

**WAC 110-85-0250 Extenuating circumstances.** (1) If both the child or youth and guardian met eligibility requirements in WAC 110-85-0050 before the guardianship was established, but the guardian did not have a GAP agreement, the guardian may still obtain the subsidy if an ALJ makes a finding of extenuating circumstances through an administrative hearing, per chapter 110-03 WAC.

(2) If the guardians believe extenuating circumstances exist, the:

(a) Guardians must apply for GAP subsidy.

(b) Department will deny the application.

(c) Guardians may then request a review by an ALJ to determine if extenuating circumstances exist that authorized the guardian and the department to enter into a GAP agreement after the guardianship has been established.

(3) An ALJ may make a finding of extenuating circumstances if one or more of the following situations exist:

(a) The agency that placed the child or youth for guardianship was aware of relevant facts regarding the child or youth, the biological family, or child's or youth's background that were not presented to the guardian prior to the guardianship;

(b) The department gave erroneous advice or made an erroneous determination that a child or youth is ineligible for GAP; or

(c) The department failed to advise the guardian regarding the availability of GAP.

(4) If an administrative hearing results in the finding of extenuating circumstances, the effective date of a GAP agreement is the date the guardianship was established, unless the guardianship was established two or more years prior to the date of the order finding extenuating circumstances.

(5) Under no circumstances may the department back date a GAP agreement more than two years from the date of the order finding extenuating circumstances, which authorizes the department to enter a GAP agreement.

[Statutory Authority: RCW 74.13.062, 13.36.090, and 42 U.S.C. 673. WSR 24-11-074, § 110-85-0250, filed 5/15/24, effective 6/15/24.]