

WSR 24-14-081

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 28, 2024, 12:19 p.m., effective August 1, 2024]

Effective Date of Rule: August 1, 2024.

Purpose: The department of social and health services is adopting amendments to WAC 388-412-0040 Can I get my benefits replaced? Effective July 1, 2024, these amendments support funding provided in the operating budget (chapter 376, Laws of 2024) to replace cash benefits stolen by skimming, cloning, or other fraudulent methods up to two times per federal fiscal year. In addition, the amendments update WAC language to align with federal rules requiring a signed statement from a household prior to replacing food purchased with food assistance benefits that were destroyed in a household disaster or misfortune.

Once effective, this permanent filing supersedes the emergency rule filed under WSR 24-14-047.

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

Statutory Authority for Adoption: RCW 43.20A.550, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08A.120, and 74.08.090.

Other Authority: Operating budget (ESSB 5950, chapter 376, Laws of 2024) and 7 C.F.R. 274.6 (a)(4).

Adopted under notice filed as WSR 24-11-140 on May 21, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: June 28, 2024.

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SHS-5030.1

AMENDATORY SECTION (Amending WSR 23-23-129, filed 11/17/23, effective 12/18/23)

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

(1) You may get either your EBT cash_or food assistance, or both 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 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((-)); and

(i) ~~((For us to replace your benefits, you must report))~~ You reported the loss to the department within 10 days from the date of the loss((-)); and

(ii) You submitted a signed statement attesting to the household's loss within 10 days from the date the loss was reported.

(iii) We replace the amount of your loss up to a one-month benefit amount.

~~((iii))~~ (iv) There is no limit to the number of replacements for food destroyed in a household misfortune.

(f) Your food benefits were stolen, despite your EBT card being in your possession, via card skimming, cloning, or other similar fraudulent method between October 1, 2022, and September 30, 2024; and

(i) The head of household of your assistance unit submitted a completed and signed claim within 30 days of discovering the loss; and

(ii) You have not already received two food replacements in the current federal fiscal year.

(iii) We replace the amount of your loss or the amount of twice your food assistance allotment that was issued immediately prior to the date of the theft, whichever is less.

(iv) Retroactive claims for food assistance stolen between October 1, 2022, and August 22, 2023, must be reported no later than October 22, 2023.

(v) Replacement of benefits stolen via card skimming, cloning, or other similar method is contingent upon federal approval.

(g) Your cash benefits were stolen, despite your EBT card being in your possession, via card skimming, cloning, or other similar fraudulent method on or after July 1, 2024; and

(i) The head of household of your assistance unit submitted a completed and signed claim within 30 days of discovering the loss; and

(ii) You have not already received two cash replacements in the current federal fiscal year; and

(iii) You received cash benefits through one of these programs: temporary assistance for needy families (TANF), state family assistance (SFA), pregnant women assistance (PWA), refugee cash assistance (RCA), or aged, blind, or disabled (ABD) cash assistance.

(iv) We replace the amount of your loss or the amount of twice your cash assistance allotment that was issued immediately prior to the date of the theft, whichever is less.

(v) Replacement of cash benefits stolen via card skimming, cloning, or other similar method will end on September 30, 2024, or on the date that the federal government ends the requirement that food benefits must be replaced, whichever is later.

(vi) Replacement of cash benefits stolen via card skimming, cloning, or other similar method will end if state funds appropriated for this purpose are exhausted.

(2) We will not replace your benefits if:

(a) We decided that your request is fraudulent or skimming is not validated;

(b) Your EBT card was lost, stolen, or misplaced except for (1) (b) of this section;

(c) You are pending an administrative hearing decision regarding a denial of replacement benefits. You have the right to an administrative hearing if your request for replacement benefits is denied; or

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

(3) 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.