



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: July 02, 2024

TIME: 4:56 PM

WSR 24-14-137

Agency: Washington State Department of Children, Youth, and Families (DCYF)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-19-077 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject)

The Early Learning Division (ELD) is proposing amendments to the following WACs:

WAC 110-15-0003 Definitions.

WAC 110-15-0005 Eligibility.

WAC 110-15-0015 Determining family size.

WAC 110-15-0024 Categorical eligibility for families receiving child protective, child welfare, or family assessment response services.

WAC 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst.

WAC 110-15-0075 Determining income eligibility and copayment amounts.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|----------------|-------|-------------------------|---|
| August 6, 2024 | N/A | Telephonic | Make oral comments by calling 360-972-5385 and leaving a voicemail that includes the comment and an email address or physical mailing address where DCYF will send its response. Comments received through and including August 6, 2024 will be considered. |

Date of intended adoption: August 7, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name DCYF Rules Coordinator

Address

Email dcyf.rulescoordinator@dcyf.wa.gov

Fax

Other <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>

Beginning (date and time) July 3, 2024, 8:00 am

By (date and time) August 6, 2024

Assistance for persons with disabilities:

Contact DCYF Rules Coordinator

Phone (360) 522-3691

Fax

TTY

Email dcyf.rulescoordinator@dcyf.wa.gov

Other

By (date) July 30, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules are currently in effect under emergency status and expand eligibility to people working in licensed child care centers and licensed family homes, specialty and therapeutic court participants, and undocumented children. This rulemaking will also establish eligibility for families with a parent participating in a state-registered apprenticeship with income less than 85% of the state median income who, within the last year, were approved for Working Connections Child Care.

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: Second Substitute Senate Bill 5225, Second Substitute House Bill 1525, RCW 43.216

Statute being implemented: Second Substitute Senate Bill 5225, Second Substitute House Bill 1525, RCW 43.216

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) DCYF
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------|----------------|-----------------|---------------|
| Drafting | Toni Sebastian | | 206) 200-0824 |
| Implementation | DCYF | Statewide | |
| Enforcement | DCYF | Statewide | |

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name
Address
Phone
Fax
TTY
Email
Other

No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Date: July 2, 2024

Name: Brenda Villarreal

Title: Rules Coordinator

Signature:



WAC 110-15-0003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"**Able**" means being physically and mentally capable of caring for a child in a responsible manner.

"**Administrative error**" means an error made by ((DCYF)) the department through no fault of the consumer or provider.

"**Approved activity**" means an activity that a consumer is required to participate in at application and reapplication to be eligible to collect benefits.

"**Authorization**" means the transaction created by ((DCYF)) the department which allows the provider to claim payment during a certification period. The transaction may be adjusted based on the family need.

"**Available**" means being free to provide care when not participating in an approved activity under WAC 110-15-0040, 110-15-0045, or 110-15-0050 during the time child care is needed.

"**Benefit**" means a regular payment made by a government agency on behalf of a person eligible to receive it.

"**Calendar year**" means those dates between and including January 1st and December 31st.

"**Capacity**" means the maximum number of children the licensee is authorized to have in care at any given time.

"**Collective bargaining agreement**" or "**CBA**" means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

"**Consumer**" means the person eligible to receive:

(a) Working connections child care (WCCC) benefits as described in part II of this chapter; or

(b) SCC benefits as described in part III of this chapter.

"**Copayment**" means the amount of money the consumer is responsible to pay the child care provider each month toward the cost of child care, whether provided under a voucher or contract.

"**Days**" means calendar days unless otherwise specified.

"**Department of children, youth, and families (DCYF)**" or "**department**" means the Washington state department of children, youth, and families.

"**DSHS**" means the department of social and health services.

"**Early achievers**" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

"**Electronic record**" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"**Electronic signature**" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature, symbol, or process executed by a person with the intent to sign the record.

"**Eligibility**" means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

"Eligibility period" means the months for which households are eligible to receive WCCC or SCC program subsidies.

"Employment" or **"work"** means engaging in any legal, income generating activity that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S. This includes unsubsidized employment, as verified by ((DCYF)) the department, and subsidized employment, such as:

- (a) Working in a federal or state paid work study program; or
- (b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

"Existing child care provider" means a licensed or certified provider who received a state subsidy payment between July 1, 2015, and June 30, 2016.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefits to themselves or another person. See RCW 74.04.004.

"Full-time student" means a consumer who attends a community, technical, or tribal college and meets its definition of full-time student.

"Homeless" means homeless as defined by the McKinney-Vento Homeless Assistance Act of 1987 without a fixed, regular, and adequate nighttime residence.

"In-home/relative provider" or **"family, friends, and neighbors (FFN) provider"** means an individual who is exempt from child care licensing standards and is approved for (~~working connections child care~~+)WCCC(+) payment under WAC 110-15-0125.

"In loco parentis" means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

"Infant" means a child from birth to 11 months.

"Living in the household" means people who reside at the same physical address.

"Lump-sum payment" means a single payment that is not anticipated to continue.

"Newly eligible consumer" means a consumer that has at least one full calendar month break in benefit eligibility.

"Night shift" means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

"Nonschool age child" means a child who is six years of age or younger and is not enrolled in public or private school.

"Overpayment" means a payment or benefits received by a provider or consumer that exceeds the amount the provider or consumer is approved for or eligible to receive.

"Parental control" means a child is living with a biological or adoptive parent, stepparent, legal guardian verifiable by a legal or court document, adult sibling or step-sibling, nephew or niece, aunt, great-aunt, uncle, great-uncle, grandparent or great-grandparent, or an approved in loco parentis custodian responsible for exercising day-to-day care and control of the child.

"Preschool age child" means a child age 30 months through six years of age who is not attending kindergarten or elementary school.

"Private school" means a private school approved by the state under chapter 28A.195 RCW.

"Program violation" means a failure to adhere to program requirements, which results in an overpayment.

"Sanction" means deterrent action imposed by the department to address a program violation finding.

~~(**"SCC"** means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.)~~)

"School age child" means a child who is between five years of age through 12 years of age and who is attending public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Seasonal child care program (SCC)" means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

"Seasonally available agricultural related work" means work that is directly related to the cultivation, production, harvesting, or processing of fruit trees or crops.

"Second tier eligibility" means an increased income limit for eligible families who reapply before the end of their current eligibility period.

"Self-employment" means engaging in a legal, income-generating activity earned directly from an individual's trade or business that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S.

"Sign" means placing a name or legal mark on a document by physically writing or using an electronic signature.

"Specialty court" means the same as defined in RCW 2.30.020.

"State median income (SMI)" means an annual income figure representing the point at which there are as many families earning more than that amount as there are earning less than that amount. The Census Bureau publishes median family income figures for each state each year, depending on family size.

"TANF" means temporary assistance for needy families, a cash assistance program administered by DSHS.

"Technical assistance" means a strategy that is focused on the resolution of a specific concern or need. This may be in writing or by phone call.

"Therapeutic court" means the same as defined in RCW 2.30.020.

"To the extent of available funds" means one or more of the following:

- (a) Limited or closed enrollment;
- (b) Subject to a priority list for new enrollees pursuant to applicable state and federal law and as described in WAC 110-15-2210; or
- (c) Subject to a waiting list.

"Unintentional" means not done willfully or on purpose.

"Waiting list" means a list of applicants or reapplicants eligible to receive subsidy benefits when funding becomes available.

"Working connections child care (WCCC)" means the working connections child care program, a child care subsidy program described in part II of this chapter that assists eligible families to pay for child care.

WAC 110-15-0005 Eligibility. (1) Consumers ((-At)) at the time of application and reapplication((,-)) must meet the following requirements to be eligible for WCCC((,- consumers must)):

(a) Have parental control of one or more eligible children;
(b) Live in ((the state of)) Washington state;
(c) Participate in an approved activity or meet the eligibility special circumstances requirements under WAC 110-15-0020, 110-15-0023, or 110-15-0024;

(d) ((Have countable income at or below 60 percent of the SMI at initial application or at or below 65 percent of the SMI at reapplica-
tion;

(e)) Not have assets that exceed \$1,000,000; ((and
(f)) (e) Have an agreed payment arrangement with any provider to whom any outstanding WCCC copayment is owed; and

(f) Have one of the following:

(i) Countable income at or below:

(A) Sixty percent of the SMI at initial application; or

(B) Sixty-five percent of the SMI at reapplication;

(ii) A household annual income adjusted for family size that does not exceed 75 percent of the SMI within the first 12 months of a state-registered apprenticeship program; or

(iii) Be employed by a licensed or certified child care provider as confirmed or verified in the department's electronic workforce registry and have a household annual income adjusted for family size that does not exceed 85 percent of the SMI.

(2) Parents currently attending high school or who are age 21 or younger and completing a high school equivalency certificate are eligible for WCCC if their income does not exceed 85 percent of the SMI at the time of application.

(3) Children((-)) must meet the following requirements to be eligible for WCCC((,- children must)):

(a) ((Belong to one of the following groups as defined in WAC 388-424-0001:

(i) A U.S. citizen;

(ii) A U.S. national;

(iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

(b) Legally)) Reside in Washington state((,- which will be determined by applying the criteria of WAC 388-424-0001 or 388-468-0005)); and

((e)) (b) Be less than ((13 years of)) age;

(i) Thirteen on the first day of eligibility; or

((d) Be less than 19 years of age, and;

(i)) (ii) Nineteen and;

(A) Have a verified special need, ((according to)) as outlined in WAC 110-15-0020; or

((ii)) (B) Be under court supervision.

WAC 110-15-0015 Determining family size. (1) ~~((DCYF))~~ The department determines a consumer's family size ((as follows)) for:

~~((For a))~~ Single parents, including a minor parent living independently, ~~((DCYF counts))~~ by counting the consumer and the consumer's children;

~~((For))~~ Unmarried parents who have:

~~((c))~~ (i) At least one mutual child, ((DCYF counts)) by counting both parents and all of their children living in the household;

~~((e) Unmarried parents who have)~~ (ii) No mutual children ((are counted as separate WCCC households)), by counting the unmarried parents and their respective children when living in the same household as separate WCCC households;

~~((d) For))~~ (c) Married parents, ((DCYF counts)) by counting both parents and all of their children living in the household;

~~((e) For parents who are undocumented aliens as defined in WAC 388-424-0001, DCYF counts the parents and children, documented and undocumented, and all other family rules in this section apply. Children needing care must meet citizenship requirements described in WAC 110-15-0005;~~

~~((f) For a))~~ (d) The following individuals by counting only the children and only the children's income:

(i) Legal guardians verified by a legal or court document((~~τ~~));

(ii) Adult siblings ((~~θ~~)), step-siblings, nephews, nieces, aunts, uncles, grandparents, any of these relatives with the prefix "great," such as a "great-nephew((~~τ~~))"; or ((an in))

(iii) In loco parentis custodians who ((is)) are not related to the child as ((described)) defined in WAC ((110-15-0005, DCYF counts only the children and only the children's income is counted)) 110-15-0003;

~~((g) For a))~~ (e) Parents who ((is)) are out of the household because of employer requirements, such as training or military service, and expected to return to the household, ((DCYF counts)) by counting the consumer, the absent parent, and the children;

~~((h) For a))~~ (f) Parents who ((is)) are voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household, ((DCYF counts)) by counting the consumer, the absent parent, and the children ~~((WAC 110-15-0020 and all other family and household rules in this section apply));~~

~~((i) For a))~~ (g) Parents who ((is)) are out of the country and waiting for legal reentry ((in to)) into the United States, ((DCYF counts)) by counting only the consumer and children residing in the United States ~~((and all other family and household rules in this section apply));~~

~~((j) An))~~ (h) Incarcerated ((parent is)) parents who are not part of the household ((count for)) by counting them when determining income and eligibility ~~((DCYF counts the remaining household members using all other family rules in this section)); and~~

~~((k) For a parent))~~ (i) Incarcerated parents residing at a Washington state correctional facility whose ((child)) children live((s)) with them at the facility, ((DCYF counts the parent)) by counting them and their child as their own household.

(2) When ~~((the))~~ households consist~~((s))~~ of the consumer's own ~~((child and another child))~~ children and other children identified in subsection (1) ~~((-f-))~~ (d) of this section, the household may be:
(a) Combined into one household; or
(b) Kept as distinct households for the benefit of the consumer.

AMENDATORY SECTION (Amending WSR 23-23-082, filed 11/13/23, effective 12/14/23)

WAC 110-15-0024 Categorical eligibility ~~((for families receiving child protective, child welfare, or family assessment response services))~~. (1) Families with children ~~((who have received))~~ are eligible for WCCC benefits for a 12-month period if the consumer is a Washington state resident and their children are living with a biological parent or guardian and:

(a) In the six months prior to application or reapplication for WCCC benefits, the family received:

(i) Child protective services (CPS) as defined and used by chapters 26.44 and 74.13 RCW~~((-r))~~; or

(ii) Child welfare services as defined and used by chapter 74.13 RCW~~((-r))~~; or

(iii) Services through a family assessment response, as defined and used by chapter 26.44 RCW ~~((in the six months previous to application or reapplication for working connections child care (WCCC) benefits are eligible for WCCC benefits for a 12-month period if, in addition the:~~

~~(a) Consumer is a Washington state resident;~~

~~(b) Family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; and~~

~~(c) Child or children are residing with a biological parent or guardian); and~~

(iv) The family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; or

(b) The children's parent or guardian:

(i) Is participating in or is listed as a victim in a case in a specialty or therapeutic court as defined by RCW 2.30.020; and

(ii) Was referred for child care as part of the specialty court or therapeutic court proceedings.

(2) Families eligible for WCCC under this section will:

(a) Have no copayment;

(b) Be authorized for full-time child care regardless of participation in an approved activity; and

(c) Be eligible to have benefits paid only to a provider that meets the requirements in WAC 110-15-0125.

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst. Applicants and consumers:

(1) (~~Applicants and consumers~~) Not participating in WorkFirst activities may be eligible for WCCC benefits for the following approved activities:

- (a) Employment;
- (b) Self-employment;
- (c) Supplemental nutrition assistance program employment and training (SNAP E&T); or
- (d) The following education programs:
 - (i) High school or working towards a high school equivalency certificate for consumers under age 22 (~~(years of age)~~);
 - (ii) Part-time enrollment in a:
 - (A) Vocational education(~~(r)~~);
 - (B) Adult basic education (ABE) (~~(r)~~);
 - (C) High school equivalency certificate for consumers age 22 (~~(years of age)~~) and older(~~(r)~~); or
 - (D) English as a second language (ESL) program combined with an average of (~~20~~);
 - (I) Twenty or more employment hours per week (~~(or 16)~~);
 - (II) Sixteen or more work-study hours per week; or
 - (iii) For full-time students of a community, technical, or tribal college, enrollment in:
 - (A) A vocational education program that leads to a degree or certificate in a specific occupation;
 - (B) An associate degree program; or
 - (C) A registered apprenticeship program.

~~((iv) "Full-time student" for the purpose of this subsection means a consumer attends a community, technical, or tribal college and meets its definition of full-time student.~~

~~((e) Applicants and consumers)) (2) Who meet the requirements of ((e) of this)) subsection (1)(d) of this section are eligible to receive subsidy payment for up to 10 hours per week of study time for approved classes.~~

~~((2) Applicants and consumers)) (3) Who are eligible for WCCC benefits under the terms of this section are eligible to receive subsidy payment for:~~

- (a) Transportation time between the child care location and the consumer's place of employment or approved activity; and
- (b) Up to eight hours of sleep time before or after a night shift.

AMENDATORY SECTION (Amending WSR 23-12-038, filed 5/30/23, effective 7/1/23)

WAC 110-15-0075 Determining income eligibility and copayment amounts. (1) (~~(DCYF takes the following steps to)~~) The department determines consumers' eligibility and copayments, when care is provided under a WCCC voucher or contract, by:

- (a) (~~(Determine their)~~) Family size as described in WAC 110-15-0015; and
- (b) (~~(Determine their)~~) Countable income as described in WAC 110-15-0065.

(2) (~~(DCYF)~~) The department calculates consumers' copayments as follows:

| If the household's income is: | Then the household's maximum monthly copayment is: |
|--|--|
| At or below 20 percent of the SMI | Waived |
| Above 20 percent and at or below 36 percent of the SMI | \$65 |
| Above 36 percent and at or below 50 percent of the SMI | \$90 |
| Above 50 percent and at or below 60 percent of the SMI | \$165 |
| At reapplication, above 60 percent and at or below 65 percent of the SMI | \$215 |
| <u>An applicant between 60 percent and 75 percent of the SMI for families participating in a state-registered apprenticeship</u> | <u>\$215</u> |

(3) ((~~DCYF~~)) The department does not prorate copayments when consumers use care for only part of a month.

(4) ((~~For parents~~)) The department waives copayments for eligible consumers who are one or more of the following:

(a) Age 21 years or younger who attend high school or are working towards completing a high school equivalency certificate((~~, copayments are not required~~));

(b) Employed by a licensed or certified child care provider as confirmed or verified in the department's electronic workforce registry;

(c) Eligible under:

(i) WAC 110-15-0023; or

(ii) WAC 110-15-0024.