

# Exception to Rule (ETR): DSHS Programs

---

## What is an ETR?

The Department of Social and Health Services (DSHS) can give you some benefits even if you do not meet all their requirements. This is an “exception to rule” or ETR.

## What programs or benefits does DSHS consider for ETRs?

- Temporary Assistance for Needy Families (TANF), including WorkFirst
- Additional Requirements for Emergent Needs (AREN)
- Childcare (WCCC)
- Long Term Care (LTC) services, including COPES
- Medicare Savings Program (MSP)
- Aged, Blind, or Disabled (ABD) or Housing and Essential Needs (HEN)

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

Those requests have different rules. Read [Exception to Rule: Washington Apple Health](#).

## Does DSHS grant many ETR requests?

DSHS considers ETR requests case-by-case. It grants only a few.

## When should I ask for an ETR?

Act right away. Most ETR requests do not have deadlines. It takes time to get the request ready and get info to support your request.

## Should I ask for an administrative hearing too?

Yes. If DSHS denies, cuts, or stops your benefits, you should usually request both.

## When should I ask for an administrative hearing?

DSHS and/or the Office of Administrative Hearings (OAH) must get your hearing request within 90 days of the written notice that DSHS denied, cut, or stopped your benefits.

If DSHS is stopping services or benefits, and you want to keep getting the benefit until you get a hearing decision, you must ask for an administrative hearing and “continued benefits” within **ten days** of their notice or before the date the benefit stops. DSHS can ask you to pay back up to 60 days’ worth of benefits only if you lose your appeal.

## What if I miss my deadline?

You can still appeal or ask for an ETR. You might have to show you had “good cause” for missing the deadline. **Example:** You were in the hospital.

## Which decision do I want first?

You want to get the decision on your ETR before the hearing. If the administrative 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 (“continue”) your hearing. Explain that you are 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. To contact your local OAH office, go to <http://oah.wa.gov/Home/Index/3411>.

### Is an ETR right for me?

When deciding your ETR request, DSHS considers if:

- ✓ The exception would not go against the law.
- ✓ Your situation is different from most others’.
- ✓ The exception is in the interest of the economy and your welfare.
- ✓ One of these is 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.

---

❖ See [WAC 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 are \$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 electricity 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:** DSHS cuts your in-home care hours at your yearly CARE assessment. (Read

### [Understanding Your CARE Tool Assessment.](#))

You should ask for an ETR if you have:

- Multiple, extreme, constant behaviors requiring more time or supervision. They also make it hard to provide care.
- A medical condition DSHS does not list as clinically complex. It has the same impact on your ability to care for yourself as a listed condition.  
**Example:** You have a rare chromosomal disease. It has the same functional impact as Cerebral Palsy. You will not get the same number of in-home care hours as someone with Cerebral Palsy.

---

❖ ETR requests for CARE assessments have more rules. See “How do I request an ETR,” below.

---

### How do I request an ETR?

Ask your case manager to do it. If they will not, you can do it yourself.

Send your case manager your ETR request and any paperwork helping your case. If you are 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 ETR Coordinator’s name, contact your local office.

---

**CARE Assessment ETRs:** Make your ETR request to your case manager or local HCS, Area Agency on Aging (AAA) or DDA field office, verbally OR in writing. 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 supporting your request
- ✓ The number of the rule you want an exception to [example: **WAC 388-106-0030**]

### Do you have a sample ETR request?

Yes. See **Appendix A** at the end. You can change it to meet your needs.

### When will I get the ETR decision?

You should get a written decision within ten days of

- 1) the decision to file your ETR request if you requested a case manager submit your ETR request, AND
- 2) DSHS's decision on your ETR request

### Do I get benefits while I wait for a decision?

**If you request only an ETR, not an administrative hearing - No.**

**If they are going to stop a benefit and you ask for an administrative hearing within ten days of the date on the termination notice** - Yes, until an Administrative Law Judge (ALJ) decides your case. If the tenth 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 assistance.
- 

### 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 is not an administrative hearing.** You do not present 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 ten days. [WAC 388-426-0005](#).

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

If you have been getting more in-home personal care hours than the CARE assessment would have given you and DSHS later cuts or ends the ETR for the extra hours, you have a right to a hearing. [WAC 388-825-120](#) (DDD); [WAC 388-106-1315](#) (all other clients getting in-home personal care services through DSHS).

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

### What if I need legal help?

- Apply online with [CLEAR\\*Online](#) - <https://nwjustice.org/get-legal-help> or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-

income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays 9:15 a.m. - 12:15 p.m.
- **King County:** Call 211 for info and referral to an appropriate legal services provider weekdays 8:00 am – 6:00 pm. You can also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County at [www.resourcehouse.com/win211/](http://www.resourcehouse.com/win211/).

- **Persons 60 and Over:** Persons 60 or over may call CLEAR\*Sr at 1-888-387-7111, regardless of income.

Deaf and hard-of-hearing callers can call 1-800-833-6384 to get a free relay operator. They will connect you with 211 or CLEAR.

211 and CLEAR will conference in free interpreters when needed.

Free legal education publications, videos and self-help packets covering many legal issues are available at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

---

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of September 2018.

© 2018 Northwest Justice Project — 1-888-201-1014.

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)

**APPENDIX A**

*(Name)*  
*(Street Address)*  
*(City, State Zip)*

*(Date)*

*(DSHS Employee)*  
DSHS  
*(Street Address)*  
*(City, State Zip)*

RE: ETR request for additional AREN payments, Client ID # (XXX)

Dear *(DSHS Employee)*,

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

If they turn off my electricity, my disabled son's life will be at risk. I am a single mother with three children. My son Scott has a spinal cord injury. He must be on a ventilator at home. If he is not, 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 have been unable to pay for our many medical and child care 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 increased AREN benefits:

1. I do not know any federal or state law that would prohibit or contradict granting this ETR.
2. My situation is different from the majority. I could not pay my utility bills because I had to take care of my disabled son and could not work full-time. No one else is available to help me take care of Scott. Scott's medical equipment must be functioning at all times. If they shut off our power, my son could die.
3. Increased AREN benefits are economical and in my family's welfare. Granting an ETR for increased AREN benefits will be cheaper in the long run. It will prevent future

hospitalizations and homelessness. My son will not require expensive emergency hospital care if his medical equipment remains functioning.

4. Increased AREN benefits will make it easier for my family to function effectively. They will let me keep my household stable. My family will not 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. Once 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 additional emergency assistance with my utility expenses. I look forward to hearing from you soon.

Sincerely,

*(Your name)*