

WSR 23-02-011
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 22, 2022, 12:24 p.m., effective December 22, 2022, 12:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is adopting emergency amendments to WAC 388-412-0040 Can I get my benefits replaced, to issue replacement benefits to households whose cash benefits were either cloned or skimmed between March 1 and December 31, 2022. Loss in benefits must be reported to, or verified by, the department no later than March 31, 2023, and the department will provide a one-time replacement of no more than \$300.

Citation of Rules Affected by this Order: Amending WAC 388-412-0040.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.660, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, and 74.62.030.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Emergency adoption of these amendments is necessary to issue replacement benefits to households whose cash benefits were either cloned or skimmed between March 1 and December 31, 2022. Loss in benefits must be reported to, or verified by, the department no later than March 31, 2023, and the department will provide a one-time replacement of no more than \$300.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 22, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4964.1

AMENDATORY SECTION (Amending WSR 11-19-047, filed 9/13/11, effective 10/14/11)

WAC 388-412-0040 Can I get my benefits replaced? Under certain conditions, we may replace your benefits.

(1) You may get your EBT cash and/or food assistance benefits replaced if:

(a) We make a mistake that causes you to lose benefits;
 (b) The EBT card mailed to you is stolen from the mail; you never had the ability to use the benefits; and you lost benefits;

(c) You left a drug or alcohol treatment facility on or before the ((fifteenth)) 15th of the month and the facility does not have enough food assistance benefits in their EBT account for one-half of the allotment that they owe you;

(d) Your EBT benefits that were recently deposited into an inactive EBT account were canceled by mistake; ((or))

(e) The food that your household purchased with food assistance benefits was destroyed in a household disaster or misfortune.

(i) For us to replace your benefits, you must report the loss to the department within ((ten)) 10 days from the date of the loss.

(ii) We replace the amount of your loss, up to a one-month benefit amount((-)); or

(f) Your cash assistance benefits were stolen between March 1, 2022, and December 31, 2022, as a result of cloning or skimming.

(i) Once verified, we will provide a one-time cash benefit replacement of no more than \$300.

(ii) Loss of benefits must be reported to or verified by the department no later than March 31, 2023.

(iii) We will not replace benefits received under the low income home energy assistance program (LIHEAP), transitional cash assistance (TCA), and state supplemental payments (SSP).

(2) We will not replace your benefits if your loss is for a reason other than those listed in subsection (1) above if:

(a) We decided that your request is fraudulent;
 (b) Your food assistance benefits were lost, stolen, or misplaced after you received them;

(c) You already received two replacements for food destroyed in household disaster or misfortune within the last five months; or

(d) You received disaster supplemental nutrition assistance program (D-SNAP) benefits for the same month you requested a replacement for food assistance.

(3) **EBT cards.** It is your responsibility to keep track of your household's EBT card.

(a) If you have multiple EBT cards replaced, we may suspect you to be trafficking benefits as described under WAC 388-412-0046 (2)(d).

(b) If we suspect trafficking, we will refer your case for investigation by the office of fraud and accountability. Persons trafficking in food assistance benefits may be subject to fines, disqualification from food assistance, and legal action including criminal prosecution.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.04.770, 74.12.260, 74.08.580, 9.91.142, 7 C.F.R. 273.16, the Food and Nutrition Act of 2008 as amended and 42 U.S.C. 601a; and 2011 c 42. WSR 11-19-047, § 388-412-0040, filed 9/13/11, effective 10/14/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 09-21-009, § 388-412-0040, filed

10/8/09, effective 11/15/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.04.510. WSR 08-14-047, § 388-412-0040, filed 6/24/08, effective 7/25/08; WSR 03-22-038, § 388-412-0040, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.04.510 and 74.08.090. WSR 01-18-054, § 388-412-0040, filed 8/30/01, effective 9/30/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-412-0040, filed 7/31/98, effective 9/1/98.]