

**WSR 23-17-121**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed August 18, 2023, 4:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-068.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-474-0012 What is a state supplemental payment and who can get it? and 388-478-0055 How much do I get from my state supplemental payments (SSP)?

Hearing Location(s): On September 26, 2023, at 10:00 a.m., virtually via 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 September 27, 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 September 26, 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 Tenczsa@dshs.wa.gov, by September 12, 2023, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed amendments provide clarity regarding the state supplemental payment standard rate for individuals who are receiving care in a medical institution or residential setting. This rate is based on the Washington state institutional personal needs allowance standard which increased on July 1, 2023, due to the passage of HB 1128 (chapter 201, Laws of 2023). These amendments are currently in effect via emergency rules under WSR 23-14-065.

Reasons Supporting Proposal: See above.

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, 74.08A.250.

Statute Being Implemented: HB 1128 (chapter 201, Laws of 2023).

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: Gary Fryer, P.O. Box 45470, Olympia, WA 98504-5470, 253-720-5306.

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(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules are adopting or incorporating by reference without material change federal

statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

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.

August 18, 2023  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4987.2

AMENDATORY SECTION (Amending WSR 15-16-022, filed 7/24/15, effective 8/24/15)

**WAC 388-474-0012 What is a state supplemental payment and who can get it?** (1) The state supplemental payment (SSP) is a state-funded cash assistance program for certain clients who the Social Security Administration determines are eligible for supplemental security income (SSI).

(2) You can get an SSP if:

(a) You are a grandfathered SSI recipient under WAC 388-474-0001;

(b) You are an individual with an ineligible spouse under WAC 388-474-0001;

(c) You receive SSI because you are age (~~sixty-five~~) 65 or older under WAC 388-474-0001;

(d) You receive SSI because you are blind under WAC 388-474-0001;

(e) You receive SSI because you are disabled under WAC 388-474-0001;

(f) You are determined eligible for SSP by the developmental disabilities administration; (~~or~~)

(~~or~~) (g) You are eligible for and receive SSI as a foster child receiving specific services through children's administration behavior rehabilitation services (BRS) for part or all of a month, and not eligible for foster care reimbursement under Title IV-E of the Social Security Act (~~or~~); or

(h) You are an SSI recipient residing in a medical institution and your SSI has been reduced based on the institutional SSI payment standard.

AMENDATORY SECTION (Amending WSR 20-23-053, filed 11/13/20, effective 1/1/21)

**WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?** (1) The SSP is a ~~((payment from the state))~~ state-funded cash assistance program issued to certain individuals who the Social Security Administration (SSA) determines are eligible for supplemental security income (SSI) ((eligible people)) as described in WAC 388-474-0012.

(2) ~~((If you converted to the federal SSI program from state assistance in January 1974 because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a minimum income level (MIL) client.~~

~~A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered MIL client. A grandfathered MIL client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:~~

~~(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or~~

~~(b) The current payment standard.~~

(3) ~~The monthly))~~ Monthly SSP rate standards for eligible persons ~~((under))~~ as described in WAC 388-474-0012 ~~((and individuals residing in an institution))~~ are:

<del>((SSP-eligible persons</del>	<del>Standard</del>
<del>Individual (aged 65 and older)</del>	<del>\$38.25</del>
<del>Individual (blind as determined by SSA)</del>	<del>\$38.25</del>
<del>Individual with an ineligible spouse</del>	<del>\$38.25</del>
<del>Grandfathered (MIL)</del>	<del>Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.))</del>

<del>((Medical institution</del>	<del>Monthly SSP Rate</del>
<del>Individual</del>	<del>\$40.00))</del>

(a) \$38.25 for:

(i) Individuals with an ineligible spouse;

(ii) Aged 65 and older;

(iii) Blind as determined by SSA; or

(iv) Disabled as determined by SSA.

(b) Between \$0.54 and \$199.77 for grandfathered clients as defined in 388-474-0001 and varies by individual based on federal requirements.

(c) \$70.00 for individuals residing in a medical institution. It is based on increasing the federal SSI personal needs allowance (PNA) of \$30.00 up to the current Washington state institutional PNA standard described in subsection (5) of WAC 182-513-1105. The current state PNA standard for institutional apple health is located at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(3) A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered client. A grandfathered client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or

(b) The current payment standard.

(4) ~~((We may adjust the))~~ SSP rate standards may be adjusted at the end of the calendar year to comply with WAC 388-478-0057.

~~((5) The medical institution SSP rate is based on increasing the federal SSI personal needs allowance (PNA) up to the current Washington state institutional PNA standard described in WAC 182-513-1105. The state rate may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors and disability social security recipients as published by the federal social security administration. This adjustment is subject to state legislative funding. The current PNA rule used in institutional apple health is located at <https://www.heca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.)~~)