



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: May 21, 2024

TIME: 4:47 PM

WSR 24-11-144

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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 amending the following WAC sections: WAC 388-439-0020, "Eligibility for pandemic EBT benefits for children under age six." and 388-439-0025, "Eligibility for pandemic EBT benefits during the 2023 summer period."

These amendments are necessary to more accurately align Pandemic EBT (P-EBT) program rules with federal regulations. Related emergency rules are currently in place. When effective, this permanent filing supersedes the emergency rule filed under WSR 24-09-060.

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-439-0020, and 388-439-0025
 Suspended: None

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

Other authority: Section 1101 of H.R. 6201, Families First Coronavirus Response Act- and amended by Section 1108 of H.R. 1319, American Rescue Plan Act of 2021

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 24-07-076 on 03/18/24 (date).
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**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Federal statute:	New	___	Amended	___	Repealed	___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>2</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___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

New	___	Amended	___	Repealed	___
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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>2</u>	Repealed	___

Date Adopted: May 21, 2024

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-439-0020 Eligibility for pandemic EBT benefits for children under age six. (1) To be eligible for federally funded pandemic electronic benefits transfer (P-EBT) benefits for children under age six, a child must be:

- (a) A member of a household that received supplemental nutrition assistance program (SNAP) between September 1, 2022, and May 11, 2023;
- (b) Under age of six during the specified time period.

(2) Children who do not qualify for federally funded P-EBT benefits because they receive state-funded food assistance program (FAP) may be eligible for state-funded P-EBT.

(a) State-funded P-EBT follows the same eligibility rules as subsection (1) of this section, except that the child must be a member of a household that received FAP, instead of SNAP, between September 1, 2022, and May 11, 2023.

(b) State-funded P-EBT benefits are contingent on the availability of state funds.

(3) We calculate a standard benefit level for each month of P-EBT eligibility by:

(a) Using the full daily meal reimbursement rate of \$8.18 for breakfast, lunch, and snack;

(b) For September 2022, through April 2023, multiplied by the statewide average operating days of 18 days per month;

(c) For the partial prorated month of May 2023, multiplied by the nine operating days prior to the May 11 expiration of the PHE;

(d) Multiplied using a percentage of benefit reimbursement based on statewide child and adult care food program (CACFP) reported meal service prior to the COVID-19 PHE compared to the current school year, a 29.8 percent reduction, as follows:

Child Care Months	Daily Reimbursement Rate	Average Operating Days	Reduction in CACFP Claims	Average Monthly Benefits
September 2022 - April 2023	\$8.18	18	29.8%	\$43.88
May 1 - May 11, 2023	\$8.18	9	29.8%	\$28.94

(e) P-EBT benefits are issued for each month that the household receives a SNAP or FAP benefit more than zero dollars.

(4) P-EBT benefits are issued for a child under age six for a retroactive period of time as ~~((follows:))~~ a lump sum one-time payment covering eligible months from September 2022, through May 2023.

~~((a) A lump sum one-time P-EBT allotment is issued for eligible months from September 2022, through May 2023;~~

~~(b) P-EBT during the summer period benefits are disbursed under WAC 388-439-0025.))~~

(5) Benefits for a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

(6) USDA requires all issuances of P-EBT benefits to be complete by December 31, 2023, as federal funding will be exhausted. Any and all P-EBT benefits issued beyond this date will be subject to additional USDA approval and funding.

AMENDATORY SECTION (Amending WSR 23-20-014, filed 9/22/23, effective 10/23/23)

WAC 388-439-0025 Eligibility for pandemic EBT benefits during the 2023 summer period. (1) During the summer period of July and August 2023, schools ((and covered childcare centers)) will be deemed as closed.

(2) To be eligible for the pandemic electronic benefits transfer (P-EBT) benefit during the summer period after the 2022-2023 school year, prior to August 31, 2023, a child must be ~~((+))~~ an eligible student as defined under WAC 388-439-0005(2)(d) in June 2023.

~~((a) An eligible student as defined under WAC 388-439-0005(2)(d) in June 2023; or~~

~~(b) A child under age six, as defined under WAC 388-439-0020(1), between July 1, 2023, and August 31, 2023.))~~

(3) Children under the age of six as defined in WAC 388-439-0020 are not eligible for Summer P-EBT benefits following the expiration of the federal public health emergency declaration.

(4) A child determined eligible in subsection (2) of this section will receive a one-time, lump sum payment of \$120 for the 2023 summer period.

~~((4))~~ (5) Summer P-EBT benefits for an eligible student or a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

~~((5))~~ (6) USDA requires all issuances of P-EBT benefits to be complete by December 31, 2023, as federal funding will be exhausted. Any and all P-EBT benefits issued beyond this date will be subject to additional USDA approval and funding.