



# PROPOSED RULE MAKING

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 21, 2024

TIME: 11:55 AM

WSR 24-17-145

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

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 14-14-053 ; 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) Early Learning Division (ELD) Child Care Subsidy is revising the following WACs: • 110-15-0005 Eligibility • 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst • 110-15-0065 Calculation of income • 110-15-0075 Determining income eligibility and copayment amounts

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
September 24, 2024		Telephonic	Comments can be made by calling (360) 972-5385 and leaving a voicemail that includes the comment, emailing Rules Coordinator, or mailing comments DCYFs physical mailing address. All comments must be received by the date and time listed below.

**Date of intended adoption:** September 25, 2024 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name DCYF Rules Coordinator

Address

Email l dcyf.rulescoordinator@dcyf.wa.gov

Fax

Other

Beginning (date and time) 8:00 a.m. August 22, 2024

By (date and time) 11:59 p.m. September 24, 2024

**Assistance for persons with disabilities:**

Contact DCYF Rules Coordinator

Phone (360) 522-3691

Fax

TTY

Email l dcyf.rulescoordinator@dcyf.wa.gov

Other

By (date) September 17, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The substitute house bills require the ELD to implement changes regarding the eligibility requirement for child care and food assistance. These laws also require the ELD to implement changes that allow individuals utilizing birth to three early childhood education and assistance program (ECEAP) and early head start programs as an approved activity for eligibility. These WAC revisions are necessary to comply with the November 1, 2024, legislative requirements.

**Reasons supporting proposal:** See Purpose.

**Statutory authority for adoption:** Chapter 34.05 RCW; RCW 43.216.020; RCW 43.216.065; Substitute House Bill 1945, section 1, chapter 225, Laws of 2024; Second Substitute House Bill 2124, section 4, chapter 282, Laws of 2024.

**Statute being implemented:** Chapter 34.05 RCW; RCW 43.216.020; RCW 43.216.065; Substitute House Bill 1945, section 1, chapter 225, Laws of 2024; Second Substitute House Bill 2124, section 4, chapter 282, Laws of 2024.

**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	Christin James	Olympia	(360) 688-0479
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).

**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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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:** August 21, 2024

**Name:** Brenda Villarreal

**Title:** DCYF Rules Coordinator

**Signature:**

AMENDATORY SECTION (Amending WSR 24-17-059, filed 8/15/24, effective 9/15/24)

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

(a) Have parental control of one or more eligible children;  
(b) Live in 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) Not have assets that exceed \$1,000,000;  
(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) Have a household annual income adjusted for family size that does not exceed 85 percent of the SMI and confirmed or verified in the department's electronic workforce registry to be employed by:

(A) 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));

(B) An early childhood education and assistance program;

(C) A birth to three early childhood education and assistance program;

(D) A head start program;

(E) An early head start program; or

(F) A successor federal program.

(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:

(a) Reside in Washington state; and

(b) Be less than age:

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

(ii) Nineteen and:

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

(B) Be under court supervision.

AMENDATORY SECTION (Amending WSR 24-17-059, filed 8/15/24, effective 9/15/24)

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

(1) 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); ~~(( $\oplus$ ))~~

(d) Have a child enrolled in a birth to three early childhood education and assistance program, an early head start program; or

(e) The following education programs:

(i) High school or working towards a high school equivalency certificate for consumers under age 22;

(ii) Part-time enrollment in a:

- (A) Vocational education;
- (B) Adult basic education (ABE);

(C) High school equivalency certificate for consumers age 22 and older; or

(D) English as a second language (ESL) program combined with an average of:

(I) Twenty or more employment hours per week;

(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.

(2) Who meet the requirements of 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.

(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 19-08-020, filed 3/26/19, effective 4/26/19)

**WAC 110-15-0065 Calculation of income.** ~~((DSHS))~~ The department uses a consumer's countable income when determining income eligibility and copayment. A consumer's countable income is the sum of all their income listed in WAC 110-15-0060 minus any child support paid out through a court order, division of child support administrative order, or tribal government order.

(1) To determine a consumer's income, ~~((DSHS))~~ the department must either:

(a) Calculates an average monthly income by:

(i) Determining the number of months, weeks, or pay periods it took the consumer's WCCC household to earn the income ~~(( $\div$ ))~~ and dividing the income by the same number of months, weeks or pay periods ~~(( $\div$ ))~~; or

(ii) ~~((If the past wages are no longer reflective of the current income, DSHS may accept))~~ Accepting the employer's statement of cur-

rent(~~(r)~~) or anticipated wages for future income determination(~~(-)~~) if the past wages are no longer reflective of the current income; or

(b) ~~((When the consumer begins new employment and has less than three months of wages, DSHS uses))~~ Use the best available estimate of the consumer's WCCC household's current income when the consumer begins new employment and has less than three months of wages as:

(i) ~~((As))~~ Verified by the consumer's employer; or

(ii) ~~((As))~~ Provided by the consumer through a verbal or written statement documenting the new employment at the time of application, reapplication or change reporting, and wage verification within ~~((sixty))~~ 60 calendar days of ~~((DSHS))~~ the department's request.

(2) If a consumer receives a lump sum payment, ~~((+))~~ such as money from the sale of property or back child support payment(~~(+)~~), in the month of application or during the consumer's WCCC eligibility:

(a) ~~((DSHS calculates))~~ The department must:

(i) Calculate a monthly amount by dividing the lump sum payment by ~~((twelve))~~ 12; and

~~((b) DSHS adds))~~ (ii) Add the monthly amount to the consumer's expected average monthly income for the:

~~((i) For the))~~ (A) Month it was received; and

~~((ii) For the))~~ (B) Remaining months of the current eligibility period; and

~~((e))~~ (b) To remain eligible for WCCC the consumer must meet WCCC income guidelines after the lump sum payment is applied.

(3) Active recipients of the supplemental nutrition assistance program are income eligible.

AMENDATORY SECTION (Amending WSR 24-17-059, filed 8/15/24, effective 9/15/24)

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

(1) The department determines consumers' eligibility and copayments, when care is provided under a WCCC voucher or contract, by:

(a) Family size as described in WAC 110-15-0015; and

(b) Countable income as described in WAC 110-15-0065.

(2) 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

If the household's income is:	Then the household's maximum monthly copayment is:
An applicant between 60 percent and 75 percent of the SMI for families participating in a state-registered apprenticeship	\$215

(3) Active recipients of the supplemental nutrition assistance program are income eligible and the copayment will be determined using the income standards in subsection (2) of this section.

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

~~((4))~~ (5) The department waives copayments for eligible consumers who meet 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;

(b) Employed by ~~((a licensed or certified child care provider))~~, as confirmed or verified in the department's electronic workforce registry~~((7))~~:

(i) A licensed or certified child care provider;

(ii) An early childhood education and assistance program;

(iii) A birth to three early childhood education and assistance program;

(iv) A head start program;

(v) An early head start program; or

(vi) A successor federal program;

(c) ~~((Eligible))~~ Eligibility under:

(i) WAC 110-15-0023; or

(ii) WAC 110-15-0024.