

WSR 21-12-005

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 19, 2021, 2:30 p.m., effective June 1, 2021]

Effective Date of Rule: June 1, 2021.

Purpose: The department continues to amend WAC 388-482-0005 How does being a student of higher education affect my eligibility for the Washington basic food program?, under emergency rule to implement changes to student eligibility for basic food as provided in the Consolidated Appropriation Act, 2021 (H.R. 133, Section 702) due to the coronavirus (COVID-19) pandemic.

This filing extends the original emergency rule under WSR 21-04-110 filed on February 1, 2021. The department filed a supplemental proposed rule-making notice under WSR 21-11-046 to incorporate this amendment and is actively undertaking appropriate procedures to adopt the rule as permanent.

Citation of Rules Affected by this Order: Amending WAC 388-482-0005.

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

Other Authority: H.R. 133.

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: This second emergency rule is required to continue to implement provisions under H.R. 133, Section 702 related to the Supplemental Nutrition Assistance Program (administered as basic food in Washington). These provisions support preservation of the public health, safety, or general welfare through access to basic food assistance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: May 19, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4850.2

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:

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

(2) 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) If you are a student of higher education, you must also meet one of the following conditions to be eligible for basic food:

- (a) You have paid employment and work an average of at least twenty hours per week each month;
- (b) 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
- (c) You were participating in a state or federal work study program during the regular school year.
 - (i) To qualify under this condition, 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.
- (d) 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 (3)(c)(i)-(iii) of this section are suspended until the COVID-19 federal public health emergency ends as described under subsection (4) of this section.
- (e) 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))~~ (f) 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))~~ (g) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

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

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

~~((j))~~ (k) 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.

(l) 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) The conditions in subsection (3)(d) and (l) 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.

(5) 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))~~ (6) 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.]