

WSR 21-11-060
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 14, 2021, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-128.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-412-0025 How do I receive my benefits?

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 Vasquez, DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email katherine.vasquez@dshs.wa.gov, by June 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to WAC 388-412-0025 support the department's processes and procedures when suspending electronic benefit transfer (EBT) benefits for incarcerated individuals, and recoupment of unused benefits on EBT cards.

Reasons Supporting Proposal: The proposed amendments to WAC 388-412-0025 will align rule language with that of current federal regulations.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 274.2(i).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Patrick Budde, P.O. Box 45470, Olympia, WA 98504-5470, 360-764-0068.

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)(iii) which states in part, "This section does not apply to ... rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes ..."

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 businesses. They only impact DSHS clients.

May 14, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4864.1

AMENDATORY SECTION (Amending WSR 12-14-052, filed 6/28/12, effective 8/1/12)

- WAC 388-412-0025 How do I receive my benefits?** (1) You can choose to get your cash benefits by:
- (a) Electronic benefit transfer (EBT), which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;
 - (b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;
 - (c) A warrant (check) to an approved authorized representative (AREP);
 - (d) A warrant (check) to a payee who is not approved for direct deposit; or
 - (e) A warrant (check) to you if you get:
 - (i) Diversion cash assistance (DCA) that is not paid directly to a vendor;
 - (ii) Ongoing additional requirements (OAR) that cannot be paid directly to a vendor; or
 - (iii) Clothing and personal incidentals (CPI) payments.
- (2) We send your **basic food** benefits to you by EBT.
- (3) EBT accounts:
- (a) We set up an EBT account for the head of household of each assistance unit (AU) that receives benefits by EBT.
 - (b) You use a Quest debit card to access your benefits in your EBT account. You select a personal identification number (PIN) that you must enter when using this card.
 - (c) You must use your cash and basic food benefits from your EBT account. We cannot transfer cash to your bank account or change cash or basic food benefits to checks.
 - (d) Unused EBT benefits: If you do not use your EBT account within three hundred sixty-five days, we cancel the cash and basic food benefits on your account.
- (4) **Suspended EBT benefits:**
- (a) We suspend access to benefits from your EBT account if:
 - (i) You are a single-person household; and
 - (ii) We are notified that you are incarcerated over thirty days.
 - (b) You must contact the department upon release to activate your EBT account for use within forty-eight hours.
- (5) **Unused EBT benefits:**
- (a) If you do not use your EBT account within two-hundred seventy-four days, we cancel the cash and basic food on your account; or
 - (b) Benefits on your account will be canceled upon verification you and all members of your household are deceased.
- (6) **Replacing benefits:**
- (a) Replacing basic food benefits:
 - (i) We **can replace** cancelled benefits we deposited **less than three hundred sixty-five days** from the date you ask for us to replace your benefits.
 - (ii) We **cannot replace** cancelled benefits deposited **three hundred sixty-five or more days** from the date you ask us to replace your benefits.

(b) **Replacing cash benefits:** We **can replace** cancelled cash benefits for you or another member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(c) **Replacing cash warrants:**

(i) If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(ii) If we issued the benefits as a warrant one hundred sixty or fewer days ago, your local office can replace the warrant.

(iii) If we issued the benefits as a warrant more than one hundred sixty days ago, the Office of Accounting Services (OAS) can replace the warrant. We will contact OAS with the request.

((+5+)) (7) **Correcting your EBT balance:** When you make a purchase with your EBT card a system error can occur where the purchase amount is not deducted from your EBT account. When the error is discovered the following will happen:

(a) You will be notified in writing of the system error before the money is removed from your account; and

(b) You will have ninety days to request an administrative hearing. If you ask for an administrative hearing within ten calendar days, the money will not be removed from your EBT account unless:

(i) You withdraw your administrative hearing request in writing;

(ii) You do not follow through with the administrative hearing process; or

(iii) The administrative law judge tells us in writing to remove the money.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 12-14-052, § 388-412-0025, filed 6/28/12, effective 8/1/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.005, 74.08.090, 74.08A.020, 7 C.F.R. 274.12 and Quest operating rules. WSR 09-21-071, § 388-412-0025, filed 10/16/09, effective 11/16/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 7 C.F.R. 274.12. WSR 07-04-029, § 388-412-0025, filed 1/29/07, effective 3/1/07. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 05-17-089, § 388-412-0025, filed 8/12/05, effective 9/12/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-22-038, § 388-412-0025, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.04.510 and 74.08.090. WSR 02-18-105, § 388-412-0025, filed 9/3/02, effective 10/4/02; WSR 01-18-054, § 388-412-0025, 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, § 388-412-0025, filed 7/31/98, effective 9/1/98.]