

**WSR 22-16-118**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed August 3, 2022, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-09-052.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants and 388-310-1450 Pregnancy to employment.

Hearing Location(s): On September 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 DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than September 7, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax 360-664-6185, by 5:00 p.m. on September 6, 2022.

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](mailto:tencza@dshs.wa.gov), by 5:00 p.m. on August 23, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to WAC 388-310-0300 and 388-310-1450 will connect WorkFirst participants with home visiting and parent support providers on a statewide scale and reduce occurrences of adverse action while in the pregnancy to employment pathway.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.270.

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: Jake Deskins, P.O. Box 45470, Olympia, WA 98504-5770, 360-480-3411.

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, "[t]his 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 34.05.328 (5)(b)(vii).

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

August 1, 2022  
Katherine I. Vasquez  
Rules Coordinator

**SHS-4939.1**

AMENDATORY SECTION (Amending WSR 18-03-059, filed 1/10/18, effective 2/10/18)

**WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When may I be exempted from participating in WorkFirst activities if I am a mandatory participant?**

Either you or the other parent, living in the household, may claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under two years of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime (~~(twenty-four)~~) 24 month infant exemption.

**(2) If I choose my infant exemption, may I still be required to participate in the WorkFirst program?**

You are required to participate up to (~~(twenty)~~) 20 hours per week in (~~(parenting education, parenting skills training,)~~) mental health treatment, chemical dependency treatment, or (~~(any)~~) a combination of these, if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

**(3) May I volunteer to participate in WorkFirst while I have a child under two years of age?**

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under two years of age. If you decide later to stop participating and you still qualify for an exemption, you will return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) of this section.

**(4) Does an infant exemption from participation affect my (~~(sixty-ty-))~~ 60 month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?**

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your (~~(sixty-ty-))~~ 60 month limit (see WAC 388-484-0005).

[Statutory Authority: RCW 74.08A.270, 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.12 RCW. WSR 18-03-059, § 388-310-0300, filed 1/10/18, effective 2/10/18. Statutory Authority: RCW 74.08A.270, 74.04.050, 74.08.090, and 74.04.055. WSR 15-09-037, § 388-310-0300, filed 4/9/15, effective 5/10/15. Statutory Authority: RCW 74.04.050, 74.08.090, 74.04.055 and 2007 c 289. WSR 08-02-055, § 388-310-0300, filed 12/28/07, effective 2/1/08. Statutory Authority: RCW 74.08.090, 74.04.050. WSR 02-14-087, § 388-310-0300, filed 6/28/02, effective

7/29/02; WSR 00-06-062, § 388-310-0300, filed 3/1/00, effective 3/1/00; WSR 99-10-027, § 388-310-0300, filed 4/28/99, effective 5/29/99; WSR 97-20-129, § 388-310-0300, filed 10/1/97, effective 11/1/97.]

AMENDATORY SECTION (Amending WSR 18-03-059, filed 1/10/18, effective 2/10/18)

**WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?**

If you are on temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of two years, you are a participant in the pregnancy to employment pathway.

**(2) What services are provided to the pregnancy to employment pathway?**

(a) The pregnancy to employment pathway provides you with services, when available in your community, to ~~((help you learn how to work,))~~ look ~~((for work, or))~~ and prepare for work while ~~((still meeting))~~ supporting your child's needs. You and your WorkFirst worker will decide which variety of services you need ~~((, such as:))~~. Service may include one or more of the items listed in (i) through (vi) of this section:

(i) ~~((Parenting education or parenting skills training))~~ Home visiting or other parent supports;

(ii) Safe and appropriate child care;

(iii) Mental health treatment;

(iv) Chemical dependency treatment;

(v) Domestic violence services; or

(vi) Employment services.

(b) The WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(c) You will be offered a voluntary referral to either home visiting or other parent supports at various times in the pregnancy to employment pathway.

**(3) What am I required to do while I am in the pregnancy to employment pathway?**

You must participate in an assessment with a DSHS social service specialist and based on the results you will:

(a) Work with your WorkFirst worker to decide which required activities best meet your needs (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)); and

(b) Be required to participate in ~~((the activities))~~ those activities, as identified in your IRP.

**(4) What am I required to do while I am pregnant?**

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours as described under WAC 388-310-1600.

(b) During your third trimester of pregnancy will be up to ~~((twenty))~~ 20 hours per week in either ~~((parenting education, parent-~~

~~ing skills training,~~) mental health treatment(~~(,)~~) or chemical dependency treatment(~~(, or any combination of these)~~), if:

(i) The comprehensive evaluation or assessment indicates a need; and

(ii) Services are available in your community.

**(5) What am I required to do after my child is born?**

After the birth of your child, you may choose to take the infant exemption under WAC 388-310-0300 or volunteer to participate in Work-First activities to the fullest of your abilities under WAC 388-310-0400.

**(6) What if I have used my (~~(twenty-four)~~) 24 month lifetime infant exemption?**

If you have another child after using all (~~(twenty-four)~~) 24 months of the infant exemption, you will be:

(a) Eligible for a (~~(twelve)~~) 12 week postpartum deferral period to personally take care of an infant less than (~~(twelve)~~) 12 weeks of age but will be required to participate up to (~~(twenty)~~) 20 hours per week in (~~(parenting education, parenting skills training,~~) mental health (~~(treatment,~~) or chemical dependency treatment, or (~~(any)~~) a combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns (~~(twelve)~~) 12 weeks old in one or more of the following activities:

(i) Work;

(ii) Looking for work;

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

**(7) Will I be sanctioned if I refuse to participate?**

(a) You are required to participate in the WorkFirst program under WAC 388-310-0200 subject to sanction under WAC 388-310-1600 unless you have good reason and you:

(i) Are in your third trimester of pregnancy;

(ii) Have not used up your (~~(twenty-four)~~) 24 month lifetime infant exemption and have a child under the age of two years old; or

(iii) Have used up your (~~(twenty-four)~~) 24 month lifetime infant exemption and have a child under (~~(twelve)~~) 12 weeks.

(b) You may be sanctioned if you stop participating in required (~~(parenting education, parenting skills training,~~) mental health or chemical dependency treatment when you are:

(~~(i)~~) (i) In your third trimester of pregnancy(~~(,)~~);

(~~(e)~~) (ii) Claiming the infant exemption(~~(,)~~); or

(~~(u)~~) (iii) Using a (~~(twelve)~~) 12 week postpartum deferral period.

[Statutory Authority: RCW 74.08A.270, 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.12 RCW. WSR 18-03-059, § 388-310-1450, filed 1/10/18, effective 2/10/18. Statutory Authority: RCW 74.08A.270, 74.04.050, 74.08.090, and 74.04.055. WSR 15-09-037, § 388-310-1450, filed 4/9/15, effective 5/10/15. Statutory Authority: RCW 74.04.050, 74.08.090, 74.04.055 and 2007 c 289. WSR 08-02-055, § 388-310-1450, filed 12/28/07, effective 2/1/08. Statutory Authority: RCW 74.08.090, 74.04.050. WSR 02-14-087, § 388-310-1450, filed 6/28/02, effective 7/29/02; WSR 00-06-062, § 388-310-1450, filed 3/1/00, effective 3/1/00.]