

Chapter 388-460 WAC
PAYEES ON BENEFIT ISSUANCES

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-460-0045 Are clients in WorkFirst sanction status assigned protective payees? [Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0045, filed 6/28/02, effective 7/1/02.] Repealed by WSR 06-10-034, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.08A RCW.

WAC 388-460-0001 Who may be issued cash, child care, medical and Basic Food benefits? (1) Cash and child care assistance may be issued in the name of the following persons:

- (a) A client who is the recipient of the benefits;
 - (b) An ineligible parent or other relative getting benefits on behalf of an eligible child;
 - (c) A person, facility, organization, institution or agency acting as a protective payee or representative payee for a client;
 - (d) A guardian or agent acting on behalf of a client; or
 - (e) A vendor of goods or services supplied to an eligible client.
- (2) Basic Food benefits are issued to the person named as the head of the assistance unit for Basic Food.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-006, § 388-460-0001, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-22-038, § 388-460-0001, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0001, filed 6/28/02, effective 7/1/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-460-0001, filed 7/31/98, effective 9/1/98.]

WAC 388-460-0005 Can I choose someone to apply for Basic Food for my assistance unit? Your Basic Food assistance unit (AU) can choose an adult who is not a member of the AU to act on their behalf. This is called an authorized representative.

- (1) A responsible member of the AU can name, in writing, an authorized representative. A responsible member of the AU is either:
 - (a) The applicant;
 - (b) The applicant's spouse;
 - (c) Another member of the AU the applicant states is able to conduct business on behalf of all members in the AU.

(2) The AU's authorized representative has the authority to apply for Basic Food on the AU's behalf.

(3) If you receive Basic Food benefits in a qualified drug and alcohol treatment facility under WAC 388-408-0040, you **must** have an employee of the facility as your authorized representative for Basic Food.

(4) If the authorized representative provides information to the department that causes an AU to have an overpayment, the AU members are liable for the overpayment.

(5) An authorized representative may act on behalf of more than one Basic Food AU **only** if the community services office administrator approves.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-22-038, § 388-460-0005, filed 10/28/03, effective 12/1/03; WSR 03-03-072, § 388-460-0005, filed 1/15/03, effective 3/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-460-0005, filed 7/31/98, effective 9/1/98.]

WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home? (1) If you live in a qualified developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for basic food benefits:

(a) On your own behalf;

(b) Through an authorized representative of your choice; or

(c) Through the DDA group home acting as your authorized representative.

(2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, a designated treatment center employee must apply for your basic food benefits, and the center will act as your authorized representative.

(3) When the qualified drug and alcohol treatment facility or qualified DDA group home is your authorized representative, it must:

(a) Be aware of your circumstances;

(b) Notify the department of any changes in your income, resources, or circumstances within ten days of the change;

(c) Use your basic food benefits for meals served to you; and

(d) Give you a change in circumstances report form, when the center or group home learns you plan to leave, and advise you to report any changes as required under WAC 388-418-0005 to the department within ten days of the date of change.

(4) When a center or group home is an authorized representative for residents, the facility accepts responsibility for:

(a) Any misrepresentation or intentional program violation; and

(b) Liability for basic food benefits held at the facility on behalf of residents.

(5) When you leave a facility and the center or group home is your authorized representative, it must:

(a) Either:

(i) Return to you a prorated amount of your basic food allotment for that month based on the number of days remaining in the month; or

(ii) Notify the department, within five days of your departure, that the facility is unable to refund your prorated share;

(b) Notify the department of your change in address, new address if available, and that the facility is no longer your authorized representative; and

(c) Provide you with your electronic benefits transfer (EBT) card within five days of leaving the facility if the facility was in possession of the card; or

(d) Return your EBT card to the department within five days if they are unable to provide it to you.

[Statutory Authority: RCW 74.04.500, 74.04.510, 74.08A.120 and 7 C.F.R. 273.11 (e) and (f). WSR 19-03-037, § 388-460-0010, filed 1/7/19, effective 2/7/19. Statutory Authority: RCW 74.04.500, 74.04.510, and 74.08A.120. WSR 15-16-022, § 388-460-0010, filed 7/24/15, effective 8/24/15. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-22-038, § 388-460-0010, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.04.510, 74.08.090, 74.04.055, 74.04.057 and S. 825, Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. WSR 99-02-039, § 388-460-0010, filed 12/31/98, effective 1/31/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-460-0010, filed 7/31/98, effective 9/1/98.]

WAC 388-460-0015 Who will the department not allow as an authorized representative for Basic Food? (1) If you are acting as an authorized representative for Basic Food, we disqualify you from being an authorized representative for one year if we determine that you:

(a) Knowingly provided false information to the department;

(b) Misrepresented the circumstances of the Basic Food assistance unit (AU); or

(c) Misused the Basic Food benefits.

(2) If we disqualify you from being an authorized representative for Basic Food, we notify you and the head of the Basic Food AU thirty days before your disqualification starts.

(3) If you are a department employee, a retailer authorized to receive Basic Food benefits, or are disqualified from receiving Basic Food because of an intentional program violation under WAC 38-446-0015, you generally cannot be an authorized representative. If you are in any of these three categories and want to be an authorized representative for Basic Food:

(a) The AU must have no one else available to be an authorized representative; and

(b) You must have written approval from the community services office administrator to be the AU's authorized representative.

(4) A public or private nonprofit organization providing meals for homeless persons may not be an authorized representative under any conditions.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-22-038, § 388-460-0015, filed 10/28/03, effective 12/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-460-0015, filed 7/31/98, effective 9/1/98.]

WAC 388-460-0020 Who is a protective payee? (1) A protective payee is a person or an employee of an agency who manages client cash benefits to provide for basic needs - Housing, utilities, clothing, child care, and food. They may also provide services such as training clients how to manage money.

(2) Clients are assigned to protective payees for the following reasons:

(a) Emergency or temporary situations where a child is left without a caretaker (TANF/SFA) per WAC 388-460-0030;

(b) Mismanagement of money (TANF/SFA, PWA, ABD cash, or WCCC) per WAC 388-460-0035; or

(c) Pregnant or parenting minors per WAC 388-460-0040.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-460-0020, filed 4/27/12, effective 6/1/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.08A RCW. WSR 06-10-034, § 388-460-0020, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0020, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0025 Who can be a protective payee? (1) Clients may ask for a particular protective payee, but the department makes the final choice.

(2) Protective payees must contract with the department, except for employees of the department who are assigned this function as part of their job duties.

(3) The contracted protective payee and their staff must pass a criminal background check according to the criteria in WAC 388-06-0170, 388-06-0180 and 388-06-0190.

(4) A departmental employee acting as a protective payee must pass a criminal background check and cannot:

(a) Have the client in their caseload,

(b) Have the client in the caseloads of other employees under their supervision,

(c) Be responsible for determining or issuing benefits for the client,

(d) Be the office administrator, or

(e) Be a special investigator.

(5) For TANF/SFA, a department employee cannot act as a protective payee when the department has legal custody or responsibility for placement and care of the child.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0025, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0030 When is an emergency or temporary protective payee (TANF/SFA) used? An emergency or temporary protective payee is assigned when a caretaker relative or adult acting in loco parentis per WAC 388-454-0005 is not available to take care of and supervise a child due to an emergency.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0030, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0035 When is a protective payee assigned for mismanagement of funds? (1) The decision to assign a person to a protective payee because of mismanagement of funds must be based on law or with proof the client is unable to manage their cash benefits. The proof must be current and show how this threatens the well being of a child or client on public assistance. Examples of proof are:

(a) Department employees or others observe that the client or client's children are hungry, ill, or not adequately clothed;

(b) Repeated requests from the client for extra money for basic essentials such as food, utilities, clothing, and housing;

(c) A series of evictions or utility shut off notices within the last twelve months;

(d) Medical or psychological evaluations showing an inability to handle money;

(e) Persons having had a chemical dependency assessment and who are participating in chemical dependency treatment;

(f) A complaint from businesses showing a pattern of failure to pay bills or rent;

(g) Notice from the office of fraud and accountability that a client illegally used a public assistance electronic benefits transfer (EBT) card or cash obtained with an EBT card two or more times. Illegal use includes infractions, felonies, or violations referenced in WAC 388-412-0046 or 388-446-0020.

(2) A lack of money or a temporary shortage of money because of an emergency does not constitute mismanagement.

(3) When a client has a history of mismanaging money, benefits can be paid through a protective payee or directly to a vendor.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08.580, and 2011 c 42. WSR 11-22-044, § 388-460-0035, filed 10/27/11, effective 11/27/11. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0035, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0040 When does the department assign a protective payee assigned to TANF/SFA or PWA pregnant or parenting minors? Pregnant or parenting minors who are not emancipated under court order must be assigned to protective payees if the clients are:

(1) Head of a household;

(2) Under age eighteen;

(3) Unmarried; and

(4) Pregnant or have a dependent child.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-460-0040, filed 4/27/12, effective 6/1/12. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0040, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0050 When is a client transferred from a protective payee to guardianship? (1) In emergency cases where a person is physically or mentally unable to manage their own funds, the client is referred to other divisions of the department for full care, including guardianship.

(2) In cases where a child is eligible for TANF/SFA and the caretaker relative does not use the benefits for adequate care of the child, the case can be referred to the attorney general to establish a limited guardianship.

(3) Guardianships are used only if it appears there is a need for services that are expected to last longer than two years.

(4) These guardianships are limited to management of DSHS benefits.

(5) The protective payee plan is changed if a guardian is appointed. The guardian is designated as the payee.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0050, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0055 What are the protective payee's responsibilities? The protective payee's responsibilities are to:

(1) Manage client cash and child care assistance benefits to pay bills for basic needs, such as housing and utilities, or as directed in the protective payee plans;

(2) Provide money management for client if this item is included in the protective payee plans; and

(3) Provide reports to the department on client progress.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and chapter 74.08A RCW. WSR 06-10-034, § 388-460-0055, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0055, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0060 When are protective payee plans done? A protective payee plan may be developed when a case is assigned to a protective payee.

(1) A copy of the plan is provided to the protective payee and the client.

(2) All cases must be reviewed:

(a) After an initial three-month period; and

(b) At least every six months beyond the initial period for on going cases.

(3) Reviews include evaluation of:

(a) The need for the client to continue in protective payee status; or

(b) The need to change the plan; or

(c) The client's potential to assume control of their funds (or be removed from protective payee status); and

(d) Protective payee performance.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0060, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0065 When is the protective payee status ended and how is a protective payee changed? A client may be removed from a protective payee status when a:

- (1) Protective payee requests the client be reassigned;
- (2) The department assigns a different protective payee; or
- (3) Protective payee is no longer required.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0065, filed 6/28/02, effective 7/1/02.]

WAC 388-460-0070 What are your fair hearing rights regarding protective payment? You have the right for a fair hearing if you disagree with the department's decision to:

- (1) Assign payment of benefits through a protective payee,
- (2) Continue the assignment,
- (3) Change the protective payee selected for you, or
- (4) Change the contents of your protective payee plan.

[Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-14-083, § 388-460-0070, filed 6/28/02, effective 7/1/02.]