



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (August 2017)**  
**(Implements RCW 34.05.310)**  
Do **NOT** use for expedited rule making

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DATE: November 15, 2017

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WSR 17-23-102

**Agency:** Department of Social and Health Services, Economic Services Administration

**Subject of possible rule making:** The Division of Child Support (DCS) is planning to amend WAC 388-14A-5007 "If the paying parent has more than one case, can DCS apply support money to only one specific case?" and other related rules as may be required.

The proposed amendment serves two purposes dealing with distribution of support payments when a noncustodial parent (NCP) has more than one child support case: (1) to allow DCS to apply in the manner specified by an Indian Tribe, when the Tribe sends money to DCS representing a tribal benefit received by an NCP who is a member of that tribe; and (2) to clarify that DCS may apply money to a specific case when the allocation or distribution of funds is contained in a court order.

DCS is proposing the amendment at the request of several tribes who wish to have payments applied in a manner consistent with tribal law or custom, or an order from the tribal court. DCS further seeks to clarify the procedures to be followed when a court order contains specific requirements as to how funds should be applied.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 26.23.035, RCW 74.08.090

**Reasons why rules on this subject may be needed and what they might accomplish:** WAC 388-14A-5000 through 388-14A-5015 contain the rules for the distribution of support collections by DCS. WAC 388-14A-5006 sets out the requirements for distribution when the noncustodial parent (NCP) has more than one case. As a general rule, most support collections are distributed among the NCP's cases proportionally. However, WAC 388-14A-5007 sets out the conditions under which DCS can apply support collections to only one or more specific cases when such application would result in one or more of the NCP's cases not getting any part of the collection. DCS proposes to add two more conditions under which a collection may be distributed in a way that does not proportionally share the payment among all of an NCP's cases.

- (1) Because of the sovereign nature of Indian Tribes, DCS does not have the authority or ability to require a Tribe to withhold funds that are payable from the Tribe or a Tribal business. However, a Tribe may choose to withhold all or part of an NCP's Tribal benefit for child support purposes. Depending on the tribal law or custom, or an order from the tribal court, the Tribe may designate that funds withheld from a tribal benefit not be applied proportionately among all of the NCP's cases, but that the funds be applied only to one or more of the NCP's child support cases. The proposed rule includes this as a reason why DCS would not apply this type of payment among all of an NCP's cases.
- (2) Although the current rule specifies that DCS may distribute support collections to only one case among all of an NCP's cases when the collection results from a judgment lien or contempt order, DCS seeks to amend the rule to provide that, when the allocation or distribution of funds is contained in a court order that arose from any other type of proceeding, DCS may apply the money as provided in the order and not as provided in WAC 388-14A-5006.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** n/a

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) DCS engages in modified collaborative rulemaking. Those persons wishing to participate in

developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) Headquarters as soon as possible. DCS will post information regarding this rule development project and others on its web site, which can be found at <https://www.dshs.wa.gov/esa/division-child-support> or on the DSHS Economic Services Administration's *Policy Review* web site, which can be found at <https://fortress.wa.gov/dshs/f2ws03esaapps/extpolicy/>

Rulemaking forms and draft rules may also be found on the DSHS *Filings and Rules* page at <https://www.dshs.wa.gov/sesa/rpau/filings-and-rulings>

DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule-making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

	(If necessary)
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Other:	Other:

Additional comments:

**Date:** November 15, 2017

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**

