

WSR 21-20-112
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed October 4, 2021, 4:28 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 110-15-0280

Right to request an administrative hearing.

Hearing Location(s): On November 9, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including November 9, 2021, will be considered.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, email dcyf.rulescoordinator@dcyf.wa.gov, submit comments online at <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by November 9, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by November 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For families and child care providers participating in the working connections and seasonal child care subsidy programs, better clarify the administrative hearing process for subsidy benefit and payment decisions. The proposal better clarifies the separate legal authority for the adjudicative process that participating families and providers must follow, better explains what must be included with the hearing request, and better explains review rights for families and providers who disagree with the administrative hearing orders.

Reasons Supporting Proposal: The proposal explains the hearing rights more clearly than the current rule for program participants who disagree with DCYF decisions impacting benefits or child care payments, including how to timely request a hearing and what to include with the request.

Statutory Authority for Adoption: RCW 34.05.229 and 43.216.065.

Statute Being Implemented: RCW 43.216.135 through 43.216.145.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Toni Sebastian, 206-200-0824; Implementation and Enforcement: DCYF, statewide.

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. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to

agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

October 4, 2021
Brenda Villarreal
Rules Coordinator

OTS-1671.7

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-15-0280 Right to request an administrative hearing.

~~((1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits.~~

~~(2) Child care providers may request hearings under chapter 388-02 WAC only for WCCC overpayments. A provider's burden of proof is a preponderance of the evidence.~~

~~(3) To request a hearing, a consumer or provider:~~

~~(a) Contacts the DSHS office which sent them the notice; or~~

~~(b) Writes to the office of administrative hearings, P.O. Box 42489, Olympia, WA 98504-2489; and~~

~~(c) Makes the request for a hearing within:~~

~~(i) Ninety days of the date a decision is received for consumers; or~~

~~(ii) Twenty-eight days of the date a decision is received for providers.~~

~~(4) The office of administrative hearings administrative law judge enters initial or final orders as provided in WAC 388-02-0217. Initial orders may be appealed to a DSHS review judge under chapter 388-02 WAC.~~

~~(5) To request a hearing under the seasonal child care program, see WAC 170-290-3860 and 170-290-3865.)~~ (1) **Consumers:** Consumers who disagree with DCYF's decisions affecting their WCCC benefits have administrative hearing rights under chapter 110-03 WAC.

(a) Consumers' requests for hearing:

(i) May be made by contacting DCYF in-person, by telephone, or by serving DCYF with written requests that are also filed with the office of administrative hearings (OAH) as described in WAC 110-03-0060 and 110-03-0080.

(ii) Must include the information and documents described in WAC 110-03-0050(2), if requests are made in writing.

(iii) Must be made within 90 days of the date the consumers received the decisions being appealed.

(b) After completing the administrative hearings, OAH issues initial orders pursuant to WAC 110-03-0460 and 110-03-0480. Consumers who disagree with initial orders may request reviews as provided in WAC 110-03-0510 through 110-03-0550.

(c) When consumers request reviews of the initial orders, review judges issue final orders after considering the requests for review, initial orders, and hearing records. Consumers who disagree with final orders may request reconsiderations as provided in WAC 110-03-0570

through 110-03-0580 or seek judicial reviews as described in WAC 110-03-0590.

(2) **Providers:** Child care providers who disagree with WCCC overpayment decisions may request administrative hearings pursuant to RCW 43.20B.675 and chapter 388-02 WAC.

(a) To request administrative hearings, child care providers must:

(i) Make their hearing requests in writing and include the information and documents described in RCW 43.20B.675(3) and WAC 388-02-0105 including, but not limited to, copies of the overpayment notices and statements explaining why they believe the overpayment notices are incorrect; and

(ii) Serve the hearing requests on the Department of Social and Health Services, Office of Financial Recovery, P.O. Box 9501, Olympia, WA 98507-9501, using certified mail return receipt requested or other manner that provides proof of receipt within 28 days of the date they received the overpayment notices being appealed.

(b) After completing the administrative hearings, OAH will issue final orders under WAC 388-02-0217. Child care providers who disagree with final orders may request reconsideration as described in WAC 388-02-0605 through 388-02-0635. Providers may also seek judicial review of final orders as described in WAC 388-02-0640 through 388-02-0650.

[WSR 18-14-078, recodified as § 110-15-0280, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070 and 2017 3rd sp.s. c 1 § 615. WSR 17-23-033, § 170-290-0280, filed 11/7/17, effective 12/8/17. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0280, filed 4/15/16, effective 5/16/16. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0280, filed 10/28/09, effective 12/1/09.]