a)) The ((sixty)) 60-month time limit applies to you for any month in which you are ((an ineligible parent or a)) an aided parent or other relative as defined in WAC 388-454-0010, or ((a)) an aided minor parent emancipated through court order or marriage.

~~((b) An ineligible parent is a natural, adoptive or step parent as defined in WAC 388-454-0010 who receives a TANF/SFA grant for his or her child but is ineligible to receive TANF/SFA assistance.))~~

(4) Do any exceptions to the time limits apply to me?

The department does not count months of assistance towards the ((sixty)) 60-month time limit if you are:

(a) A relative other than a parent as defined in WAC 388-454-0010(3);

(b) An ineligible parent who is a natural, adoptive, or stepparent as defined in WAC 388-454-0010 who receives TANF/SFA grant for their child, but is ineligible to receive TANF/SFA assistance such as:

(i) A parent who is ineligible due to receiving supplemental security income (SSI) benefits,

(ii) A parent who is ineligible due to citizenship, or

(iii) A parent who is ineligible due to felony status;

~~((a))~~ (c) An adult caretaker, other than an ineligible parent, as described in WAC 388-454-0005 through 388-454-0010, who is not a member of the assistance unit and ~~((you are))~~ is receiving cash assistance on behalf of a child;

~~((b))~~ (d) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

~~((e))~~ (e) An adult ~~((and you are))~~ living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan native village, ~~((and you are))~~ receiving TANF, SFA, or GA-S cash assistance during a period when at least ~~((fifty percent))~~ 50% of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

(5) ~~((What happens if an ineligible parent in the home or a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?))~~

~~Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, or an ineligible parent in the home has received sixty months of cash assistance for themselves or their child, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless they qualify for a hardship extension and are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.~~

~~((6))~~ **What can I do if I disagree with how the department has counted my months of cash assistance?**

(a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ~~((ninety))~~ 90 days of the date we sent you a letter telling you how many months we are counting.

(b) You will get continued benefits (the amount you were getting before the change) if:

(i) You have used all ~~((sixty))~~ 60 months of benefits according to our records; and

(ii) You ask for a hearing within the ~~((ten))~~ 10-day notice period, as described in chapter 388-458 WAC.

(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

~~((7))~~ (6) **Does the department ever change the number of months that count against my time limit?**

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.

(c) An ALJ decides at an administrative hearing that we should change the number of months we count.

(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.

(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.

(f) Another state gave us incorrect information about the number of months you got cash assistance from them.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapters 74.08A and 74.12 RCW, 2011 1st sp.s. c 42, and 2011 1st sp.s. c 2. WSR 12-05-039, § 388-484-0005, filed 2/10/12, effective 3/12/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapters 74.08A and 74.12 RCW. WSR 10-24-013, § 388-484-0005, filed 11/18/10, effective 12/19/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.08A RCW. WSR 06-10-034, § 388-484-0005, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-05-010, § 388-484-0005, filed 2/6/04, effective 3/8/04. Statutory Authority: RCW 74.08.090, 74.04.050, and 78.08A.340. WSR 03-06-046, § 388-484-0005, filed 2/28/03, effective 3/31/03. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-12-068, § 388-484-0005, filed 5/31/02, effective 6/1/02. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.010, and 42 U.S.C. 608 (a) (7). WSR 01-04-016, § 388-484-0005, filed 1/26/01, effective 2/1/01. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 99-08-050, § 388-484-0005, filed 4/1/99, effective 5/2/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-484-0005, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 23-01-020, filed 12/8/22, effective 1/8/23)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive 60 or more months of TANF/SFA cash assistance?

After you receive 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) Who is eligible for a hardship TANF/SFA time limit extension?

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, (~~or are an ineligible parent, and you have~~) received 60 cumulative months of TANF and you:

(a) (~~You~~) Are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) (~~or you are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation~~); or

~~(b) You:~~

~~((i)) (b) Are a ((supplemental security income recipient or a)) Social Security disability insurance recipient; or~~

~~(ii)) (c) Are at least 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or~~

~~((iii)) (d) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or~~

~~((iv)) (e) Are working in unsubsidized employment for 32 hours or more per week; or~~

~~((v))~~ (f) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

~~((vi))~~ (g) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42. U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

~~((vii) Are)~~ (h) Were an active TANF recipient from July 1, 2021, through June 30, 2023; or

~~((viii) Are)~~ (i) Were an active TANF recipient, beginning July 1, 2022, when Washington state employment security department's most recently published unemployment rate is seven percent or above.

~~((ix))~~ (j) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above. The extension provided for under this subsection (2)(b)(ix) is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved, when your time limit expires, and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my WorkFirst participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

~~((a))~~ You are still a TANF/SFA recipient (~~or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child~~) and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

~~((b))~~ During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2) (a) ~~((, (b) (i) or (ii)))~~ then we will review your extension at least every 12 months;

(ii) If you are extended under WAC 388-484-0006 (2) (b) ~~((iii)), ((iv), (v), or (vi)))~~ (2) (c), (2) (d), or (2) (e) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.010, 74.08A.015, and 2022 c 297 and 2022 c 24. WSR 23-01-020, § 388-484-0006, filed 12/8/22, effective 1/8/23. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.010 and 2021 c 334, 2021 c 239. WSR 21-22-053, § 388-484-0006, filed 10/28/21, effective 11/28/21. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 2020 c 320 and C.F.R. 20 § 416.2095 through 416.2099. WSR 21-12-077, § 388-484-0006, filed 5/28/21, effective 7/1/21. Statutory Authority: RCW 41.05.021, 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090, 74.09.035, 74.09.530, 74.62.030, chapters 74.08A, and 74.12 RCW. WSR 20-05-046, § 388-484-0006, filed 2/13/20, effective 3/15/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.010. WSR 15-24-056, § 388-484-0006, filed 11/24/15, effective 1/1/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapters 74.08A and 74.12 RCW, 2011 1st sp.s. c 42, and 2011 1st sp.s. c 2. WSR 12-05-039, § 388-484-0006, filed 2/10/12, effective 3/12/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapters 74.08A and 74.12 RCW. WSR 10-24-013, § 388-484-0006, filed 11/18/10, effective 12/19/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.08A RCW. WSR 06-10-034, § 388-484-0006, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.08.090, 74.04.050, and 74.08A.340. WSR 03-24-057, § 388-484-0006, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-12-068, § 388-484-0006, filed 5/31/02, effective 6/1/02.]

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.