

WSR 22-01-140
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed December 15, 2021, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-17-026.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic.

Hearing Location(s): On January 25, 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/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>; or virtually. Due to the impacts of COVID-19, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than January 26, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by January 25, 2022, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6196, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov [Tencza@dshs.wa.gov], by January 11, 2022, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments define that households that receive a zero benefit are not eligible for emergency adjustments to food assistance benefit issuances and households that are eligible to receive an emergency adjustment will receive a minimum of \$95, as implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302). These policies are currently in place under emergency rule filed as WSR 22-01-035.

Reasons Supporting Proposal: Rules were created and amended via emergency adoption in response to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302), updated guidance from Food and Nutrition Services issued on April 1, 2021, and a clarification from Food and Nutrition Services issued on April 21, 2021. DSHS is proposing permanent adoption of these rules and amendments [amendments].

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

Rule is necessary because of federal law, H.R. 6201, Section 2302.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Patrick Budde, P.O. Box 45470, Olympia, WA 98504, 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)(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: The proposed amendments do not impact small businesses. They only impact DSHS clients.

December 15, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4883.3

AMENDATORY SECTION (Amending WSR 21-07-098, filed 3/22/21, effective 4/22/21)

WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic. Starting March 2020, assistance units (AUs) eligible for either federal or state-funded food assistance, or both, will receive emergency allotments that bring the AU up to the maximum benefit for their household size.

(1) The amount is the maximum food assistance benefit allotment for your AU size under WAC 388-478-0060(1) less the amount received under WAC 388-450-0162 (4)(b).

(2) Beginning April 2021, AUs that receive less than \$95.00 in emergency allotments under WAC 388-437-0005(1) will receive a minimum emergency allotment of \$95.00.

(3) AUs receiving zero benefits due to income do not qualify for an emergency allotment unless the zero benefit is due to a prorated issuance in the first month of eligibility, as described in WAC 388-412-0015(4), with ongoing months above zero benefits.

(4) Emergency allotments will continue each month until:

(a) The secretary for health and human services rescinds the public health emergency declaration that was issued on January 27, 2020, under section 319 of the Public Health Service Act;

(b) The state-issued emergency or disaster declaration expires;
or

(c) The food and nutrition service directs otherwise.

~~((3))~~ (5) Emergency allotments for state-funded food assistance will continue each month, contingent on the availability of state funds.

[Statutory Authority: RCW 74.04.500, 74.04.510, 74.08A.120 and H.R. 6201. WSR 21-07-098, § 388-437-0005, filed 3/22/21, effective 4/22/21.]