



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: April 29, 2019

TIME: 9:51 AM

WSR 19-10-046

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

Title of rule and other identifying information: (describe subject) The department is proposing to amend WAC 388-408-0040 "How does living in an institution affect my eligibility for Basic Food?" and WAC 388-420-010 "Alcohol and drug treatment centers".

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Community Services Division (CSD) is proposing to amend WAC sections 388-408-0040 and 388-420-010 through the expedited rulemaking process for housekeeping purposes. These amendments will update obsolete WAC cross-references that have the same effect as the previous cross-references.

Reasons supporting proposal: The cross-references have changed as a result of 2018 legislation (2ESHB 1388) transferring authority and responsibility of behavioral health agency licensing and certification from Department of Social and Health Services (DSHS) to the Department of Health (DOH).

Statutory authority for adoption: RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.500, RCW 74.04.510, RCW 74.08.090, RCW 74.08A.120, and 7 C.F.R. 273.11

Statute being implemented:

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Name of proponent: (person or organization) Department of Social and Health Services

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Ivette Dones-Figueroa	PO Box 45470, Olympia, WA 98504-5470	360-725-4651
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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates 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;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): Changes are minor and needed to correct obsolete WAC cross-references that have the same effect as the previous cross-references.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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Agency: Department of Social and Health Services

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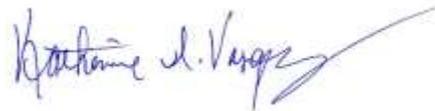
AND RECEIVED BY (date) July 1, 2019

Date: April 25, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-408-0040 How does living in an institution affect my eligibility for Basic Food? (1) For basic food, an "institution" means a place where people live that provides residents more than half of three meals daily as a part of their normal services.

(2) Most residents of institutions are not eligible for basic food.

(3) If you live in one of the following institutions, you may be eligible for basic food even if the institution provides the majority of your meals:

(a) Federally subsidized housing for the elderly;

(b) Qualified drug and alcohol treatment centers when an employee of the treatment center is the authorized representative as described under WAC 388-460-0010;

(c) Qualified developmental disabilities administration (DDA) group homes for persons with disabilities;

(d) A shelter for battered women and children when the resident left the home that included the abuser; or

(e) Nonprofit shelters for the homeless.

(4) A qualified DDA group home is a nonprofit residential facility that:

(a) Houses sixteen or fewer persons with disabilities as defined under WAC 388-400-0040(9); and

(b) Is certified by DDA.

(5) A qualified drug and alcohol treatment center is a residential facility that:

(a) Is authorized as a retailer by the U.S. Department of Agriculture, Food and Nutrition Service or operated by a private nonprofit organization; and

(b) Meets the (~~division of behavioral health and recovery (DBHR) chemical dependency~~) department of health (DOH) residential substance use disorder treatment services licensing and certification rules in WAC (~~388-877B-0200~~) 246-341-1108.

(6) The qualified drug and alcohol treatment center described in subsection (5) in this section must be:

(a) Receiving funds under part B of Title XIX of the Public Health Service Act;

(b) Eligible to receive funds under part B of Title XIX of the Public Health Service Act, but does not receive these funds; or

(c) Operating to further the purposes of part B of the Public Health Service Act to provide treatment and rehabilitation of drug addicts or alcoholics.

(7) Elderly or disabled individuals and their spouses may use basic food benefits to buy meals from the following meal providers if FNS has approved them to accept basic food benefits:

(a) Communal dining facility; or

(b) Nonprofit meal delivery service.

(8) If you are homeless, you may use your basic food benefits to buy prepared meals from nonprofit organizations the department has certified as meal providers for the homeless.

AMENDATORY SECTION (Amending WSR 14-21-119, filed 10/17/14, effective 11/17/14)

WAC 388-420-010 Alcohol and drug treatment centers. (1) Food assistance is only available to a resident of a drug and alcohol treatment center when the treatment center is administered by a public or private nonprofit agency. In addition, the residential treatment center must be:

(a) Licensed by the (~~(division of behavioral health and recovery (DBHR))~~) department of health (DOH) as a behavioral health agency (see chapter (~~(388-877)~~) 246-341 WAC); and

(b) Certified by (~~(DBHR)~~) DOH to provide (~~(chemical dependency)~~) residential substance use disorder treatment services (see WAC (~~(388-877B-0200)~~) 246-341-1108).

(2) A resident is considered a one person assistance unit. However if the resident's spouse or child is also living in the treatment center, the spouse or child is included in the resident's assistance unit.

(3) The resident must have a designated employee of the treatment center act as an authorized representative as specified in chapter 388-460 WAC.

(4) The authorized representative receives and uses the food assistance benefits for meals the resident is served in the treatment center.

(5) The authorized representative also has responsibilities as specified in chapter 388-460 WAC.