

**WAC 182-526-0495 Equitable estoppel.** (1) Equitable estoppel is a legal doctrine that may be used only as an affirmative defense to prevent the health care authority (HCA) from collecting an overpayment. Equitable estoppel may not be used to require HCA to continue to provide something or to require HCA to take action contrary to a statute.

(2) There are five elements of equitable estoppel. A party asserting the doctrine of equitable estoppel must prove all of the following five elements by clear and convincing evidence:

(a) HCA made a statement or took an action or failed to take an action, which is inconsistent with a later claim or position by HCA.

(b) The party reasonably relied on HCA's original statement, action or failure to act.

(c) The party will be injured to its detriment if HCA is allowed to contradict the original statement, action or failure to act.

(d) Equitable estoppel is needed to prevent a manifest injustice. Factors to be considered in determining whether a manifest injustice would occur include, but are not limited to, whether:

(i) The party cannot afford to repay the money to HCA;

(ii) The party gave HCA timely and accurate information when required;

(iii) The party did not know that HCA made a mistake;

(iv) The party is free from fault; and

(v) The overpayment was caused solely by an HCA mistake.

(e) The exercise of government functions is not impaired.

(3) If the administrative law judge (ALJ) concludes that the party has proven all of the elements of equitable estoppel by clear and convincing evidence, HCA is estopped or prevented from taking action or enforcing a claim of overpayment against that party.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0495, filed 2/13/17, effective 3/16/17. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0495, filed 12/19/12, effective 2/1/13.]