

WSR 23-17-166

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 23, 2023, 10:35 a.m., effective November 1, 2023]

Effective Date of Rule: November 1, 2023.

Purpose: The department is adopting amendments to WAC 388-458-0040 What happens if I ask for an administrative hearing before the change happens?; and creating chapter 388-494 WAC, Diaper related payments; WAC 388-494-0010 What is the diaper related payment? Effective November 1, 2023, these amendments authorize issuance of diaper related payments to TANF and SFA households with a child under three years old, in compliance with SSB 5838 (chapter 100, Laws of 2022).

Citation of Rules Affected by this Order: New WAC 388-494-0010; and amending WAC 388-458-0040.

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

Other Authority: SSB 5838 (chapter 100, Laws of 2022).

Adopted under notice filed as WSR 23-13-118 on June 21, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: August 23, 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.

#### 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.