

WSR 23-13-118
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 21, 2023, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-06-055.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-458-0040 What happens if I ask for a fair hearing before the change happens?; and creation of WAC 388-494-0010 What is the diaper related payment?

Hearing Location(s): On July 25, 2023, at 10:00 a.m., virtually via Microsoft Teams or call in. Hearings are being held virtually. Please see the department of social and health services (DSHS) website for the most up-to-date information.

Date of Intended Adoption: Not earlier than July 26, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by July 25, 2023, 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, by July 11, 2023, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments will authorize issuance of diaper related payments to TANF and SFA households with a child under age three, in compliance with SSB 5838 (chapter 100, Laws of 2022).

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, and 74.04.057.

Statute Being Implemented: SSB 5838 (chapter 100, 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: Kathryn Gussett, P.O. Box 45470, Olympia, WA 98504-5470, 509-290-8435.

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, "this 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 19.85.025(4).

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.

Scope of exemption for rule proposal:

Is fully exempt.

June 20, 2023

Katherine I. Vasquez
Rules Coordinator

SHS-4983.3

AMENDATORY SECTION (Amending WSR 01-16-087, filed 7/25/01, effective 9/1/01)

WAC 388-458-0040 What happens if I ask for ((a-fair)) an administrative hearing before the change happens? (1) If you ask for ((a-fair)) an administrative hearing within the ((ten)) 10-day notice period, you may keep getting the amount of benefits you were getting before the change. This is called continued benefits.

(2) If the ((tenth)) 10th day falls on a weekend or holiday, you have until the next business day to ask for ((a-fair)) an administrative hearing and still be able to get continued benefits.

(3) If the ((tenth)) 10th day happens before the end of the month, you have until the end of the month to ask for ((a-fair)) an administrative hearing and still be able to get continued benefits.

(4) For food assistance, you cannot get continued benefits if your certification period is ending.

(5) For diaper related payments, you can get continued benefits if you meet the conditions of WAC 388-494-0010(3).

(6) If you get continued benefits, you keep getting them through the end of the month the ((fair)) administrative hearing decision is mailed unless:

(a) You:

(i) Tell us in writing that you do not want continued benefits;

(ii) Withdraw your ((fair)) administrative hearing request in writing; or

(iii) Do not follow through with the ((fair)) administrative hearing process.

(b) An administrative law judge (ALJ) tells us in writing to stop your continued benefits before the hearing.

(c) For food assistance, your certification period ends.

((+6)) (7) After the ((fair)) administrative hearing, you have to pay back continued benefits you get, as described in chapter 388-410 WAC, if the ALJ agrees with our decision.

[Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 01-16-087, § 388-458-0040, filed 7/25/01, effective 9/1/01.]

NEW SECTION

WAC 388-494-0010 What is the diaper related payment? (1) What is the diaper related payment?

The diaper related payment is a cash assistance payment for certain clients receiving Temporary Assistance for Needy Families (TANF) or State Funded Assistance (SFA) with at least one qualifying child, to support them in meeting the basic needs for diapers and other related necessities essential for early development.

(2) The following definitions apply:

(a) "Assistance Unit" as defined in WAC 388-408-0005.

(b) "Qualifying child" means a child recipient under 3 years old.

(3) Who is eligible for the diaper related payment?

(a) You must have a qualifying child receiving TANF or SFA;

(b) The assistance unit (AU) is active and receiving TANF or SFA benefits for the month of issuance:

(i) AUs must be eligible for a TANF or SFA grant of at least \$10 to receive the payment.

(ii) The payment will not be pro-rated based on application date.

(4) How do I apply for the diaper related payment?

You do not need to apply for the diaper related payment. The department automatically reviews your eligibility for the diaper related payment each month of issuance.

(5) What benefits will I receive if I am eligible for the diaper related payment?

(a) The AU will receive a \$100 diaper related payment each month;

(b) We determine if your AU is eligible to receive the diaper related payment and automatically provide the benefit to you.

(c) The payment is a cash assistance payment issued in the same manner as your TANF or SFA grant.

(6) The diaper related payment benefit amount is set based on annual funding appropriated for the program and the projected total number of eligible households.

(7) The department may discontinue or reduce program benefit issuances during periods of time when funds provided for the diaper related payment are exhausted, projected to be overspent, or not appropriated.

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