

WSR 21-11-046
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 13, 2021, 11:20 a.m.]

Supplemental Notice to WSR 20-23-050.

Preproposal statement of inquiry was filed as WSR 20-12-095.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-482-0005 How does being a student of higher education affect my eligibility for Washington basic food program?

Hearing Location(s): On June 22, 2021, 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 held virtually. Due to the COVID-19 pandemic, hearing may be held virtually, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than June 23, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., June 22, 2021.

Assistance for Persons with Disabilities: Contact Katherine I. Vasquez, DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email katherine.vasquez@dshs.wa.gov, by June 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The original proposed amendments to WAC 388-482-0005 clarify language regarding student eligibility for basic food. This supplemental proposal to amend WAC 388-482-0005 expands Supplemental Nutrition Assistance Program (SNAP) eligibility for higher education students due to the indefinite conditions of the coronavirus (COVID-19) pandemic as provided under Section 702 of the Consolidated Appropriation Act, 2021 (H.R. 133), signed into law on December 27, 2020.

These amendments are currently in place under emergency rule since February 1, 2021, under WSR 21-04-110.

Reasons Supporting Proposal: These amendments more accurately align rule language with that of federal regulation related to student eligibility for SNAP.

Statutory Authority for Adoption: RCW 43.20A.760, 74.04.500, 74.04.510, 74.08A.120.

Rule is necessary because of federal law, 7 C.F.R. 273.5 and Section 702 of the H.R. 133.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ivette Dones-Figueroa, P.O. Box 45470, Olympia, WA 98504, 360-725-4651.

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.

May 13, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4832.4

AMENDATORY SECTION (Amending WSR 20-05-047, filed 2/13/20, effective 3/15/20)

WAC 388-482-0005 How does being a student of higher education affect my eligibility for the Washington basic food program? (1)
(~~((For basic food, we consider you a student of higher education))~~) If you are enrolled at least half-time in an institution of higher education, you are ineligible for basic food unless you qualify for an exemption in subsection (4) of this section.

(2) You are considered a student of higher education for basic food purposes if you are:

(a) ~~((Age eighteen through forty-nine;~~
~~(b) Physically and mentally able to work (we determine if you are unable to work);~~
~~(e))~~) Enrolled in an institution of higher education at least half-time as defined by the institution; and
~~((d))~~) (b) Enrolled in coursework considered to be higher education.

~~((2))~~) (3) An institution of higher education is:

(a) Any educational institution that requires a high school diploma or high school equivalency certificate;
(b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or
(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

~~((3))~~) (4) If you are a student of higher education, you must also meet at least one of the following ((conditions)) exemptions to be eligible for basic food:

(a) You are age seventeen or younger;
(b) You are age fifty or older;
(c) You are physically or mentally unable to work (we determine if you are unable to work);

(d) You have paid employment and work an average of at least twenty hours per week each month;

~~((b))~~) (e) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

~~((e))~~ (f) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this ~~((condition))~~ exemption, you must:

(A) Have approval for work study at the time of application for basic food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends; or

(B) We find out you refused a work study assignment.

(g) Starting January 16, 2021, you are determined eligible to participate in state or federal work study by your institution of higher education during the regular school year. Requirements under subsections (4)(f)(i)-(iii) of this section are suspended until the COVID-19 federal public health emergency ends as described under subsection (5) of this section.

~~((d))~~ (h) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

~~((e))~~ (i) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

(i) Attend class and satisfy the twenty-hour work requirement; or

(ii) Take part in a work study program.

~~((f))~~ (j) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

~~((g))~~ (k) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

(i) The child's parents; or

(ii) Your spouse.

~~((h))~~ (l) You participate in the WorkFirst program under WAC 388-310-0200;

~~((i))~~ (m) You receive TANF or SFA benefits;

~~((j))~~ (n) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The basic food employment and training program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program; or

(iv) Section 236 of the Trade Act of 1974.

(o) Starting January 16, 2021, you have an expected family contribution (EFC) of zero dollars in the current academic year as determined by part F of Title IV of the Higher Education Act of 1965.

~~((4))~~ (5) The conditions in subsection (4)(g) and (o) of this section will continue as follows:

(a) For initial applications, until thirty days after the COVID-19 federal public health emergency ends.

(b) For recertifications, no earlier than your first recertification thirty days after COVID-19 federal public health emergency ends.

(6) If you are a student of higher education, your status as a student:

- (a) Begins the first day of the school term; and
 - (b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.
- ~~((5))~~ (7) We do not consider you a student of higher education if you:
- (a) Graduate;
 - (b) Are suspended or expelled;
 - (c) Drop out; or
 - (d) Do not intend to register for the next normal school term other than summer school.

[Statutory Authority: RCW 43.20A.760, 74.04.500, 74.04.510, and 74.08A.120. WSR 20-05-047, § 388-482-0005, filed 2/13/20, effective 3/15/20. Statutory Authority: RCW 74.04.500, 74.04.510, and 74.08A.120. WSR 18-19-025, § 388-482-0005, filed 9/12/18, effective 10/13/18. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250, and 2013 c 39. WSR 13-24-043, § 388-482-0005, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. § 273.5. WSR 13-13-004, § 388-482-0005, filed 6/6/13, effective 7/7/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.04.510. WSR 03-22-037, § 388-482-0005, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-16-024, § 388-482-0005, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-482-0005, filed 7/31/98, effective 9/1/98.]