

WSR 24-09-060

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 16, 2024, 9:18 a.m., effective April 17, 2024]

Effective Date of Rule: April 17, 2024.

Purpose: The department of social and health services (department) is extending emergency amendments to the following WAC sections to more accurately align pandemic EBT (P-EBT) program rules with federal regulations. WAC 388-439-0020 Eligibility for pandemic EBT benefits for children under age six, and 388-439-0025 Eligibility for pandemic EBT benefits during the 2023 summer period.

Citation of Rules Affected by this Order: Amending WAC 388-439-0020 and 388-439-0025.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Other authority: H.R. 6201, 8337, 133, and 1319.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These amendments are necessary to address discrepancies between WAC and federal regulations. Emergency rules have been in place since December 18, 2023, under WSR 24-01-090. The department is concurrently proceeding with the permanent rule change process. Refer to CR-101 filed as WSR 24-01-094 on December 18, 2023, and CR-102 filed as WSR 24-07-076 on March 18, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: April 12, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5008.1

AMENDATORY SECTION (Amending WSR 23-20-014, filed 9/22/23, effective 10/23/23)

WAC 388-439-0020 Eligibility for pandemic EBT benefits for children under age six. (1) To be eligible for federally funded pandemic

electronic benefits transfer (P-EBT) benefits for children under age six, a child must be:

(a) A member of a household that received supplemental nutrition assistance program (SNAP) between September 1, 2022, and May 11, 2023;

(b) Under age of six during the specified time period.

(2) Children who do not qualify for federally funded P-EBT benefits because they receive state-funded food assistance program (FAP) may be eligible for state-funded P-EBT.

(a) State-funded P-EBT follows the same eligibility rules as subsection (1) of this section, except that the child must be a member of a household that received FAP, instead of SNAP, between September 1, 2022, and May 11, 2023.

(b) State-funded P-EBT benefits are contingent on the availability of state funds.

(3) We calculate a standard benefit level for each month of P-EBT eligibility by:

(a) Using the full daily meal reimbursement rate of \$8.18 for breakfast, lunch, and snack;

(b) For September 2022, through April 2023, multiplied by the statewide average operating days of 18 days per month;

(c) For the partial prorated month of May 2023, multiplied by the nine operating days prior to the May 11 expiration of the PHE;

(d) Multiplied using a percentage of benefit reimbursement based on statewide child and adult care food program (CACFP) reported meal service prior to the COVID-19 PHE compared to the current school year, a 29.8 percent reduction, as follows:

Child Care Months	Daily Reimbursement Rate	Average Operating Days	Reduction in CACFP Claims	Average Monthly Benefits
September 2022 - April 2023	\$8.18	18	29.8%	\$43.88
May 1 - May 11, 2023	\$8.18	9	29.8%	\$28.94

(e) P-EBT benefits are issued for each month that the household receives a SNAP or FAP benefit more than zero dollars.

(4) P-EBT benefits are issued for a child under age six for a retroactive period of time as ~~((follows:))~~ a lump sum one-time payment covering eligible months from September 2022, through May 2023.

~~((a) A lump sum one-time P-EBT allotment is issued for eligible months from September 2022, through May 2023;~~

~~(b) P-EBT during the summer period benefits are disbursed under WAC 388-439-0025.)~~

(5) Benefits for a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

(6) USDA requires all issuances of P-EBT benefits to be complete by December 31, 2023, as federal funding will be exhausted. Any and all P-EBT benefits issued beyond this date will be subject to additional USDA approval and funding.

AMENDATORY SECTION (Amending WSR 23-20-014, filed 9/22/23, effective 10/23/23)

WAC 388-439-0025 Eligibility for pandemic EBT benefits during the 2023 summer period. (1) During the summer period of July and August 2023, schools ~~((and covered childcare centers))~~ will be deemed as closed.

(2) To be eligible for the pandemic electronic benefits transfer (P-EBT) benefit during the summer period after the 2022-2023 school year, prior to August 31, 2023, a child must be ~~((+))~~ an eligible student as defined under WAC 388-439-0005 (2) (d) in June 2023.

~~((a) An eligible student as defined under WAC 388-439-0005 (2) (d) in June 2023; or~~

~~(b) A child under age six, as defined under WAC 388-439-0020(1), between July 1, 2023, and August 31, 2023.)~~

(3) Children under the age of six as defined in WAC 388-439-0020 are not eligible for Summer P-EBT benefits following the expiration of the federal public health emergency declaration.

(4) A child determined eligible in subsection (2) of this section will receive a one-time, lump sum payment of \$120 for the 2023 summer period.

~~((4))~~ (5) Summer P-EBT benefits for an eligible student or a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

~~((5))~~ (6) USDA requires all issuances of P-EBT benefits to be complete by December 31, 2023, as federal funding will be exhausted. Any and all P-EBT benefits issued beyond this date will be subject to additional USDA approval and funding.