

# Get an exception to DSHS rules

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The Department of Social and Health Services (DSHS) can give you some benefits even if you don't meet all their requirements. This is an "exception to a rule" or "ETR."

## **What is an ETR?**

Usually, you can only get benefits from the Department of Social and Health Services (DSHS) if you meet all their requirements to do so. But sometimes DSHS will make an exception. In those cases, DSHS can give you some benefits even though you do not meet the requirements. This is an "exception to rule" or ETR.

## **Can I ask for an ETR for any DSHS program?**

No. Here are the programs where you can get an ETR:

- Temporary Assistance for Needy Families (TANF) (<https://www.dshs.wa.gov/esa/community-services-offices/temporary-assistance-needy-families>), including WorkFirst (<https://workfirst.wa.gov/>)
- Additional Requirements for Emergent Needs (AREN)
- Childcare (WCCC) (<https://dcyf.wa.gov/services/earlylearning-childcare/getting-help/wccc>)
- Long Term Care (**LTC**) services, including COPES
- Medicare Savings Program (MSP)
- Aged, Blind, or Disabled (ABD) (<https://www.dshs.wa.gov/esa/program-summary/aged-blind-or-disabled-abd-cash>) or Housing and Essential Needs (HEN) (<https://www.dshs.wa.gov/esa/program-summary/housing-and-essential-needs-hen-referral>)

## **Can I ask for an ETR about medical or dental services?**

**Yes, but the rules are different.** Read about ETR for Washington Apple Health to learn more.

## **Does DSHS grant many ETR requests?**

DSHS considers these requests case-by-case. It grants only a few. But there are no downsides to asking for an ETR. You could be one of the cases that gets an ETR.

## **When should I ask for an ETR?**

There's no deadline to do so, but the sooner you ask for one, the sooner DSHS will decide on your request, and the sooner you can get the ETR.

## **Should I ask for an administrative hearing too?**

It depends. If DSHS turns down (*denies*), cuts (*reduces*), or stops (*terminates*) your benefits because they say you haven't followed a program requirement (a *rule*), you should usually ask for both an ETR and a hearing.

## **When do I ask for an administrative hearing?**

You have **up to 90 days from the date of the notice** to ask for a hearing.

**Starting July 1, 2023**, if circumstances beyond your control, such as medical issues, housing instability, language barriers, or domestic violence, keep you from meeting that deadline, you should still ask for a hearing as soon as you can.

If you ask for a hearing within **10 days** from the date of the notice, you'll keep getting benefits up until the hearing. But if you then lose your hearing, DSHS can bill you for an overpayment of up to 2 months' worth of benefits.

## **Do I need to get an ETR decision before I go to the hearing?**

Yes. If the hearing date is before you think you will get a decision on the ETR, contact the assigned Administrative Hearing Coordinator and the OAH. Ask them to postpone (to *continue*) your hearing. Explain that you're waiting for a decision on an ETR request on the same issue. Contact info for the FHC and OAH should be on the hearing notice. [Find your local OAH office](http://oah.wa.gov/Home/Index/3411) (<http://oah.wa.gov/Home/Index/3411>) on the OAH website. Click "contact us" and then "offices and directions."

## **Is an ETR right for me?**

It depends. When deciding your ETR request, DSHS considers these things:

- Does the exception go against the law?

- Is your situation is different from most other people's situations?
- Is the exception in the interest of the economy and your welfare?
- Is either of these true?
  - The ETR makes it more likely for you to function effectively.
  - You have an impairment or limitation making it very hard to use the normal eligibility or payment process.

You can read the state regulation about this at [WAC 388-440-0001](https://apps.leg.wa.gov/wac/default.aspx?cite=388-440-0001) (<https://apps.leg.wa.gov/wac/default.aspx?cite=388-440-0001>).

**Example 1:** The most you can usually get for emergency assistance for housing and utilities is \$750. Your child is on a ventilator in your home. You're \$1,000 behind on utility bills. You got a shut-off notice for the power. You can afford the monthly charges in the future. You cannot make up the back bills. Without power to run the ventilator, your child's safety is at risk. You can ask for an ETR for more emergency assistance to keep the power on.

**Example 2:** You get in-home personal care hours. After your yearly assessment to decide how many hours you will get, DSHS decides you don't need as many. But you believe that DSHS doesn't understand your medical condition, and that you do in fact still need the same number of hours. If DSHS' rules don't list your condition as clinically complex, but your condition has the same impact on your ability to care for yourself as a DSHS-listed condition, you can ask for an ETR to keep getting the same number of in-home care hours.

### **How do I request an ETR?**

Ask your case manager to do it for you. If your case manager disagrees that you qualify for an ETR, you can ask for an ETR yourself.

If you're asking for the ETR yourself, send your case manager your ETR request and any paperwork that helps prove your case. If you're asking for the ETR on your own, send it to the ETR Coordinator for your Community Services Office (CSO), Developmental Disabilities Administration (DDA) office, or Home and Community Services (HCS) Office.

To get the appropriate ETR Coordinator's name, contact your local CSO. They will have the names for all the different ETR coordinators.

**CARE Assessment ETRs:** Make your ETR request to your case manager or local HCS, Area Agency on Aging (AAA) or DDA field office. You can make your request verbally or in writing. We recommend you try to do it in writing, so you have a record of your request. Requests approved at the field level go to the ETR committee in Olympia for a final decision.

### **What paperwork should I send?**

Your ETR request should include:

- A letter explaining why you need it and how you meet the requirements
- Documents and evidence that help your request
- The number of the rule you want DSHS to make an exception to [example: WAC 388-106-0030]

### **Do you have a sample ETR request letter?**

Yes. You can change it to meet your needs, or you can create your own.

To: DSHS Employee,

I'm asking for an Exception to Rule (ETR), under WAC 388-440-0001 and WAC 388-436-0002, to get more emergency assistance for housing and utility expenses. I previously got AREN (Additional Requirements for Emergent Needs) benefits to keep my family from becoming homeless. My AREN benefits are \$750 dollars in a 12-month period. I've gotten a shut-off notice from the utility company for my unpaid bills. I need more AREN benefits.

If they turn off my electricity, my disabled son's life will be at risk. I'm a single mother with 3 children. My son Scott has a spinal cord injury. He must be on a ventilator at home. If he isn't, he is at immediate risk of suffocation and possibly death.

My utility costs last year were more than \$750. Since Scott's accident, I cannot work as much as I used to. We have less income. I've been unable to pay for our many medical and childcare bills. My sister will be moving in with us soon. She will help care for Scott. I will then be able to work more and pay my future utility bills.

I meet all ETR requirements for more AREN benefits:

1. I don't know any federal or state law that would prohibit or contradict granting this ETR.
2. My situation is different from the majority. I couldn't pay my utility bills because I had to take care of my disabled son and couldn't work full-time while doing so. No one else is available to help me take care of Scott. Scott's medical equipment must always be functioning. If they shut off our power, my son could die.
3. More AREN benefits are economical and in my family's welfare. Granting an ETR for more AREN benefits will be cheaper in the long run. It will prevent future hospitalizations and homelessness. My son won't require expensive emergency hospital care if his medical equipment remains functioning.
4. More AREN benefits will make it easier for my family to function effectively. They will let me keep my household stable. My family won't have to move and find other housing, which could put my son's health at risk. Our family is just starting to come out of this crisis. When my sister moves in, I can return to my regular work schedule. Scott will be able to continue to recover from his trauma.

Thank you for considering my ETR request for more emergency assistance with my utility expenses. I look forward to hearing from you soon.

### **When will I get the ETR decision?**

If you asked your case manager to make the ETR request for you, the case manager must let you know within **10 days** from your asking if the case manager has decided not to make the request for you.

If you made the ETR request on your own, you'll get a decision within **10 days** after making your ETR request.

### **Do I get benefits while I wait for a decision on my ETR request?**

It depends.

If you request only an ETR, and not an administrative hearing, you won't get benefits while you wait for a decision.

If they're going to stop a benefit and you ask for an administrative hearing within **10 days** of the date on the termination notice you will receive benefits until an Administrative Law Judge (ALJ) decides your case. If the 10th day happens before the end of the month, you have until the end of the month to ask for an administrative hearing and keep getting benefits.

If you lose your hearing, DSHS can ask you to pay back up to **60 days** of benefits.

### **What if they denied my ETR?**

In general, there is no administrative hearing for an ETR denial. You can file a complaint with DSHS. **This isn't an administrative hearing.** You don't take your case to a judge.

You should first give your written complaint to a department supervisor, then the department administrator. DSHS must give you a decision within **10 days**.

### **What if my ETR is for personal care hours?**

If you've been getting more in-home personal care hours than the CARE assessment would have given you and DSHS later reduces or ends the ETR for the extra hours, you have a right to a hearing. The state rules that say this are at [WAC 388-825-120](https://apps.leg.wa.gov/WAC/default.aspx?cite=388-825-120) (DDD) and [WAC 388-106-1315](https://apps.leg.wa.gov/WAC/default.aspx?cite=388-106-1315) (https://apps.leg.wa.gov/WAC/default.aspx?cite=388-106-1315) (all other clients getting in-home personal care services through DSHS).

If you haven't been getting extra hours through an ETR, and they deny your initial ETR request, talk to a lawyer.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.