



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: October 01, 2024

TIME: 2:19 PM

WSR 24-20-123

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The department is adopting emergency amendments to WAC 388-412-0040, "Can I get my benefits replaced?"

Effective October 1, 2024, these amendments are necessary to align with the passing of the [Continuing Appropriations and Extension Act, 2025](#), which authorizes the replacement of SNAP benefits stolen due to skimming, cloning, or other fraudulent methods through December 20, 2024.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 388-412-0040
- Suspended: None

Statutory authority for adoption: RCW 74.04.500, 74.04.510, 74.08A.120

Other authority: H.R. 9747 (Continuing Appropriations and Extensions Act, 2025): Division B – Extensions, Title I – Miscellaneous Extensions, Sec. 105)

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- 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: Effective October 1, 2024, the Continuing Appropriations and Extensions Act, 2025, authorizes continued replacement of SNAP benefits stolen through card skimming, card cloning, or other similar methods, until December 20, 2024.

The department is concurrently proceeding with the permanent rule making process.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	<u>1</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	<u>1</u>	Repealed	____

Date Adopted: September 30, 2024	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-412-0040 Can I get my benefits replaced? Under certain conditions, we may replace your benefits.

(1) You may get either your EBT cash or food assistance, or both replaced if:

(a) We make a mistake that causes you to lose benefits;

(b) The EBT card mailed to you is stolen from the mail, you never had the ability to use the benefits, and you lost benefits;

(c) You left a drug or alcohol treatment facility on or before the 15th of the month and the facility does not have enough food assistance benefits in their EBT account for one-half of the allotment that they owe you;

(d) Your EBT benefits that were recently deposited into an inactive EBT account were canceled by mistake; or

(e) The food that your household purchased with food assistance benefits was destroyed in a household disaster or misfortune; and

(i) You reported the loss to the department within 10 days from the date of the loss; and

(ii) You submitted a signed statement attesting to the household's loss within 10 days from the date the loss was reported.

(iii) We replace the amount of your loss up to a one-month benefit amount.

(iv) There is no limit to the number of replacements for food destroyed in a household misfortune.

(f) Your food benefits were stolen, despite your EBT card being in your possession, via card skimming, cloning, or other similar fraudulent method between October 1, 2022, and ((September 30, 2024)) December 20, 2024, or on the date that the federal government ends the requirement that food benefits must be replaced, whichever is later; and

(i) The head of household of your assistance unit submitted a completed and signed claim within 30 days of discovering the loss; and

(ii) You have not already received two food replacements in the current federal fiscal year.

(iii) We replace the amount of your loss or the amount of twice your food assistance allotment that was issued immediately prior to the date of the theft, whichever is less.

(iv) Retroactive claims for food assistance stolen between October 1, 2022, and August 22, 2023, must be reported no later than October 22, 2023.

(v) Replacement of benefits stolen via card skimming, cloning, or other similar method is contingent upon federal approval.

(g) Your cash benefits were stolen, despite your EBT card being in your possession, via card skimming, cloning, or other similar fraudulent method on or after July 1, 2024; and

(i) The head of household of your assistance unit submitted a completed and signed claim within 30 days of discovering the loss; and

(ii) You have not already received two cash replacements in the current federal fiscal year; and

(iii) You received cash benefits through one of these programs: temporary assistance for needy families (TANF), state family assistance (SFA), pregnant women assistance (PWA), refugee cash assistance (RCA), or aged, blind, or disabled (ABD) cash assistance.

(iv) We replace the amount of your loss or the amount of twice your cash assistance allotment that was issued immediately prior to the date of the theft, whichever is less.

(v) Replacement of cash benefits stolen via card skimming, cloning, or other similar method will end on (~~September 30, 2024~~) December 20, 2024, or on the date that the federal government ends the requirement that food benefits must be replaced, whichever is later.

(vi) Replacement of cash benefits stolen via card skimming, cloning, or other similar method will end if state funds appropriated for this purpose are exhausted.

(2) We will not replace your benefits if:

(a) We decided that your request is fraudulent or skimming is not validated;

(b) Your EBT card was lost, stolen, or misplaced except for (1)(b) of this section;

(c) You are pending an administrative hearing decision regarding a denial of replacement benefits. You have the right to an administrative hearing if your request for replacement benefits is denied; or

(d) You received disaster supplemental nutrition assistance program (D-SNAP) benefits for the same month you requested a replacement for food assistance.

(3) It is your responsibility to keep track of your household's EBT card.

(a) If you have multiple EBT cards replaced, we may suspect you to be trafficking benefits as described under WAC 388-412-0046 (2)(d).

(b) If we suspect trafficking, we will refer your case for investigation by the office of fraud and accountability. Persons trafficking in food assistance benefits may be subject to fines, disqualification from food assistance, and legal action including criminal prosecution.