

WSR 22-16-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 29, 2022, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-11-081.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ABD cash, and PWA programs.

Hearing Location(s): On September 6, 2022, at 10:00 a.m., at Office Building 2, Department of Social and Health (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 virtual. Due to the COVID[-19] pandemic, hearings are being held virtually. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: No earlier [than] September 7, 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 September 6, 2022, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov [Tencza@dshs.wa.gov], by August 23, 2022, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments are necessary to implement HB 1748 (chapter 208, Laws of 2022) and expand aged, blind, or disabled program and housing and essential needs referral eligibility to victims of human trafficking (as defined in RCW 74.04.005).

Emergency amendments to implement this change took effect July 1, 2022, under WSR 22-14-047.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 41.05.021, 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.04.805, 74.04.820, 74.08.090, 74.08A.100, 74.08A.120, 74.09.035, 74.09.530, and 74.62.030.

Statute Being Implemented: HB 1748 (chapter 208, Laws of 2022).

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Nicholas Swiatkowski, P.O. Box 45470, Olympia, WA 98504-5470, 360-764-3494.

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. These rules are 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 businesses. They only impact DSHS clients.

July 28, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4935.2

AMENDATORY SECTION (Amending WSR 22-02-014, filed 12/27/21, effective 2/1/22)

WAC 388-424-0015 Immigrant eligibility restrictions for the ((state family assistance)) SFA, ABD cash, and PWA programs. (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for temporary assistance to needy families (TANF) due to the five-year bar as described in WAC 388-424-0006(~~((+3))~~);

(b) A "nonqualified alien" who meets the Washington state residency requirements (~~(as listed)~~) in WAC 388-468-0005, including a non-citizen American Indian who does not meet the criteria in WAC 388-424-0001; or

(c) A "survivor of certain crimes" as defined in WAC 388-424-0001(~~((+4))~~).

(2) To receive aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be:

(a) A "U.S. citizen" as defined in WAC 388-424-0001;

(b) A "U.S. national" as defined in WAC 388-424-0001;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" (~~(or similarly defined lawful immigrant such as victim of trafficking)~~) as defined in WAC 388-424-0001; or

(e) A "nonqualified alien" as defined (~~(described)~~) in WAC 388-424-0001 who (~~((+))~~), U.S. Immigration and Customs Enforcement is not taking steps to enforce their departure; or

~~((i) Has verified their intent to stay in the United States indefinitely; and~~

~~(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.)~~

(f) A "survivor of certain crimes" as defined in WAC 388-424-0001.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.820, 74.08.090, 74.08A.120, 74.09.035. WSR 22-02-014, § 388-424-0015, filed 12/27/21, effective 2/1/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, 74.09.530, and 2011 1st sp.s. c 15, 2013 2nd sp.s. c 10, and the 2013 biennial budget. WSR 15-02-006, § 388-424-0015, filed 12/26/14, effective 1/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-424-0015, filed 4/27/12, effective 6/1/12. Statutory Authority:

RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0015, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0015, filed 7/7/04, effective 8/7/04. Statutory Authority: RCW 74.04.050, 74.08.090. WSR 00-08-060, § 388-424-0015, filed 3/31/00, effective 4/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-424-0015, filed 7/31/98, effective 9/1/98. Formerly WAC 388-518-1805.]