

**WSR 23-19-015**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed September 8, 2023, 12:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-10-057.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is amending WAC 388-408-0035 Who is in my assistance unit for basic food?, 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for basic food?, 388-489-0005 Who is eligible for transitional food assistance?, and 388-489-0010 How is my transitional food assistance benefit calculated?

Hearing Location(s): On October 24, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than October 25, 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 October 24, 2023, 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 shelley.tencza@dshs.wa.gov, by October 10, 2023, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments are necessary to implement SSB 5785 (chapter 98, Laws of 2022), effective January 1, 2024, allowing DSHS to provide transitional food assistance (TFA) for a period of five months to households that stop receiving temporary assistance for needy families and are not in full-family sanction status. If a household member has been in WorkFirst sanction, but the household is still receiving benefits, the remaining eligible household members may receive TFA.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, 74.08.090, and 74.08A.010.

Statute Being Implemented: RCW 74.08A.010.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joyce Hensen, P.O. Box 45470, Olympia, WA 98504-5470, 425-999-5162.

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. This amendment is 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 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments implement provisions in chapter 98, Laws of 2022, and do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

September 6, 2023  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4999.2

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

### **WAC 388-408-0035 Who is in my assistance unit for basic food?**

(1) A person must be in your assistance unit if they live in the same home as you and regularly buy food or prepare meals with you.

(2) If the following people live with you, they must be in your assistance unit even if you do not usually buy or prepare food together:

- (a) Your spouse;
- (b) Your parents if you are under age 22;
- (c) Your children under age 22;
- (d) The parent of a child who must be in your assistance unit;
- (e) A child under age 18 who does not live with their parent unless the child:

- (i) Is a foster child;
- (ii) Is emancipated; or
- (iii) Is not financially dependent on an adult in the assistance unit.

(3) If any of the people in subsections (1) or (2) of this section already receive transitional food assistance (TFA) under chapter 388-489 WAC, they can only receive benefits if they choose to reapply for basic food as described in WAC 388-489-0022.

(4) If you live in an institution where you may be eligible for basic food under WAC 388-408-0040, we decide who is in your assistance unit as follows:

- (a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your assistance unit under subsection (2) of this (~~rule~~) section; or
- (b) If you apply for benefits on your own, we include you, anyone who must be in your assistance unit under subsection (2) of this section, and other residents you choose to apply with.

(5) Anyone who must be in your assistance unit under subsection (1) or (2) of this section is an ineligible assistance unit member if they:

- (a) Are disqualified for an intentional program violation under WAC 388-446-0015;

(b) Do not meet work requirements under WAC 388-444-0030 or WAC 388-444-0055;

(c) Do not provide a social security number under WAC 388-476-0005;

(d) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(e) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010.

(6) If your assistance unit has an ineligible member:

(a) We count the ineligible member's income as part of your assistance unit's income under WAC 388-450-0140;

(b) We count all the ineligible members resources to your assistance unit; and

(c) We do not use the ineligible member to determine your assistance unit's size for the maximum income amount or allotment under WAC 388-478-0060.

(7) If the following people live in the same home as you, you can choose if we include them in your assistance unit:

(a) A permanently disabled person who is age 60 or over and cannot make their own meals if the total income of everyone else in the home, not counting the elderly and disabled person's spouse is not more than the 165% standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your assistance unit, the boarder cannot get basic food benefits in a separate assistance unit;

(c) A person placed in your home for foster care. If you do not include this person in your assistance unit, they cannot get basic food benefits in a separate assistance unit;

(d) Roomers; or

(e) Live-in attendants even if they buy or prepare food with you.

(8) If someone in your assistance unit moves out of your home for at least a full issuance month, they are not eligible for benefits as a part of your assistance unit, unless you receive (~~transitional food assistance~~) TFA.

(9) Your (~~transitional food assistance unit~~) TFA household includes the people who were in your basic food assistance unit the month you received transitional cash assistance (TCA); or, for the last month you received:

(a) Temporary assistance for needy families;

(b) State family assistance; or

(c) Tribal TANF benefits.

(10) When the assistance described in subsection (9) of this section was reduced because a family member is not meeting WorkFirst program requirements (WAC 388-310-1600), the individual(s) in sanction will be excluded from TFA.

(11) If someone in your assistance unit received basic food or (~~transitional food assistance~~) TFA in another assistance unit or another state, they cannot receive benefits in your assistance unit for the same period of time unless they left the assistance unit to live in a shelter for battered women and children under WAC 388-408-0045.

~~((11))~~ (12) A student who is ineligible for basic food under WAC 388-482-0005 is not a member of your assistance unit.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-408-0035, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.1. WSR

13-16-102, § 388-408-0035, filed 8/7/13, effective 9/7/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, and 74.08A.903. WSR 10-13-047, § 388-408-0035, filed 6/9/10, effective 8/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 05-19-061, § 388-408-0035, filed 9/16/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-14-040, § 388-408-0035, filed 6/29/04, effective 7/30/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 04-06-025, § 388-408-0035, filed 2/23/04, effective 4/1/04; WSR 03-19-118, § 388-408-0035, filed 9/16/03, effective 11/1/03. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 01-21-060, § 388-408-0035, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-408-0035, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 18-03-021, filed 1/8/18, effective 2/8/18)

**WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for basic food?** The department decides who must be in your assistance unit (AU) under WAC 388-408-0035. If an AU member is ineligible for basic food under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), failed to meet work requirements under chapter 388-444 WAC, ~~((or))~~ is an ineligible fleeing felon under WAC 388-442-0010, or is disqualified from transitional food assistance (TFA) due to a WorkFirst sanction:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If an AU member is an ineligible able-bodied adult without dependents (ABAWD) under WAC 388-444-0030, is ineligible due to their alien status, failed to sign the application to state their citizenship or alien status, or refused to get or provide us a Social Security number:

(a) We prorate the income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members;

(b) We allow the ~~((twenty percent))~~ 20% earned income disregard for the ineligible member's earned income;

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income;

(d) We allow the full amount of the utility allowance the AU is eligible for under WAC 388-450-0195.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.9. WSR 18-03-021, § 388-450-0140, filed 1/8/18, effective 2/8/18. Statutory Authority: RCW 74.04.050,

74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 U.S.C. 2014 (e) (7); 7 C.F.R. § 273.9 (d) (6). WSR 10-15-044, § 388-450-0140, filed 7/13/10, effective 8/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-14-040, § 388-450-0140, filed 6/29/04, effective 7/30/04. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 02-06-089, § 388-450-0140, filed 3/1/02, effective 3/26/02; WSR 01-21-060, § 388-450-0140, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-16-024, § 388-450-0140, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0140, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

**WAC 388-489-0005 Who is eligible for transitional food assistance?** You are eligible for transitional food assistance (TFA) for up to five months if you meet the following eligibility criteria:

(1) Your family stops receiving cash assistance to include temporary assistance for needy families (TANF), tribal TANF, or state family assistance (SFA), or:

(2) Your family receives (~~(transitional cash assistance)~~) (TCA);

(3) Your family was receiving basic food at the time we determined you were no longer eligible for cash assistance described in subsection (1) of this section, or when you received (~~(transitional cash assistance)~~) TCA;

(4) After your family stops receiving cash assistance described in subsection (1) of this section, or receives (~~(transitional cash assistance)~~) TCA, no other member of your basic food assistance unit receives (~~(temporary assistance for needy families)~~) TANF, tribal TANF, or (~~(state family assistance)~~) SFA;

(5) Your family did not move out of the state of Washington as described in WAC 388-468-0005;

(6) At the time your family's cash assistance ended, your family was not in sanction status. Sanction status means:

(a) We reduced (~~(or stopped your family's temporary assistance for needy families grant payment because a family member is not:~~

~~(i) Meeting WorkFirst program requirements (WAC 388-310-1600); or~~

~~(ii) Cooperating)) your family's TANF grant payment because a family member is not cooperating with the division of child support (WAC ((388-422-0100)) 388-422-0010); or~~

(b) We decided that a member of your family was not eligible for (~~(temporary assistance for needy families)~~) TANF because the member:

(i) Failed to meet teen parent living arrangement (WAC 388-486-0005) or teen parent school attendance requirements (WAC 388-410-0010); or

(ii) Was convicted of unlawful practices (WAC 388-446-0005) or for receiving (~~(temporary assistance for needy families)~~) TANF in two or more states at the same time (WAC 388-446-0010); or

(c) (~~(If you are receiving temporary assistance for needy families benefits from a tribal program, your family's grant is reduced or stopped for a reason that is the same as one of the reasons listed in (6)(a) or (6)(b) of this section.)~~) We stopped your family's TANF grant payment, including tribal TANF, because of a grant reduction sanction penalty (WAC 388-310-1600).

(7) At the time your family's (~~temporary assistance for needy families~~) TANF grant ended, your basic food assistance unit did not become ineligible because:

(a) You were applying for recertification of your basic food benefits and refused to cooperate with the application process; or

(b) All members of your assistance unit are ineligible for basic food for the reasons stated in WAC 388-489-0025(3).

(8) There is no limit to the number of times your family can receive (~~transitional food assistance~~) TFA.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-489-0005, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.010. WSR 05-19-060, § 388-489-0005, filed 9/16/05, effective 11/1/05.]

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

**WAC 388-489-0010 How is my transitional food assistance benefit calculated?** (1) We base your transitional food assistance (TFA) benefit amount on the regular monthly benefit allotment issued to your basic food assistance unit for the last month your household received temporary assistance for needy families (TANF) or the month you qualified for transitional cash assistance (TCA). We will not count your last (~~temporary assistance for needy families~~) TANF grant payment when we calculate your (~~transitional food assistance~~) TFA benefit amount. For example:

(a) If your basic food assistance unit's only income was (~~temporary assistance for needy families~~) TANF, the (~~transitional food assistance~~) TFA benefit will be the amount your household would have received if you had no income.

(b) If your basic food benefit was calculated using (~~temporary assistance for needy families~~) TANF plus income from another source, we will count only the income from the other source when calculating the (~~transitional food assistance~~) TFA amount.

(c) If a member of your assistance unit is in WorkFirst sanction when TANF closes for a reason other than WorkFirst sanction, the TFA household size will be reduced by the number of individuals in sanction when TANF closed.

(2) We will adjust your (~~transitional food assistance~~) TFA benefits if:

(a) Someone who gets (~~transitional food assistance~~) TFA with you leaves your assistance unit and is found eligible to receive basic food in another assistance unit. We will adjust your benefits by:

(i) Reducing your assistance unit size by the number of persons who left your assistance unit; and

(ii) Removing the income and expenses clearly belonging to the persons who left your assistance unit.

(b) A change to the maximum allotment for basic food under WAC 388-478-0060 results in an increase in benefits for basic food assistance units.

(c) You (~~got an overpayment of~~) were overpaid basic food benefits and we need to adjust the amount we deduct from your monthly ben-

efits to repay the overpayment as required in WAC 388-410-0033. This includes:

- (i) Starting a new monthly deduction;
- (ii) Changing the amount of the monthly deduction; and
- (iii) Ending the monthly deduction when the amount you owe has been paid off.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-489-0010, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, and 74.08A.903. WSR 10-23-119, § 388-489-0010, filed 11/17/10, effective 12/18/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.010. WSR 05-19-060, § 388-489-0010, filed 9/16/05, effective 11/1/05.]