

**WAC 388-14A-3320 What happens at a hearing on a notice of support owed?** (1) This section provides general information regarding hearings on a notice of support owed.

(2) Either the noncustodial parent (NCP) or the custodial parent (CP) may request a hearing on a notice of support owed.

(3) The division of child support (DCS) serves two basic types of notice of support owed:

(a) The initial notice of support owed served to establish a sum certain amount for a support obligation under an existing order, as described in WAC 388-14A-3310; and

(b) A notice of support owed served as part of the annual review under RCW 26.23.110, as described in WAC 388-14A-3330.

(4) WAC 388-14A-3310(5) describes the two different forms created by DCS which are used for different types of notice of support owed:

(a) The specialized "notice of support owed - Medical support" is used only for specific purposes related to the medical support obligations of either parent; and

(b) The notice of support owed is served on the NCP for all other purposes under RCW 26.23.110 and WAC 388-14A-3311.

(5) DCS and the parties may enter a consent order or agreed settlement instead of proceeding to hearing any time a parent has requested a hearing on a notice of support owed served by DCS. See WAC 388-14A-3600 for the rules regarding consent orders and agreed settlements.

(6) A hearing on a notice of support owed is only for:

(a) Interpreting the underlying order for support and any modifying orders;

(b) Determining whether a condition precedent set in the underlying order was met;

(c) Determining the amount of monthly support as a fixed dollar amount;

(d) Determining the difference between the obligation calculated in the order resulting from the previous notice of support owed and the actual amount owed for the period covered by the previous notice of support owed; and

(e) Determining the amount of accrued arrears or overpayment for daycare expenses or medical support through the last day of the month before the hearing, or of the month in which the hearing was held; this date is determined at the discretion of the administrative law judge (ALJ) if not agreed upon by the parties.

(7) A hearing on an initial notice of support owed is not for:

(a) Changing or deferring the support provisions of the underlying order; or

(b) Setting a payment schedule on any support amount or support debt that was not covered by the notice which is the subject of the hearing.

(8) A hearing on the annual review of a notice of support owed must comply with this section, but in addition must determine:

(a) Whether there is a difference between the obligation calculated in the order resulting from the previous notice of support owed and the actual obligation for that period after actual expenses or income are considered; and

(b) How that difference should be resolved.

(9) The party who requested the hearing has the burden of proving any defenses to liability that apply under WAC 388-14A-3370 or that the amounts stated in the notice of support owed are incorrect.

(10) The office of administrative hearings (OAH) sends a notice of hearing to DCS, the NCP and the CP. The NCP and the CP each may participate in the hearing as an independent party.

(11) If only one party appears for the hearing, the ALJ may entertain requests for a continuance, and if there is no continuance granted, the ALJ holds a hearing and issues an order based on the evidence presented. The provisions of WAC 388-14A-6110 and 388-14A-6115 determine if the ALJ enters an initial order or a final order.

An order issued under this subsection includes an order of default against the nonappearing party and limits the appeal rights of the nonappearing party to the record made at the hearing.

(12) If neither the NCP nor the CP appears or wishes to proceed with the hearing, the ALJ issues an order of default against both parties.

(13) If either party requests a late hearing on a notice of support owed, that party must show good cause for filing the late hearing request, as provided in WAC 388-14A-3500.

(14) For purposes of this section, the terms "payee" and "CP" are used interchangeably and can mean either the CP, the payee under the order or both, except that a CP who is not also the payee under the support order may not ask DCS to serve a notice of support owed for unreimbursed medical expenses under WAC 388-14A-3312.

(15) This section, WAC 388-14A-3323, 388-14A-3324, 388-14A-3325 and 388-14A-6300 describe the duties of the ALJ in a hearing on a notice of support owed.

(16) Additional information regarding hearings on the notice of support owed can be found in the following sections:

(a) WAC 388-14A-3323 describes a hearing on a notice of support owed served under WAC 388-14A-3311; and

(b) WAC 388-14A-3324 describes a hearing on a notice of support owed served under WAC 388-14A-3312.

(17) WAC 388-14A-3330 describes the annual review of a notice of support owed.

[Statutory Authority: RCW 26.09.105(17), 26.18.170(19), 26.23.050(8), 26.23.110(14), 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20.040, 74.20A.055(9), and 74.20A.056(11). WSR 11-12-006, § 388-14A-3320, filed 5/19/11, effective 6/19/11. Statutory Authority: 2007 c 143, §§ 1, 2, 3, 4, 5, 7, 8, and 9. WSR 08-12-029, § 388-14A-3320, filed 5/29/08, effective 7/1/08. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.160. WSR 06-09-015, § 388-14A-3320, filed 4/10/06, effective 5/11/06. Statutory Authority: RCW 74.08.090, 26.23.035, 34.05.220(1), 74.20A.310, 26.23.110, and 74.20A.040. WSR 05-07-059, § 388-14A-3320, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 74.08.090. WSR 01-03-089, § 388-14A-3320, filed 1/17/01, effective 2/17/01.]