Chapter 182-526 WAC
ADMINISTRATIVE HEARING RULES FOR MEDICAL SERVICES PROGRAMS

Last Update: 2/25/26

WAC

182-526-0005 Purpose and scope.
182-526-0010 Definitions.
182-526-0015 Terms in the Administrative Procedure Act compared to this chapter.
182-526-0020 Good cause.
182-526-0025 Use and location of the office of administrative hearings.
182-526-0030 Contacting the board of appeals.
182-526-0035 Calculating when a hearing deadline ends.
182-526-0040 Service of documents on another party.
182-526-0070 Filing documents.
182-526-0080 Resolving a dispute with the health care authority.
182-526-0085 Determining if a hearing right exists.
182-526-0095 Requesting a hearing.
182-526-0100 Expedited administrative hearings for urgent health care needs.
182-526-0102 Coordinated appeals process with the Washington health benefits exchange.
182-526-0110 Process after a hearing is requested.
182-526-0115 Withdrawing a request for hearing.
182-526-0120 Interpreter services for hearings.
182-526-0130 Limited-English-proficient parties—Notice requirements.
182-526-0135 Interpreters.
182-526-0140 Waiving interpreter services.
182-526-0145 Interpreter requirements.
182-526-0150 Hearing decisions involving limited-English-proficient parties.
182-526-0155 Appellant's representation in the hearing.
182-526-0156 Legal assistance in the hearing process.
182-526-0175 Prehearing meetings.
182-526-0185 Settlement agreements.
182-526-0195 Prehearing conferences.
182-526-0200 Enrollee appeals of a managed care organization action.
182-526-0203 Administrative reviews requested by a reporting entity to the prescription drug pricing transparency program.
182-526-0205 Appeals requested by a data supplier to the Washington all payer health care claims database (WA-APCD).
182-526-0206 Hearing and final order for penalties imposed under WAC 182-70-600.
182-526-0210 Appeals requested by intermediate care facilities for individuals with intellectual disabilities (ICF/IID).
182-526-0215 Authority of the administrative law judge when conducting a hearing.
182-526-0216 The authority of the administrative law judge and the review judge is limited.
182-526-0218 The authority of a review judge when conducting a hearing as a presiding officer.
182-526-0220 Rules and laws an administrative law judge and review judge must apply when conducting a hearing and making a decision.
182-526-0221 HCA index of significant decisions.
182-526-0230 Assigning an administrative law judge to a hearing.
182-526-0240 Filing a motion of prejudice.
182-526-0245 Disqualifying an administrative law judge or review judge.
182-526-0250 Time requirements for notices issued by the office of administrative hearings.
182-526-0255 Notice of hearing or notice of prehearing conference.
182-526-0260 Amending the health care authority or managed care organization notice.
182-526-0265 Amending hearing requests.
182-526-0270 Mailing address changes.
182-526-0280 Continuing a hearing when an appellant is an applicant or recipient.
182-526-0282 Continuance requests in provider hearing, estate recovery hearing, or nursing home rate hearing under WAC 388-96-904.
182-526-0284 Orders of default.
182-526-0285 Orders of dismissal.
182-526-0290 Reinstating a hearing after an order of default or an order of dismissal.
182-526-0300 Order of dismissal based on subject matter.
182-526-0310 Requesting a stay of the health care authority action.
182-526-0320 Subpoenas.
182-526-0340 Hearing location.
182-526-0345 Administrative law judge present at the hearing.
182-526-0350 Recording the hearing.
182-526-0355 People who may attend the hearing.
182-526-0360 Changing how a hearing is held or how a witness appears at a hearing.
182-526-0370 Submitting documents for a telephonic hearing.
182-526-0375 Summary of the hearing process.
182-526-0380 Group hearing requests.
182-526-0387 Requesting that a hearing be consolidated or severed when multiple agencies are parties to the proceeding.
182-526-0390 Evidence.
182-526-0405 Stipulations.
182-526-0415 Exhibits.
182-526-0440 Judicial notice.
182-526-0450 Witness.
182-526-0480 Burden of proof.
182-526-0485 Standard of proof.
182-526-0495 Equitable estoppel.
182-526-0500 Hearing record.
182-526-0512 Contents of the hearing record.
182-526-0520 Information which must be included in the ALJ's initial order.

182-526-0525 When initial orders become final.
182-526-0530 How to correct or appeal an initial order.
182-526-0540 Correction of clerical errors in an initial order.
182-526-0545 How a party requests a corrected initial order.
182-526-0550 Deadline for a party to request a corrected initial order.
182-526-0555 Process after a party requests a corrected initial order.
182-526-0560 Review of an initial order by a review judge.
182-526-0565 Evidence a review judge considers in reviewing an initial order.
182-526-0570 Request for review of an initial order.
182-526-0575 How to request review of an initial order.
182-526-0580 Deadline for requesting review of an initial order by a review judge.
182-526-0590 Response to a request for review.
182-526-0595 Process after review response deadline.
182-526-0600 Authority of the review judge.
182-526-0605 Reconsideration of a final order entered by a review judge.
182-526-0620 Deadline for requesting reconsideration.
182-526-0630 Responding to a reconsideration request.
182-526-0635 Process after a party requests reconsideration.
182-526-0640 Judicial review of a final order.
182-526-0645 Deadline for petition for judicial review and filing requirements.
182-526-0647 Exhaustion of administrative remedies required.
182-526-0650 Service of petition for judicial review.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

182-526-0045 Serving documents. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0045, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0090 Authority to request a hearing. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0090, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0105 Required information for requesting a hearing. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0105, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0112 Rescheduling a hearing. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0112, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0157 Requirements to appear and represent a party in the administrative hearing process. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0157, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0170 Representation of the health care authority in the hearing process. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0170, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0235 Requesting a different judge. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0235, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-526-0315 Requiring witnesses to testify or provide documents. [Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0315, filed 12/19/12, effective 2/1/13.] Repealed by WSR 17-05-066, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021 and 41.05.160.

WAC 182-526-0005 Purpose and scope. (1) This chapter:

(a) Describes the general hearing rules and procedures that apply to:

(i) The resolution of disputes between an appellant and medical services programs established under chapter 74.09 RCW including, but not limited to, managed care in chapters 182-538, 182-538A, and 182-538B WAC, and crisis and noncrisis services in chapter 182-538C WAC; and

(ii) The resolution of disputes between an appellant and the health care authority (HCA) arising from the prescription drug pricing transparency program in chapter 182-51 WAC and the all payer health care claims database rules in chapter 182-70 WAC.

(b) Supplements the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH).

(c) Establishes rules encouraging informal dispute resolution between HCA, its authorized agents, or an HCA-contracted managed care organization (MCO), and people or entities who disagree with its actions.

(d) Regulates all hearings involving medical services programs established under chapter 74.09 RCW including, but not limited to, managed care in chapters 182-538, 182-538A, and 182-538B WAC, and crisis and noncrisis services in chapter 182-538C WAC, unless specifically excluded by this chapter or program rules.

(2) Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if a hearing right exists, including the APA and program rules or laws.

(3) If there is a conflict between this chapter and specific program rules, the specific program rules prevail. HCA's hearing rules and program rules prevail over the model hearing rules in chapter 10-08 WAC.

(4) The hearing rules in this chapter do not apply to the public employees benefits board or the school employees benefits board programs (see chapters 182-16 and 182-32 WAC).

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.110, and 2019 c 334. WSR 21-11-039, § 182-526-0005, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0005, 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, § 182-526-0005, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0010 Definitions. The following definitions and those found in RCW 34.05.010 apply to this chapter:

"Administrative law judge (ALJ)" - An impartial decision-maker who is an attorney and presides at an administrative hearing. ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency, as defined in RCW 34.05.010. ALJs are not department of social and health services or health care authority (HCA) employees or representatives.

"Agency" - See WAC 182-500-0010.

"Appellant" - A person or entity who requests a hearing about an action of HCA or its designee.

"Applicant" - Any person who has made a request, or on whose behalf a request has been made, to HCA, or HCA's authorized agent on HCA's behalf, for assistance through a medical service program administered by HCA.

"Authorized agent" - A person or agency, as defined in RCW 34.05.010, acting on HCA's behalf under an agreement authorized by RCW 41.05.021 to act as an HCA hearing representative. An authorized agent may be an employee of the department of social and health services or its contractors but may not be an employee of an HCA-contracted managed care organization.

"Board of appeals" or **"BOA"** - The HCA's board of appeals.

"Business days" - All days except Saturdays, Sundays, and designated holidays under WAC 357-31-005.

"Calendar days" - All days including Saturdays, Sundays, and designated holidays under WAC 357-31-005.

"Continuance" - A change in the date or time of a prehearing conference, hearing, or the deadline for other action.

"Date of the health care authority (HCA) action" - The date when the HCA's decision is effective.

"Deliver" - Giving a document to a person or entity in person or placing the document into the person or entity's possession as authorized by the rules in this chapter or chapter 34.05 RCW.

"Department" - The department of social and health services.

"Documents" - Papers, letters, writings, emails, or other printed or written items.

"Electronic service" - The service of documents sent or received through electronic communications, cloud services, or other electronic means established by the agency. For the purpose of effectuating service, as defined below, on HCA or OAH (but not BOA), service via OAH's PRISM participant portal is an acceptable method of "electronic service."

"Filing" - The act of delivering documents to the office of administrative hearings (OAH) or the board of appeals (BOA).

"Final order" - An order that is the final HCA decision.

"HCA" - The health care authority.

"Health care authority (HCA) hearing representative" - An employee of HCA, an authorized agent of HCA, HCA contractor or a contractor of HCA's authorized agent, or an assistant attorney general authorized to represent HCA in an administrative hearing. The HCA hearing representative may or may not be an attorney. An employee of an HCA contracted managed care organization is not an HCA hearing representative.

"Hearing" - Unless context clearly requires a different meaning, a proceeding before an ALJ, HCA-employed presiding officer, or a review judge that gives a party an opportunity to be heard in disputes about medical services programs administered by HCA. For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Titles 182 and 388 WAC, chapter 10-08 WAC, or other law.

"Initial order" - A hearing decision entered (made) by an ALJ that may be reviewed by a review judge at any party's request.

"Intermediary interpreter" - An interpreter who:

(1) Is a certified deaf interpreter (CDI); and

(2) Is able to assist in providing an accurate interpretation between spoken and sign language or between types of sign language by acting as an intermediary between a person with hearing loss and a qualified interpreter.

"Judicial review" - Review of a final order as provided under RCW 34.05.510 through 34.05.598.

"Limited-English proficient (LEP)" - Includes limited-English-speaking persons or other persons unable to communicate in spoken English because of hearing loss.

"Limited-English-speaking (LES) person" - A person who, because of non-English-speaking cultural background or disability, cannot readily speak or understand the English language.

"Mail" - Placing a document in the United States Postal system, or commercial delivery service, properly addressed and with the proper postage.

"Managed care organization" or **"MCO"** - An organization having a certificate of authority or certificate of registration from the office of insurance commissioner that contracts with HCA under a comprehensive risk contract to provide prepaid health care services to eligible recipients under HCA's managed care programs.

"OAH" - The office of administrative hearings.

"Order of default" - An order entered by an administrative law judge (ALJ) or review judge when the appellant fails to appear in a prehearing conference or a hearing. Once the order of default becomes a final order, it terminates the appellant's request for a hearing and ends the hearing process.

"Order of dismissal" - An order from the administrative law judge (ALJ) or review judge ending the hearing process.

"Party":

(1) The health care authority (HCA);

(2) HCA-contracted managed care organization (MCO) (if applicable); and

(3) A person or entity:

(a) Named in the action;

(b) To whom the action is directed; or

(c) Is allowed to participate in a hearing to protect an interest as authorized by law or rule.

"Person with hearing loss" - A person who, because of a loss of hearing, cannot readily speak, understand, or communicate in spoken language.

"Prehearing conference" - A formal proceeding scheduled and conducted by an ALJ or other reviewing officer on the record for the purposes identified in WAC 182-526-0195.

"Prehearing meeting" - An informal, voluntary meeting that may be held before any prehearing conference or hearing.

"Program" - An organizational unit and the services that it provides, including services provided by HCA staff, its authorized agents, and through contracts with providers and HCA-contracted managed care organizations.

"Qualified interpreter" - Includes qualified interpreters for a limited-English-speaking person or a person with hearing loss.

"Qualified interpreter for a limited-English-speaking person" - A person who is readily able to interpret or translate spoken and written English communications to and from a limited-English-speaking person effectively, accurately, and impartially. If an interpreter is court certified, the interpreter is considered qualified.

"Qualified interpreter for a person with hearing loss" - A visual language interpreter who is certified by the Registry of Interpreters for the Deaf (RID) or National Association of the Deaf (NAD) and is readily able to interpret or translate spoken communications to and from a person with hearing loss effectively, accurately, and impartially.

"Recipient" - Any person receiving assistance through a medical service program administered by HCA.

"Reconsideration" - Asking a review judge to reconsider a final order entered because the party believes the review judge made a mistake.

"Record" - The official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Review" - A review judge evaluating initial orders entered by an ALJ and making the final HCA decision as provided by RCW 34.05.464, or issuing final orders.

"Review judge" - A decision maker with expertise in program rules who serves as the reviewing officer under RCW 34.05.464. The review judge reviews initial orders and the hearing record exercising decision-making power as if hearing the case as a presiding officer. In some cases, review judges conduct hearings under RCW 34.05.425 as a presiding officer. After reviewing initial orders or conducting hearings, review judges enter final orders. Review judges are employed by HCA but may be physically located at the board of appeals (BOA). The review judge must not have been involved in the initial HCA action.

"Rule" - A regulation adopted by a state agency. Rules are found in the Washington Administrative Code (WAC).

"Service" - The delivery of documents as explained in WAC 182-526-0040.

"Should" - That an action is recommended but not required.

"Stay" - An order temporarily halting the HCA decision or action.

"Witness" - For the purposes of this chapter, means any person who makes statements or gives testimony that becomes evidence in a hearing. One type of witness is an expert witness. An expert witness is qualified by knowledge, skill, experience, training, and education to give opinions or evidence in a specialized area.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-04-009, s 182-526-0010, filed 1/23/25, effective 2/23/25; WSR 21-18-063, § 182-526-0010, filed 8/26/21, effective 9/26/21; WSR 17-05-066, § 182-526-0010, 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, § 182-526-0010, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0015 Terms in the Administrative Procedure Act compared to this chapter. To improve clarity and understanding, the rules in this chapter may use different words than the Administrative Procedure Act (APA) or the model rules. Following is a list of terms used in those laws and the terms as used in these rules:

Chapter 34.05 RCW Chapter 10-08 WAC	Chapter 182-526 WAC
Adjudicative proceeding.	Different terms are used to refer to different stages of the hearing process and may include prehearing meeting, prehearing conference, hearing, review, reconsideration, and the entire hearing process.
Application for adjudicative proceeding.	Request a hearing.
Presiding officer.	Administrative law judge, review judge, or designated HCA employee.
Reviewing officer.	Review judge.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0015, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0020 Good cause. (1) Good cause is a substantial reason or legal justification allowing the administrative law judge (ALJ) to grant a party's request or to excuse their action or inaction, including granting a continuance or excusing a failure to appear at an administrative proceeding.

(2) To determine if there is good cause, the administrative law judge may consider the provisions of Superior Court Civil Rule 60 as a guideline. Good cause may include, but is not limited to, the following examples:

(a) The party who requested the hearing ignored a notice because the party was in the hospital or was otherwise prevented from responding; or

(b) The party who requested the hearing could not respond to the notice because it was written in a language that the party did not understand.

(3) For applicants and recipients with rights to adjudicative proceedings, good cause for failing to meet a hearing deadline is further addressed in RCW 74.09.741.

(4) The requestor bears the burden to show why a request should be granted or an action excused.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 74.09.741. WSR 24-21-046, s 182-526-0020, filed 10/9/24, effective 11/9/24. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0020, 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, § 182-526-0020, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0025 Use and location of the office of administrative hearings. (1) The health care authority (HCA) may use administrative law judges employed by the office of administrative hearings (OAH) to conduct administrative hearings and issue initial orders in accordance with RCW 34.05.425 (1)(c).

(2) In some situations, HCA may use presiding officers employed by HCA to conduct administrative hearings and issue final orders in accordance with RCW 34.05.425 (1)(a) and (b). When HCA uses HCA-employed presiding officers to conduct administrative hearings, HCA's presiding officer has all the duties and responsibilities set forth in this chapter relating to administrative law judges and the office of administrative hearings. The notice of hearing will identify whether the case is to be heard by OAH or an HCA-employed presiding officer.

(3) OAH headquarters location is:

Office of Administrative Hearings
2420 Bristol Court S.W.
P.O. Box 42488
Olympia, WA 98504-2488
360-407-2700 or 800-583-8271
fax: 360-664-8721

(4) OAH field offices are at the following locations:

Olympia
Office of Administrative Hearings
2420 Bristol Court S.W.
P.O. Box 42489
Olympia, WA 98504-2489
360-407-2700
1-800-583-8271
fax: 360-586-6563

Tacoma
Office of Administrative Hearings
4301 S. Pine Street, Suite 200
Tacoma, WA 98409
253-476-6888
fax: 253-593-2200

Spokane
Office of Administrative Hearings
16201 E. Indiana Avenue, Suite 3000
Spokane Valley, WA 99216
509-742-5747
fax: 509-456-3980

(5) All OAH facilities are closed to the public. Access is by appointment only. Contact OAH at the telephone numbers listed in subsection (4) of this section or by visiting OAH's website: oah.wa.gov/contact-us/offices-appointment-only.

(6) Contact the Olympia field office, under subsection (3) of this section, if unable to identify the correct field office.

(7) Further hearing information can be obtained at the OAH website: oah.wa.gov.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 26-06-049, s 182-526-0025, filed 2/25/26, effective 3/28/26; WSR 17-05-066, § 182-526-0025, filed 2/13/17, effective 3/16/17; WSR 14-17-031, § 182-526-0025, filed 8/13/14, effective 9/13/14. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0025, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0030 Contacting the board of appeals. The information included in this section is current at the time of rule adoption, but may change. Current information and additional contact information are available on the health care authority's internet site, in person at the board of appeals (BOA) office, or by a telephone call to the BOA's main public number.

Board of Appeals	
Location	626 8th Avenue S.E. Olympia, Washington
Mailing address	P.O. Box 42700 Olympia, WA 98504-2700
Toll free telephone	1-844-728-5212
Fax	360-507-9018
Electronic service	HCABoardofAppeals@hca.wa.gov
Internet website	https://www.hca.wa.gov/about-hca/board-appeals

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-20-046, § 182-526-0030, filed 9/28/22, effective 10/29/22; WSR 21-18-063, § 182-526-0030, filed 8/26/21, effective 9/26/21; WSR 15-04-102, § 182-526-0030, filed 2/3/15, effective 3/6/15. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0030, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0035 Calculating when a hearing deadline ends. (1) When counting days to calculate when a hearing deadline ends under program rules or statutes:

(a) Do not include the day of the action, notice, or order. For example, if a hearing decision is mailed on Tuesday and the party has twenty-one days to request a review, start counting the days with Wednesday.

(b) If the last day of the period is a Saturday, Sunday, or a designated holiday under WAC 357-31-005, the deadline is the next business day.

(c) For periods of seven days or less, count only business days. For example, if the party has seven days to respond to a review request that was mailed on Friday, May 10th, the response period ends on Tuesday, May 21st.

(d) For periods over seven days, count every calendar day, including Saturdays, Sundays, and designated holidays under WAC 357-31-005.

(2) The deadline is 5:00 p.m. on the last day.

(3) If the party who requested the hearing misses a deadline, that party may lose the right to a hearing or appeal of a decision.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0035, 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, § 182-526-0035, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0040 Service of documents on another party. (1) When the rules in this chapter or in other program rules or statutes require a party to serve copies of documents on other parties, the party must send copies of the documents to all other parties or their representatives.

(2) When sending documents to the office of administrative hearings (OAH) or the board of appeals (BOA), the party must file the documents at one of the locations listed in WAC 182-526-0025(2) for OAH or in WAC 182-526-0030 for BOA.

(3) When sending documents to the assigned OAH field office, the parties should use the address of the assigned OAH listed on the notice of hearing. If a field office has not been assigned, all written communication about the hearing must be sent to the OAH Olympia field office, which sends the communication to the correct office. Documents may be sent only as described in this section to accomplish service.

(4) Unless otherwise stated in law, a party may serve someone by:

(a) Personal service (hand delivery);

(b) First class, registered, or certified mail;

(c) Fax;

(d) Electronic service;

(e) Commercial delivery service;

(f) Legal messenger service; or

(g) Department of enterprise services consolidated mail services if the serving party is a state agency, including the agency and OAH. See RCW 43.19.710.

(5) A party must serve all other parties or their representatives whenever the party files a pleading, brief, or other document with OAH or BOA, or when required by law.

(6) Service is complete when:

(a) Personal service is made;

(b) Mail is properly stamped, addressed, and deposited in the United States mail;

(c) Mail is placed in consolidated mail services to be mailed by United States mail first class, postage prepaid, by a state agency for outgoing mail delivery;

(d) A fax produces proof of transmission;

(e) Electronic service is sent;

(f) A parcel is delivered to a commercial delivery service with charges prepaid; or

(g) A parcel is delivered to a legal messenger service with charges prepaid.

(7) A party may prove service by providing any of the following:

(a) A sworn statement;

(b) The certified mail receipt signed by the person who received the envelope;

(c) An affidavit or certificate of mailing;

(d) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package; or

(e) Proof of fax or electronic service transmission.

(8) The OAH or BOA may serve documents, including notices, initial orders, and final orders, by email only if the other parties have agreed to accept electronically served documents.

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.19.710, and 43.19.715. WSR 24-13-116, § 182-526-0040, filed 6/20/24, effective 7/21/24. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-18-063, § 182-526-0040, filed 8/26/21, effective 9/26/21; WSR 17-05-066, § 182-526-0040, 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, § 182-526-0040, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0070 Filing documents. (1) Filing is the act of delivering documents to the office of administrative hearings (OAH) or the board of appeals (BOA).

(2) The date of filing is the date documents are received by OAH or BOA.

(3) Filing is complete when the documents are received by OAH or BOA during business days between 8:00 a.m. to 5:00 p.m. If the documents are received after 5:00 p.m. on a business day, the filing is effective the next business day.

(4) A party may file documents by delivering them to OAH or BOA by:

(a) Personal service (e.g., hand delivery);

(b) First class, registered, or certified mail;

(c) Fax transmission;

(d) Electronic service;

(e) Other secure electronic means established by the agency or OAH;

(f) Electronic cloud sharing service approved by the agency;

(g) Commercial delivery service; or

(h) Legal messenger service.

(5) A party may obtain confirmation of receipt of the filing from the OAH or BOA staff to prove that the documents were successfully filed electronically.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-18-063, § 182-526-0070, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 41.05.021, 41.05.160, 74.09.741, chapter 34.05 RCW. WSR 17-23-201, § 182-526-0070, filed 11/22/17, effective 12/23/17. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0070, 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, § 182-526-0070, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0080 Resolving a dispute with the health care authority. (1) If a person or entity disagrees with a decision or action of the health care authority (HCA) or one of its authorized agents, the person or entity may request a hearing.

(2) A notice of an action or decision by HCA or its authorized agent sent to a person's or entity's correct address is presumed to be received by the person or entity on the fourth business day after it was sent by first class mail. This presumption does not apply to certified or registered mail.

(3) A hearing must be requested in the manner and within the deadlines established in statute or rule.

(4) After a person or entity requests a hearing the dispute may be resolved through:

(a) Any prehearing alternative or administrative process offered by the program, HCA's authorized agent, or the HCA hearing representative;

(b) A prehearing meeting;

(c) A prehearing conference; or

(d) A hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0080, 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, § 182-526-0080, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0085 Determining if a hearing right exists. (1) A person or entity has a right to a hearing only if a law or program rule gives that right.

(2) Some programs may require a person or entity to go through an informal administrative process before requesting or having a hearing. The notice of the agency's action includes information about this requirement if it applies.

(3) Program rules and statutes may limit the time a person or entity has to request a hearing. The deadline for filing the request for hearing varies by the program involved. Hearing requests should be submitted right away to protect the right to a hearing, even if the

parties are also trying to resolve the dispute informally. The notice of the agency's action contains information about this requirement.

(4) If the health care authority (HCA) hearing representative or the administrative law judge (ALJ) questions the person's or entity's right to a hearing, the ALJ or review judge (RJ) must address whether the hearing right exists.

(5) If on appeal of the initial order the HCA hearing representative or the review judge questions the right to a hearing, the review judge decides whether the hearing right exists.

(6) If the ALJ or RJ decides that the person or entity does not have a right to a hearing, the ALJ or RJ enters an order dismissing the hearing.

(7) If the ALJ or RJ decides that a person or entity has a right to a hearing, the hearing proceeds.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0085, 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, § 182-526-0085, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0095 Requesting a hearing. (1) A hearing request may be made orally or in writing, unless a rule requires otherwise. If an oral request is allowed by rule, an oral request for hearing can be made to a health care authority (HCA) employee, HCA's authorized agent, or to the office of administrative hearings (OAH) employee in person, by telephone, or by voice mail.

(2) Program rules may require a specific method and location for sending a written request for hearing. A written request for hearing should be sent to the location specified in the notice.

(3) A hearing request should contain:

(a) The requestor's name;

(b) The requestor's address;

(c) The requestor's telephone number;

(d) The applicant's, recipient's, or provider's identification number;

(e) A description of each agency action being contested;

(f) A brief explanation of why the person or entity disagrees with HCA's action; and

(g) Any accommodation to help the requestor fully participate in the hearing, including a foreign or sign language interpreter or any other accommodation for an individual with a disability.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0095, 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, § 182-526-0095, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0100 Expedited administrative hearings for urgent health care needs. (1) **Requesting an expedited hearing.**

(a) An expedited hearing may be requested only in matters involving applicants or recipients.

(b) An applicant or recipient may request an expedited administrative hearing when the applicant or recipient believes there is an urgent health care need as defined in subsection (3) of this section.

(c) The applicant or recipient bears the burden of proof to establish an urgent health care need and must submit evidence or arrange for evidence to be submitted to the office of administrative hearings (OAH) with the expedited hearing request to support the need for an expedited hearing. Agency staff may help an applicant or recipient who asks for assistance in obtaining information that the agency has pursuant to WAC 182-503-0120.

(d) A recipient may be eligible for continued coverage according to WAC 182-504-0130.

(2) **Exception to notice requirements.** The notice requirements in this section prevail over notice requirements in WAC 182-526-0250.

(3) **Standard for granting an expedited hearing request.**

(a) For the purposes of this section, an urgent health care need means that waiting for an otherwise timely final order could jeopardize the applicant's or recipient's life, health or ability to attain, maintain, or regain maximum function.

(b) The administrative law judge (ALJ) grants a request for an expedited hearing only if the ALJ finds by a preponderance of the evidence submitted with the applicant's or recipient's expedited hearing request and the information listed below that the applicant or recipient has an urgent health care need.

(c) Information the ALJ may consider when determining whether the applicant or recipient has an urgent health care need and whether to subsequently grant or deny an expedited hearing request includes, but is not limited to:

(i) The documentation submitted with the expedited hearing request to show an urgent health care need;

(ii) Whether the recipient is eligible for continued coverage of the benefits denied, reduced, or terminated by the agency or the agency's designee pending resolution of the appeal as an expedited hearing request may not be granted for individuals receiving continued coverage;

(iii) The length of time between the applicant's or recipient's receipt of the agency's or the agency designee's adverse notice and the applicant's or recipient's request for an expedited hearing; and

(iv) Whether the documentation submitted with the expedited hearing request shows that an appointment with a provider for a health care procedure or treatment to address the applicant's or recipient's stated urgent health care need:

(A) Is scheduled; or

(B) Cannot be scheduled due to a lack of coverage.

(4) **Time frame and notice requirements for expedited hearing request determination.** The ALJ must grant or deny the expedited hearing request and issue the determination within four business days of receipt of the request by OAH or as expeditiously as possible. OAH must immediately notify the parties orally and in writing of the ALJ's determination, unless the parties waive written notification. The oral and written notice must clearly state:

(a) Whether the expedited hearing request was approved or denied;

(b) That a hearing has been or will be scheduled; and

(c) The information listed in subsection (3)(c) of this section that the ALJ relied upon.

(5) **Scheduling an expedited hearing.** If the ALJ grants a request for an expedited hearing, OAH will schedule a hearing and provide notice as expeditiously as possible, allowing for a reasonable amount of notice and time for the parties to prepare for hearing. The notice rules in WAC 182-526-0250 do not apply.

(6) **Denial of expedited hearing.** If the ALJ denies an expedited hearing request, OAH will schedule the hearing based on standard scheduling practices and the notice rules in WAC 182-526-0250.

(7) **Appeal right.** There is no right to appeal an ALJ's determination to grant or deny an expedited hearing request.

(8) **Expedited hearing initial order.** If an expedited hearing request is granted and an expedited hearing is held, the ALJ must issue an initial order as expeditiously as possible.

(9) **Expedited final order.** Any party may request administrative review of the initial order with the health care authority board of appeals according to WAC 182-526-0560 through 182-526-0600. The board of appeals will issue a final order as expeditiously as possible.

(10) **Delayed expedited hearing request determination or expedited hearing initial order.** The ALJ has a duty to determine whether to grant or deny an expedited hearing request and, if granted, to issue an expedited hearing initial order as expeditiously as possible, except in unusual circumstances when:

(a) An ALJ is unable to reach a decision because the applicant or recipient requests a delay or does not take a required action; or

(b) There is an administrative or other emergency beyond OAH's or the agency's control.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. Part 431, Subpart E. WSR 17-24-103, § 182-526-0100, filed 12/5/17, effective 1/5/18.]

WAC 182-526-0102 Coordinated appeals process with the Washington health benefits exchange. (1) The health care authority (HCA) coordinates with the Washington state health benefits exchange (HBE) to ensure a seamless appeal process for determinations related to eligibility for Washington apple health when the modified adjusted gross income (MAGI) methodology is used as described in WAC 182-509-0305.

(2) An applicant, recipient, or an authorized representative of an applicant or recipient may request an apple health hearing:

(a) By telephone;

(b) By mail (which should be sent to Health Care Authority, P.O. Box 45504, Olympia, WA 98504-5504);

(c) In person;

(d) By facsimile transmission;

(e) By email; or

(f) By any other commonly available electronic means.

(3) When an applicant or recipient appeals an HBE determination of eligibility for health insurance premium tax credits (HIPTC) or cost-sharing reductions with HBE and also requests a hearing with HCA related to apple health eligibility, the ALJ will not require the applicant or recipient to submit information to the ALJ that the applicant or recipient previously submitted to HBE.

(4) If an applicant or recipient submits to HBE a request for a hearing related to apple health eligibility, the ALJ will accept the date HBE received the request for the hearing as the date filed for the purposes of timeliness standards and will treat it as a valid hearing request.

(5) If the applicant or recipient appeals only the determination related to apple health eligibility, subsection (3) of this section does not apply.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0102, filed 2/13/17, effective 3/16/17. Statutory Authority: RCW 41.05.021, 42 C.F.R. § 431, 435, and 457, 45 C.F.R. § 155, and Patient Protection and Affordable Care Act (Public Law 111-148). WSR 13-22-094, § 182-526-0102, filed 11/6/13, effective 12/7/13.]

WAC 182-526-0110 Process after a hearing is requested. (1) After a hearing is requested, in accordance with WAC 182-526-0025, the office of administrative hearings (OAH) must send a copy of the hearing request to the health care authority (HCA) or HCA's authorized agent who made the decision on HCA's behalf, unless OAH received the hearing request from HCA or HCA's authorized agent.

(2) OAH sends the hearing request to HCA or HCA's authorized agent within four business days of OAH receiving the request.

(3) OAH must serve all parties with a notice of hearing, which advises the parties of the hearing date, time, and location. This document is called the notice of hearing. In appropriate cases, OAH also serves a written notice of a prehearing conference.

(4) If HCA, in its sole discretion, chooses to use presiding officers employed by HCA to conduct the administrative hearing and issue the final order in a particular case, the notice of hearing will identify that the case is to be heard by an HCA-employed presiding officer and advise the parties of the hearing date and time.

(5) Before the hearing or prehearing conference is held by OAH or by an HCA-employed presiding officer:

(a) The HCA hearing representative may contact any other party to try to resolve the dispute or gather information; and

(b) The party who requested the hearing may contact the HCA hearing representative to try to resolve the dispute or gather information.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 26-06-049, s 182-526-0110, filed 2/25/26, effective 3/28/26; WSR 17-05-066, § 182-526-0110, 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, § 182-526-0110, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0115 Withdrawing a request for hearing. (1) The appellant may withdraw the hearing request for any reason and at any time by contacting the health care authority hearing representative or the office of administrative hearings (OAH). The request for withdrawal must be made orally on the record with the administrative law judge or in writing.

(2) After the request for withdrawal is received, the hearing is canceled and the administrative law judge (ALJ) enters an order dismissing the hearing. If a hearing request is withdrawn, the appellant may not be able to request another hearing on the same action.

(3) If an appellant withdraws the hearing request, the order of dismissal may only be set aside according to WAC 182-526-0290.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0115, 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, § 182-526-0115, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0120 Interpreter services for hearings. If the party requesting the hearing needs an interpreter because the party or its witness is a person with limited-English-proficiency, the office of administrative hearings will provide an interpreter at no cost to that party.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0120, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0130 Limited-English-proficient parties—Notice requirements. If the office of administrative hearings is notified that the party who has requested the hearing is a limited-English-proficient (LEP) person, all hearing notices, decisions and orders must:

(1) Be written in that party's primary language; or

(2) Include a statement in the party's primary language:

(a) Indicating the importance of the notice; and

(b) Providing information about how to get help in understanding the notice and responding to it.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0130, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0135 Interpreters. (1) The office of administrative hearings (OAH) must provide a qualified interpreter to assist any person at no charge who:

(a) Has limited-English-proficiency; and

(b) Is a party or witness in a hearing.

(2) OAH may hire or contract with persons to interpret at hearings.

(3) The following persons may not be used as interpreters at a hearing:

(a) A relative of any party;

(b) Health care authority (HCA) employees; or

(c) HCA authorized agents.

(4) The administrative law judge (ALJ) must determine, at the beginning of the hearing, if an interpreter can accurately interpret all communication for the person requesting the service. To do so, the ALJ considers the interpreter's:

(a) Ability to meet the needs of the person with hearing loss or limited-English-speaking person;

(b) Education, certification, and experience;

(c) Understanding of the basic vocabulary and procedures involved in the hearing; and

(d) Ability to be impartial.

(5) The parties or their representatives may question the interpreter's qualifications and ability to be impartial.

(6) If at any time before or during the hearing the interpreter does not provide accurate and effective communication, OAH must provide another interpreter.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0135, 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, § 182-526-0135, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0140 Waiving interpreter services. (1) If one of the parties is limited-English-proficient (LEP), that party may ask to waive interpreter services.

(2) The request must be in writing or through a qualified interpreter on the record.

(3) The administrative law judge must determine if the waiver has been knowingly and voluntarily made.

(4) The party may withdraw their waiver at any time before or during the hearing.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0140, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0145 Interpreter requirements. (1) Interpreters must:

(a) Use the interpretive mode that the parties, the person with hearing loss, the interpreter, and the administrative law judge (ALJ) consider the most accurate and effective;

(b) Interpret statements made by the parties and the ALJ;

(c) Not disclose information about the hearing without the written consent of the parties; and

(d) Not comment on the hearing or give legal advice.

(2) The ALJ must allow enough time for all interpretations to be made and understood.

(3) The ALJ may make a video recording of a hearing and use it as the official transcript for hearings involving a person with hearing loss.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0145, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0150 Hearing decisions involving limited-English-proficient parties. (1) When an interpreter is used at a hearing, the administrative law judge must explain that the decision is written in English and that the office of administrative hearings (OAH) will provide an interpreter for a sight translation of the decision at no cost to that party.

(2) OAH must provide the party needing sight translation services information about how to obtain those services. Information about how to access sight translation must be attached to the decision or order.

(3) OAH or the board of appeals must send a copy of a decision or order to an interpreter for use in sight translation.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0150, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0155 Appellant's representation in the hearing. (1) Appellants may act as their own representative or may choose to have someone represent them including, but not limited to, a friend, relative, community advocate, attorney or paralegal.

(2) All parties, including the health care authority (HCA) and their representatives, must provide their name, address, and telephone number to the office of administrative hearings (OAH) and all other parties prior to the hearing.

(3) The administrative law judge (ALJ) may require an appellant's representative to file a written notice of appearance, limited notice of appearance, or other documentation authorizing the representative to appear on behalf of the appellant.

(4) In cases involving confidential information, the representative must file a legally sufficient signed written consent or release of information document with HCA or HCA's authorized agent.

(5) If an appellant is represented by an attorney admitted to practice law in Washington state, the attorney must file a notice of appearance or limited notice of appearance and a notice of withdrawal if the attorney stops representing the appellant before the hearing process ends.

(6) HCA allows an exception to the requirement to file a notice of appearance in subsection (5) of this section when an appellant is represented by an attorney admitted to practice law in Washington state, and that attorney originally requested the appellant's hearing under WAC 182-526-0095. If the attorney stops representing the appellant before the hearing process ends, the requirement to file a notice of withdrawal still applies.

(7) The following restrictions apply to an appellant's representative:

(a) HCA and HCA's authorized agents do not pay for an appellant's representation.

(b) OAH does not pay for an appellant's representation.

(c) The following people may not act as an appellant's representative in a hearing under this chapter:

(i) An employee of HCA;

(ii) HCA's authorized agent;

(iii) An employee of the department of social and health services (DSHS);

(iv) An employee of the department of children, youth, and families (DCYF);

(v) An employee of OAH; or

(vi) Anyone under eighteen years of age.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 19-14-048, § 182-526-0155, filed 6/27/19, effective 7/28/19. Statutory Authority: RCW 41.05.021, 41.05.160, 74.09.741, chapter 34.05 RCW. WSR 17-23-201, § 182-526-0155, filed 11/22/17, effective 12/23/17. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0155, 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, § 182-526-0155, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0156 Legal assistance in the hearing process. (1) The health care authority (HCA), HCA's authorized agents, and the office of administrative hearings (OAH) will not pay for an attorney for another party.

(2) If a party wants an attorney to represent him or her and cannot afford one, community resources may be available to assist that party. These legal services may be free or available at a reduced cost. HCA, HCA's authorized agent, or OAH can provide information about who to contact for legal assistance.

(3) Information about legal assistance can also be found at www.oah.wa.gov.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0156, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0175 Prehearing meetings. (1) A prehearing meeting is an informal meeting with a health care authority (HCA) hearing representative that may be held before any prehearing conference or hearing.

(2) The HCA hearing representative may contact the party who requested the hearing before the hearing date to arrange a prehearing meeting. Any party may also contact the HCA hearing representative to request a prehearing meeting.

(3) A prehearing meeting is voluntary, but strongly encouraged. A party is not required to request a prehearing meeting and is not required to participate in one. A party's refusal to participate in a prehearing meeting does not affect the party's right to a hearing.

(4) The prehearing meeting may include all or some of the parties, but does not include an administrative law judge (ALJ).

(5) The prehearing meeting gives the parties an opportunity to:

(a) Clarify issues;

(b) Exchange documents and witness statements;

(c) Resolve issues through agreement or withdrawal; and

(d) Ask questions about the hearing process and the laws and rules that apply.

(6) During a prehearing meeting:

(a) The HCA hearing representative may:

(i) Explain the role of the HCA hearing representative in the hearing process;

(ii) Explain how a hearing is conducted and the relevant laws and rules that apply;

(iii) Explain the right to representation during the hearing;

(iv) Respond to questions about the hearing process;

(v) Identify accommodation and safety issues;

(vi) Distribute copies of the documents to be presented during the hearing;

(vii) Provide, upon request, copies of relevant laws and rules;

(viii) Identify additional documents or evidence a party may want or be required to present during the hearing;

(ix) Provide information about how to obtain relevant documents;

(x) Clarify the issues; and

(xi) Attempt to settle the dispute, if possible.

(b) Parties should explain their position and provide documents that relate to the case. Parties may consult legal resources.

(c) Parties may enter into written agreements or stipulations, including agreements that settle the dispute.

(7) A prehearing meeting may be held or information exchanged:

(a) In person;

(b) By telephone conference call;

(c) Through correspondence; or

(d) Any combination of the above that is agreeable to the parties.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0175, 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, § 182-526-0175, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0185 Settlement agreements. (1) If the parties resolve the dispute during the prehearing meeting and put it in writing or present the agreement to an administrative law judge (ALJ), the agreement may be legally enforceable.

(2) If the parties want the ALJ to consider any agreements or stipulations made at the prehearing meeting, the parties must present them to the ALJ either before or during the hearing.

(3) If all the issues are not resolved in the prehearing meeting, the parties may request a prehearing conference before an ALJ or go to the scheduled hearing. The ALJ may also order a prehearing conference.

(4) If all the issues are resolved and the settlement agreement is in writing and signed by both parties, or presented orally by both parties to the ALJ, the ALJ enters the settlement agreement into the record and the agreement constitutes a withdrawal of the appellant's hearing request.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0185, 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, § 182-526-0185, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0195 Prehearing conferences. (1) A prehearing conference is a formal proceeding conducted on the record by an administrative law judge (ALJ) to address issues and prepare for a hearing.

(a) The ALJ must make an audio record of the prehearing conference.

(b) An ALJ may conduct the prehearing conference in person, by telephone, or in any other manner acceptable to the parties.

(2) All parties must attend the prehearing conference. If the party who requested the hearing does not attend the prehearing conference, the ALJ may enter an order of default and an order dismissing the hearing.

(3) The ALJ may require a prehearing conference. Any party may request a prehearing conference.

(4) The ALJ must grant the appellant's, and may grant the managed care organization's or the agency representative's, first request for a prehearing conference if it is filed with the office of administrative hearings (OAH) at least seven business days before the scheduled hearing date.

(5) When the ALJ grants a party's request for a prehearing conference, the ALJ must continue the previously scheduled hearing when necessary to comply with notice requirements in this section.

(6) The ALJ may grant additional requests for prehearing conferences.

(7) The office of administrative hearings (OAH) must schedule prehearing conferences for all cases which concern:

(a) Provider and vendor overpayment hearings.
(b) Estate recovery and predeath liens.
(c) Notice of violation disputes under chapter 182-51 WAC.
(d) Notice of violation disputes under chapter 182-70 WAC.
(e) Provider termination disputes under WAC 182-502-0030.
(8) During a prehearing conference the parties and the ALJ may:
(a) Simplify or clarify the issues to be decided during the hearing;
(b) Agree to the date, time, and place of the hearing;
(c) Identify any accommodation or safety issues;
(d) Agree to postpone the hearing;
(e) Allow the parties to make changes in their own documents, including the notice or the hearing request;
(f) Agree to facts and documents to be entered during the hearing;
(g) Set a deadline to exchange names and phone numbers of witnesses and documents before the hearing;
(h) Schedule additional prehearing conferences;
(i) Resolve the dispute;
(j) Consider granting a stay if authorized by law or program rule; or
(k) Rule on any procedural issues and substantive motions raised by any party.
(9) After the prehearing conference, the ALJ must enter a written order describing:
(a) The actions taken at the prehearing conference;
(b) Any changes to the documents;
(c) A statement of the issue or issues identified for the hearing;
(d) Any agreements reached; and
(e) Any ruling of the ALJ.
(10) OAH must serve the prehearing order on the parties at least 14 calendar days before the scheduled hearing.
(11) A party may object to the prehearing order by notifying OAH in writing within 10 calendar days after the mailing date of the order. The ALJ must issue a ruling on the objection within five days from the date a party files an objection.
(12) If no objection is made to the prehearing order, the order determines how the hearing is conducted, including whether the hearing will be in person or held by telephone conference or other means, unless the ALJ changes the order for good cause.
(13) The ALJ may take further appropriate actions to address other concerns raised by the parties.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 23-21-061, § 182-526-0195, filed 10/12/23, effective 11/12/23; WSR 21-18-077, § 182-526-0195, filed 8/27/21, effective 9/27/21. Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.110, and 2019 c 334. WSR 21-11-039, § 182-526-0195, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0195, 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, § 182-526-0195, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0200 Enrollee appeals of a managed care organization action. (1) The hearing process described in this chapter applies to

enrollee appeals of a health care authority (HCA)-contracted managed care organization (MCO) action. Where a conflict exists, the requirements in this section prevail.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to requesting a hearing with HCA. See WAC 182-538-110.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may request a hearing orally or in writing to the contact information on the written notice. The enrollee must request the hearing within one hundred twenty calendar days of the date of receipt of the MCO's notice of resolution of the MCO's appeal process.

(a) An enrollee may request continuation of services pending the outcome of a hearing related to the termination, suspension, or reduction of a previously authorized service.

(b) To receive continuation of services pending the outcome of the hearing, the enrollee must request a hearing and request to continue services within ten days of the date of the MCO's notice of the resolution of the appeal. See WAC 182-538-110 for additional requirements related to continuation of services.

(4) The entire appeal and hearing process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a hearing.

(5) Expedited hearing process.

(a) The office of administrative hearings (OAH) must establish and maintain an expedited hearing process when the enrollee or the enrollee's representative requests an expedited hearing and OAH determines that the time taken for a standard resolution of the claim could seriously jeopardize the enrollee's life or health and ability to attain, maintain, or regain maximum function.

(b) When approving an expedited hearing, OAH must issue a hearing decision as expeditiously as the enrollee's health condition requires, but not later than three business days after receiving the case file and information from the MCO regarding the action and MCO appeal.

(c) When denying an expedited hearing, OAH must give prompt oral notice to the enrollee followed by written notice within two calendar days of the request and change the hearing to the standard time frame.

(6) Parties to the hearing include HCA, the MCO, the enrollee and the enrollee's representative or the representative of a deceased enrollee's estate.

(7) Any party that disagrees with the initial order may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600.

(8) If an enrollee disagrees with the initial order, the enrollee may request review in accordance with subsection (7) of this section, or an independent review (IR) by an independent review organization (IRO) in accordance with RCW 48.43.535. The enrollee must request the IR within twenty-one calendar days of the date of mailing the initial order. A timely submitted request for an IR stays any review requested pursuant to subsection (7) of this section.

(9) Any party that disagrees with the IR decision may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600 within twenty-one calendar days of the date of mailing of the IR decision.

(10) When an initial order or an IR decision is appealed to an HCA review judge, the review judge issues the final order.

[Statutory Authority: RCW 41.05.021, 41.05.160, 74.09.741, chapter 34.05 RCW. WSR 17-23-201, § 182-526-0200, filed 11/22/17, effective 12/23/17. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0200, 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, § 182-526-0200, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0203 Administrative reviews requested by a reporting entity to the prescription drug pricing transparency program. (1)(a) A reporting entity as defined in WAC 182-51-0100, seeking administrative review of a fine or other appealable action of the authority taken under chapter 182-51 WAC or chapter 43.71C RCW, must file a written request for administrative review at the address provided in the authority's notice within twenty-eight calendar days after receiving the notice.

(b) When the authority has sent written notice by United States mail, it considers the reporting entity to have received the notice five calendar days after the date of the notification letter, unless actual proof of the date of receipt of the authority's notification letter exists. If such proof exists, the authority uses the actual date of receipt to determine timeliness of the reporting entity's request for administrative review. When the authority has electronically mailed (email) written notice, the date the authority's notification email was sent is considered to be the date of receipt by the reporting entity, irrespective of when the reporting entity reads the email.

(c) The reporting entity's request for administrative review must:

(i) Be signed by a partner, officer, or authorized employee of the reporting entity;

(ii) State the particular issues raised; and

(iii) Include supporting documentation or other information.

(2) After receiving a request for administrative review, the authority either directly schedules the requested administrative hearing or causes the scheduling of the hearing with the office of administrative hearings (OAH). The hearing may be conducted by telephone.

(3) At least five calendar days before the scheduled date of the administrative hearing, the reporting entity must supply to the authority or OAH any additional or supporting documentation or information upon which they intend to rely in presenting its case. In addition, at any time before issuing the initial order, the authority or OAH may request any documentation or information needed to decide the issue raised, and the reporting entity must comply with such a request within five calendar days after it is received. The authority or OAH may extend this period up to fourteen additional calendar days for good cause shown if the reporting entity requests an extension in writing and it is received by the authority or OAH before the initial five-day period expires. The authority or OAH may dismiss issues that cannot be decided or resolved due to a reporting entity's failure to provide requested documentation or information within the required period.

(4) Within sixty calendar days after conclusion of the hearing conducted as part of the administrative review, the authority or OAH renders an initial order in writing, addressing the issues raised. If the authority or OAH is waiting for additional documentation or infor-

mation promised by or requested from the reporting entity, the sixty-day period does not begin until the authority or OAH receives the documentation or information or until expiration of the time allowed to provide it. The initial order includes a notice of dismissal of all issues which cannot be decided due to a reporting entity's failure to provide documentation or information promised or requested.

(5) Additional review of a determination.

(a) A reporting entity seeking further review of an initial order issued according to subsection (4) of this section, must file a written application for an adjudicative proceeding signed by one of the individuals authorized by subsection (1) of this section with the authority's board of appeals within twenty-one calendar days after receiving the authority's initial order.

(b) When the authority or OAH has sent the initial order by United States mail, the authority considers the reporting entity to have received the initial order five calendar days after the date of the order, unless proof of the date of receipt of the letter exists. If such proof exists, the authority or OAH uses the actual date of receipt to determine timeliness of the reporting entity's application for an adjudicative proceeding. When the authority or OAH has electronically mailed (email) the initial order, the date of authority's email containing the initial order was sent is considered to be the date of receipt by the reporting entity, irrespective of when the contractor reads the email.

(c) The reporting entity must attach the authority's or OAH's initial order to its application for an adjudicative proceeding. When the authority or OAH delivered the initial order by email, either in the body of the email or as an attachment to the email, the reporting entity must include a copy of the email with the application for an adjudicative proceeding. The application for an adjudicative proceeding must be addressed to the authority's board of appeals. The authority uses the board of appeals date received stamp on the application for an administrative proceeding to determine whether the application is timely. When the application for adjudicative proceeding is filed by fax, the authority uses the date stamped on the application received by fax to determine timeliness.

(6) A review judge employed by the authority's board of appeals conducts a review of any appealed initial order. The scope of any review is generally limited to the issues specifically raised by the reporting entity at the initial hearing and addressed on the merits in the authority's or OAH's initial order. The authority or OAH considers the reporting entity to have waived all issues or claims that could have been raised to challenge the authority's or OAH's action, but which were not previously pursued at the hearing and not addressed in the initial order. The reporting entity must specify its issues in its request for an adjudicative proceeding, or as soon as practicable.

(7) Any party dissatisfied with an order of the board of appeals may file a petition for reconsideration within ten calendar days after the order is served on the party. The petition must state the specific grounds upon which relief is sought. The review judge may extend the time for seeking reconsideration for good cause upon motion of either party if the extension request is made within ten calendar days after the order was entered. The review judge rules on a petition for reconsideration and may seek additional argument, briefing, testimony, or other evidence as considered necessary. Filing a petition for reconsideration is not a requisite for seeking judicial review; however, if

either party files a reconsideration petition, the authority's order is not considered final until the review judge makes a ruling.

(8) The authority's board of appeals assigns a review judge to conduct the review and render the final agency order. A reporting entity dissatisfied with a board of appeals' order may file a petition for judicial review under RCW 34.05.570(3) or other applicable authority.

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.110, and 2019 c 334. WSR 21-11-039, § 182-526-0203, filed 5/12/21, effective 6/12/21.]

WAC 182-526-0205 Appeals requested by a data supplier to the Washington all payer health care claims database (WA-APCD). (1) **Appeal.** A data supplier may request an appeal of a denial of its administrative review conducted in accordance with WAC 182-70-100.

(a) Request for an appeal must be submitted in writing to the health care authority (HCA) within fifteen calendar days after receipt of written notification of denial of its administrative review.

(b) An appeal request must contain:

(i) The requestor's name;

(ii) The requestor's mailing address;

(iii) The requestor's telephone number;

(iv) A description of HCA's action being contested;

(v) A brief explanation of why the person or entity disagrees with HCA's action; and

(vi) Any accommodation to help the requestor fully participate in the hearing, if applicable.

(c) Within ten business days of receipt of a written notice of appeal, HCA transmits the request to the office of administrative hearings (OAH).

(2) **Scheduling.**

(a) OAH will assign an administrative law judge (ALJ) to handle the appeal.

(b) The ALJ will notify parties of the time when any additional documents or arguments must be submitted.

(c) If a party fails to comply with a scheduling letter or established timelines, the ALJ may decline to consider arguments or documents submitted after the scheduled timelines.

(d) A status conference in complex cases may be scheduled to provide for the orderly resolution of the case and to narrow issues and arguments for hearing.

(3) **Hearings.**

(a) The hearing must be conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and this chapter. To the extent that there may be a conflict between the general provisions contained in this chapter and this section, the more specific provisions in this section apply.

(b) Hearings may be by telephone or in person.

(c) The ALJ may decide the case without a hearing if legal or factual issues are not in dispute, the appellant does not request a hearing, or the appellant fails to appear at a scheduled hearing or otherwise fails to respond to inquiries.

(d) The ALJ will notify the appellant by mail whether a hearing will be held, whether the hearing will be in person or by telephone, the location of any in-person hearing, and the date and time for any hearing in the case.

(e) The date and time for a hearing may be continued at the ALJ's discretion.

(f) Other authority employees may attend a hearing, and the ALJ notifies the appellant when other authority employees are attending. The appellant may appear in person or may be represented by an attorney.

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.110, and 2019 c 334. WSR 21-11-039, § 182-526-0205, filed 5/12/21, effective 6/12/21.]

WAC 182-526-0206 Hearing and final order for penalties imposed under WAC 182-70-600. (1) For penalties imposed under WAC 182-70-600, the Washington all payer health care claims database (WA-APCD) program director or the director's designee conducts a hearing and prepares a final order.

(2) The hearing must be conducted in accordance with this chapter and the Administrative Procedure Act, chapter 34.05 RCW.

(3) The WA-APCD program director, on behalf of the health care authority, must be the petitioner in the hearing, and the requestor must be the respondent.

(4) The WA-APCD program director has the burden of proving the basis for the finding of a violation and the penalty as set forth in the notice of violation and recommended penalty.

(5) The WA-APCD program director or the director's delegate issues a final written order that includes findings of fact, conclusions of law, and if appropriate, the penalty.

(6) If the order finds a violation and assesses monetary penalties, the order must include notice that payment must be made no later than forty-five days after service of the order or the period to appeal has expired, whichever is later.

(7) The WA-APCD program director must cause service of the final order on all parties.

(8) Any party to whom a violation is found may file a petition for review of the final order to superior court.

(9) If an appeal is not filed within the period set by RCW 34.05.542, the WA-APCD program director's order is conclusive and binding on all parties.

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.110, and 2019 c 334. WSR 21-11-039, § 182-526-0206, filed 5/12/21, effective 6/12/21.]

WAC 182-526-0210 Appeals requested by intermediate care facilities for individuals with intellectual disabilities (ICF/IID). The hearing process described in this section applies to requests for an appeal made by an intermediate care facility for individuals with intellectual disabilities (ICF/IID), as defined in WAC 388-825-020.

(1) **Right to hearing.** An ICF/IID may request a hearing when it is dissatisfied with the medicaid agency's finding of noncompliance resulting in the termination of medicaid funding and any related provider agreements under 42 C.F.R. Sec. 431.151 through 431.154.

(a) An agency review judge conducts the hearing and enters the agency's final order for cases held under this subsection.

(b) An ICF/IID cannot appeal:

(i) The choice of sanction or remedy;

(ii) The monitoring remedy;

(iii) The level of noncompliance found, except when a favorable review decision would affect the range of civil money penalty amounts the agency could collect; or

(iv) The decision about when to conduct an initial survey of a prospective provider.

(2) **Notice of adverse action.** The agency gives the ICF/IID a written notice of adverse action that includes:

(a) The basis for the finding of noncompliance that resulted in the agency's decision to terminate medicaid funding and any related provider agreements;

(b) A statement of the deficiencies resulting in the decision;

(c) The effective date of the adverse action; and

(d) The ICF/IID's appeal rights and procedures, including deadlines, for filing a hearing request.

(3) **Request for hearing.** The ICF/IID, its legal representative, or other authorized official must file a written request for a hearing with the agency's board of appeals at P.O. Box 42700, Olympia, Washington, or by facsimile at 360-507-9018 within 60 calendar days of receiving the notice of adverse action.

(4) **Hearing.** If an ICF/IID requests a hearing on the termination of medicaid funding and any related provider agreements, the hearing is completed and the agency issues the final order on the hearing within 120 calendar days of the effective date of the adverse action.

(a) If the agency is unable to hold the hearing until after the effective date of the adverse action, the agency offers the ICF/IID an informal reconsideration that meets the requirements of subsection (5) of this section.

(b) The informal reconsideration process described in subsection (5) of this section is not the same reconsideration process defined in WAC 182-526-0010 or described in WAC 182-526-0605 through 182-526-0635.

(5) **Informal reconsideration for ICF/IID.** The informal reconsideration includes:

(a) Written notice to the ICF/IID of the agency's findings resulting in the termination of medicaid funding and any related provider agreements;

(b) A reasonable opportunity for the ICF/IID to dispute those findings in writing; and

(c) A written affirmation or reversal of the agency's action.

(6) **Termination of medicaid funding and related provider agreements.**

(a) The medicaid funding and any related provider agreements end on the effective date of the termination, unless:

(i) A hearing is timely requested and not provided by the agency until after the effective date of the termination; and

(ii) The termination is based on a survey agency certification stating that there is no jeopardy to beneficiaries' health and safety.

(b) If medicaid funding extends past the termination date, funding will be available only through the earlier of:

(i) The issuance date of a hearing decision that upholds the agency's action; or

(ii) One hundred twenty calendar days after the effective date of termination, as required by 42 C.F.R. Sec. 442.40.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 42 C.F.R. § 431, Subpart D and § 498.5. WSR 24-05-078, § 182-526-0210, filed 2/21/24, effective 3/23/24. Statutory Authority: RCW 41.05.021, 41.05.160 and

42 C.F.R. §§ 431.151, 431.153, 431.154, and 498.5. WSR 19-18-025, § 182-526-0210, filed 8/28/19, effective 9/28/19.]

WAC 182-526-0215 Authority of the administrative law judge when conducting a hearing. (1) The administrative law judge (ALJ) must hear and decide the issues de novo (anew) based on the evidence presented and admitted into the record during the hearing.

(2) As needed, the ALJ may:

(a) Determine the order for presenting evidence;

(b) Issue subpoenas or orders directing witnesses to appear or bring documents;

(c) Rule on objections, motions, and procedural matters;

(d) Rule on an offer of proof made to admit evidence;

(e) Admit relevant evidence;

(f) Impartially question witnesses to develop the record;

(g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph, or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 182-526 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or HCA rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order after the hearing. Initial orders become final orders under WAC 182-526-0525.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0215, 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, § 182-526-0215, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0216 The authority of the administrative law judge and the review judge is limited. (1) The authority of the administrative law judge and the review judge is limited to those powers granted by statute or rule. The ALJ and the review judge do not have any inherent or common law powers.

(2) Neither an administrative law judge nor a review judge may decide that a rule is invalid or unenforceable. Only a court may decide this issue.

(3) If the validity of a rule is raised during the hearing, the ALJ or review judge may allow only argument for court review.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0216, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0218 The authority of a review judge when conducting a hearing as a presiding officer. (1) A review judge has the same authority and responsibilities as an administrative law judge, as described in WAC 182-526-0215, when conducting a hearing.

(2) A review judge conducts the hearing and enters the final order in cases where a contractor for the delivery of nursing facility services requests an administrative hearing under WAC 388-96-904(5).

(3) The review judge enters final HCA decisions on all cases in the form of a final order.

(4) Following a review judge's final order:

(a) Any party may request reconsideration of the final order as provided in this chapter and WAC 388-96-904(12); and

(b) The party who requested the hearing, but not the health care authority or any of its authorized agents, may file a petition for judicial review as provided in this chapter.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0218, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0220 Rules and laws an administrative law judge and review judge must apply when conducting a hearing and making a decision. (1) Administrative law judges (ALJs) and review judges must first apply the applicable program rules adopted in the Washington Administrative Code (WAC).

(2) If no program rule applies, the ALJ and review judge must decide the issue according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, regulations, and court decisions.

(3) When applying program rules regarding the substantive rights and responsibilities of the parties (such as eligibility for services, benefits, or a license), the ALJ and review judge must apply the program rules in effect on the date of the health care authority (HCA) action, unless otherwise required by other rule or law. If HCA amends its notice of action, the ALJ or review judge must apply the rules in effect on the date the action was taken, unless otherwise required by other rule or law.

(4) When applying procedural rules, the ALJ and review judge must apply the rules that are in effect on the date the procedure is followed.

(5) Program rules determine the amount of time HCA or HCA's authorized agent has to process an application for services, benefits, or a license.

(6) The ALJ and review judge must apply the rules in this chapter beginning on the date each rule is effective.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0220, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0221 HCA index of significant decisions. (1) A final order may be relied on, used, or cited as precedent by a party if the final order has been indexed in the index of significant decisions maintained by the health care authority (HCA).

(2) The index of significant decisions is available to the public at http://www.hca.wa.gov/about-hca/significant-decisions. For information on how to obtain a copy of the index, contact the HCA hearing representative.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0221, 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, § 182-526-0221, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0230 Assigning an administrative law judge to a hearing. (1) The office of administrative hearings (OAH) assigns an administrative law judge (ALJ) at least five business days before the hearing, except when the hearing is expedited.

(2) A party may ask which ALJ is assigned to the hearing by calling or writing to the OAH field office listed on the notice of hearing.

(3) If requested by a party, OAH must send the name of the assigned ALJ to the party by email or in writing at least five business days before the party's scheduled hearing date.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0230, 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, § 182-526-0230, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0240 Filing a motion of prejudice. (1) A party requesting a different administrative law judge (ALJ) may do so by filing a written motion of prejudice consistent with RCW 34.12.050. A party must file the motion with the office of administrative hearings (OAH) before the ALJ rules on a discretionary issue in the case, admits evidence, or takes testimony. The motion must include an affidavit or sworn statement under penalty of perjury supporting the party's claim that the ALJ cannot hear the case fairly.

(2) Rulings that are not considered discretionary rulings for purposes of this section include, but are not limited to rulings that:

(a) Grant or deny a request for a continuance; or

(b) Grant or deny a request for a prehearing conference.

(3) A party must send the motion of prejudice to the chief ALJ at OAH headquarters and must send a copy to the OAH field office where the ALJ is assigned. The address of OAH headquarters is provided in WAC 182-526-0025(1).

(4) A party may make an oral motion of prejudice at the beginning of the hearing or prehearing conference before the ALJ rules on a discretionary issue in the case, admits evidence, or takes testimony if:

(a) OAH did not assign an ALJ at least five business days before the date of the hearing or prehearing conference; or

(b) OAH changed the assigned ALJ within five business days of the date of the hearing or prehearing conference.

(5) The first request by each party for a different ALJ is automatically granted. The chief ALJ or a designee grants or denies any later requests.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0240, 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, § 182-526-0240, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0245 Disqualifying an administrative law judge or review judge. (1) An administrative law judge (ALJ) or review judge may be disqualified for bias, prejudice, or conflict of interest, or if one of the parties or a party's representative has ex parte contact with the ALJ or review judge.

(2) Ex parte contact means any written or oral communication with the ALJ or review judge about something related to the hearing when the other parties are not present. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location, or asking for directions to the hearing location.

(3) To request disqualification of an ALJ or review judge, a party must file a written petition for disqualification consistent with RCW 34.05.425 explaining why the ALJ or review judge should be disqualified. A party must promptly file the petition upon discovery of possible bias, conflict of interest, or ex parte contact.

(4) A party must deliver the petition to the ALJ or review judge assigned to the case. That ALJ or review judge must decide whether to grant or deny the petition and must state the facts and reasons for the decision.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0245, 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, § 182-526-0245, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0250 Time requirements for notices issued by the office of administrative hearings. (1) The office of administrative hearings (OAH) must serve a notice of hearing on all parties and their representatives at least fourteen calendar days before the hearing date.

(2) If OAH schedules a prehearing conference, OAH must serve a notice of prehearing conference to the parties and their representatives at least seven business days before the date of the prehearing conference except:

(a) OAH or an administrative law judge (ALJ) may change a scheduled hearing into a prehearing conference and provide less than seven business days' notice of the prehearing conference; and

(b) OAH may give less than seven business days' notice if the only purpose of the prehearing conference is to consider whether to grant a continuance under WAC 182-526-0280 or 182-526-0282, as applicable.

(3) OAH must reschedule the hearing if necessary to comply with the notice requirements in this section, unless the parties agree to waive notice requirements.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0250, 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, § 182-526-0250, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0255 Notice of hearing or notice of prehearing conference. (1)(a) A notice of hearing or a notice of prehearing conference is a written notice issued by the office of administrative hearings (OAH) that must include the:

(i) Names of all parties to whom the notice is sent and, if known, the names and addresses of their representatives;

(ii) Name, mailing address, and telephone number of the administrative law judge (ALJ), if known;

(iii) Date, time, place, and nature of the hearing or prehearing conference;

(iv) Legal authority and jurisdiction for the hearing; and

(v) Date of the hearing request.

(b) A notice of hearing or prehearing conference must include a statement that the appellant's failure to attend the prehearing conference or hearing may result in the loss of the right to a hearing.

(c) If the appellant fails to appear, the ALJ may enter an order of default.

(2) Limited-English proficiency. The notice must include a statement that, if the appellant needs a qualified interpreter because they or any of their witnesses are people with limited-English proficiency, OAH will provide an interpreter at no cost to that party.

(3) The notice must state whether the hearing or prehearing conference is to be held by telephone or in person, and how to request a change in the way it is held.

(4) The notice of hearing or prehearing conference informs the appellant:

(a) How to indicate any special needs for the appellant or their witnesses, including the need for an interpreter in a primary language or for sensory impairments;

(b) How to contact OAH if a party has a safety concern; and

(c) That the appellant may request a qualified interpreter if the appellant or any of the appellant's witnesses are people with limited-English proficiency, and that OAH provides such interpreters at no cost to the appellant.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0255, 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, § 182-526-0255, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0260 Amending the health care authority or managed care organization notice. (1) The administrative law judge (ALJ) must allow the health care authority (HCA), HCA's authorized agent, or a managed care organization (MCO) to amend (change) the notice of an action before or during the hearing to match the evidence and facts.

(2) HCA, HCA's authorized agent, or MCO must put the change in writing and deliver a copy to the ALJ and all parties.

(3) The ALJ must offer to continue (postpone) the hearing to give the parties more time to prepare or present evidence or argument if there is a substantive change from the earlier notice.

(4) If the ALJ grants a continuance, the office of administrative hearings must serve a new hearing notice at least fourteen calendar days before the hearing date.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0260, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0265 Amending hearing requests. (1) The administrative law judge (ALJ) may allow the party that requested the hearing to amend its hearing request before or during the hearing.

(2) The ALJ must offer to continue (postpone) the hearing to give the other parties more time to prepare or present evidence or argument if there is a substantive change in the hearing request.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0265, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0270 Mailing address changes. (1) The appellant must tell the health care authority (HCA) hearing representative and the office of administrative hearings (OAH) as soon as possible, when the party's mailing address changes.

(2) If a party does not notify the HCA hearing representative and OAH of a change of mailing address, OAH continues to send notices and other important papers to the last known mailing address. If this happens, the administrative law judge may find that the party received the documents or waived the right to receive those documents.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0270, 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, § 182-526-0270, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0280 Continuing a hearing when an appellant is an applicant or recipient. (1) Any party may request a continuance under this section either orally or in writing.

(2) Before contacting the office of administrative hearings (OAH) to request a continuance, the party seeking the continuance must make a good faith effort to contact the other parties to find out if they agree to a continuance. The party making the request for a continuance must let OAH know whether the other parties agreed to the continuance.

(3) **Standard when less than sixty days.** When a continuance request is made less than sixty days from the date OAH received the hearing request:

(a) If all parties agree to the continuance, the ALJ must grant the request unless the ALJ holds a prehearing conference and finds that good cause for a continuance does not exist under WAC 182-526-0020.

(b) If the parties do not agree to the continuance, the ALJ must schedule a prehearing conference and determine if good cause for a

continuance exists under WAC 182-526-0020 and under the following factors:

(i) Why the party is requesting a continuance;

(ii) Why the other party or parties are objecting to the request;

(iii) Whether a continuance in the case has previously been granted at the request of the same party who is now requesting the continuance and, if so, whether it was for the same reason;

(iv) The extent to which the requesting or objecting parties could have prevented the need for delay;

(v) The number and duration of previous continuances in the case and who requested them;

(vi) The legal or factual complexity of the case;

(vii) The relative harm to the parties if the continuance is granted or denied, including the risk of harm to the appellant if he or she is not receiving continued benefits;

(viii) The impact of a continuance on the parties' ability to adequately prepare and present their cases;

(ix) Any need to provide accommodation, translation, or interpreter services; and

(x) The impact of a continuance on the ability of OAH to issue a timely initial decision; or

(xi) Other relevant factors.

(4) **Standard when sixty days or greater.** When a continuance request is made sixty days or more from the date OAH received the hearing request:

(a) The ALJ must not only consider whether there is good cause to continue the hearing but also must find a compelling reason for the continuance.

(b) Compelling reasons include:

(i) Medical evidence is required;

(ii) Extraordinary circumstances exist, such as the sudden unforeseen onset of an illness or adverse event that was beyond the party's ability to prevent;

(iii) The hearing format changes or the ALJ finds a compelling reason to change the way a witness appears at the hearing according to WAC 182-526-0360;

(iv) The appellant needs more time to prepare or present evidence or argument because the agency issued an amended notice under WAC 182-526-0260;

(v) The need for more time was caused by another party's action or inaction, considering the relative capacity and resources of the parties;

(vi) The need to provide accommodation, translation, or interpreter services;

(vii) A party received notice of the date or deadline thirty days or more after OAH received the hearing request;

(viii) Whether the continuance is needed to allow for effective assistance of counsel of record; or

(ix) Other compelling reasons.

(5) The ALJ must notify all parties whether a continuance was granted or denied orally on the record, or must do so in writing within five business days of the prehearing conference.

(6) If the ALJ grants a continuance, OAH must serve a new notice of hearing on the parties at least fourteen calendar days before the new hearing date, unless the parties agree to a shorter time period.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. Part 431, Subpart E. WSR 17-24-103, § 182-526-0280, filed 12/5/17, effective 1/5/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0280, 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, § 182-526-0280, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0282 Continuance requests in provider hearing, estate recovery hearing, or nursing home rate hearing under WAC 388-96-904. This section applies to continuance requests made in provider hearings, estate recovery hearings, or nursing home rate hearings.

(1) A request for continuance under this section may be made either orally or in writing.

(2) Before contacting the office of administrative hearings (OAH) to request a continuance, the party seeking the continuance must make a good faith effort to contact the other parties to find out if they agree to a continuance.

(3) The party making the request for a continuance must let OAH know whether the other parties agreed to the continuance. If all parties agree to a continuance, the administrative law judge (ALJ) must grant the request unless the ALJ requires a showing of good cause for a continuance.

(4) If the parties do not agree to a continuance, the ALJ must schedule and hold a prehearing conference to decide whether there is good cause to grant the continuance.

(5) If the ALJ grants a continuance, OAH must serve a new notice of hearing on the parties at least fourteen calendar days before the new hearing date.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0282, filed 2/13/17, effective 3/16/17.]

WAC 182-526-0284 Orders of default. (1) An order of default may be entered when the appellant fails to attend a scheduled prehearing conference or hearing. The order of default will include a notice of inquiry as to whether the appellant wants to petition to reinstate the hearing.

(2) The appellant may file a petition to vacate an order of default under WAC 182-526-0290.

(3) An order of default becomes a final order by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) If the appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of default becomes a final order.

(5) The appellant may seek judicial review of a final order of default to the superior court under WAC 182-526-0640.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-15-088, § 182-526-0284, filed 7/18/18, effective 8/18/18; WSR 17-05-066, § 182-526-0284, filed 2/13/17, effective 3/16/17.]

WAC 182-526-0285 Orders of dismissal. (1) An order of dismissal may be entered when the appellant withdraws the request for hearing under WAC 182-526-0115.

(2) An appellant may file a petition (request) to vacate an order of dismissal under WAC 182-526-0290.

(3) An order of dismissal becomes a final order by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate the order within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) The appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of dismissal becomes a final order.

(5) The appellant may seek judicial review of a final order of dismissal to the superior court under WAC 182-526-0640.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-15-088, § 182-526-0285, filed 7/18/18, effective 8/18/18; WSR 17-05-066, § 182-526-0285, 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, § 182-526-0285, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0290 Reinstating a hearing after an order of default or an order of dismissal. (1) If an order of default was entered under WAC 182-526-0284, or an order of dismissal was entered under WAC 182-526-0285, the appellant may file a petition (request) to vacate (set aside) the order.

(a) If the order was issued by the office of administrative hearings (OAH), the petition to vacate must be filed with OAH.

(b) If the order was issued by the health care authority (HCA), the petition to vacate must be filed with HCA or the board of appeals (BOA).

(c) The appellant must specify in the petition to vacate the reason why the order should be vacated.

(2) The petition to vacate must be filed within 21 calendar days of service (mailing) of the order to the parties. If the petition to vacate is not filed by the deadline, the order of default or order of dismissal becomes a final order by operation of law.

(3) If OAH or HCA receives a petition to vacate, OAH or HCA schedules a prehearing conference and serves all parties with a notice of a prehearing conference under WAC 182-526-0250.

(4) If the appellant fails to appear at the scheduled prehearing conference to address the petition to vacate:

(a) The order of default or order of dismissal becomes a final order by operation of law;

(b) OAH or HCA will issue an order disposing of the appellant's hearing request, stating that the order of default or order of dis-

missal became a final order by operation of law under RCW 34.05.440 (2) and (3) because the appellant failed to appear at the prehearing conference to address the petition to vacate, and including information about judicial review under WAC 182-526-0640;

(c) The appellant may seek judicial review of the final order of default or final order of dismissal to the superior court under WAC 182-526-0640.

(5) If the appellant appears for the scheduled prehearing conference:

(a) The ALJ or review judge will receive evidence and argument from the parties regarding whether:

(i) The petition to vacate was timely filed; and

(ii) The appellant has established good cause to excuse any default or dismissal and to reinstate the matter for hearing.

(b) If the petition to vacate was not filed timely, the ALJ or the review judge will issue an order disposing of the appellant's hearing request, stating that the order of default or order of dismissal became a final order by operation of law under RCW 34.05.440(1) because the appellant failed to timely file the petition to vacate, and including information about judicial review under WAC 182-526-0640. The appellant may seek judicial review of the final order of default or final order of dismissal to the superior court under WAC 182-526-0640.

(c) If the petition to vacate was timely filed, but the appellant does not establish good cause to excuse any default or dismissal, the ALJ must issue an initial order, including information about how to petition for review to the BOA, or the review judge must issue a final order dismissing the appeal.

(d) If the petition to vacate was timely filed and the appellant establishes good cause to excuse any default or dismissal, the ALJ or review judge vacates the order of default or order of dismissal and the matter may proceed to hearing on the issues identified in the original request for hearing. The hearing may occur:

(i) Immediately following the prehearing conference if the parties agree; or

(ii) At a hearing date scheduled by OAH or BOA under WAC 182-526-0250 if the ALJ or review judge continues the hearing to a later date.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 26-06-049, s 182-526-0290, filed 2/25/26, effective 3/28/26. Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. Part 431, Subpart E. WSR 17-24-103, § 182-526-0290, filed 12/5/17, effective 1/5/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0290, 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, § 182-526-0290, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0300 Order of dismissal based on subject matter. An order of dismissal issued based on lack of subject matter jurisdiction must be entered as an initial order subject to the requirements of WAC 182-526-0520.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0300, filed 2/13/17, effective 3/16/17.]

WAC 182-526-0310 Requesting a stay of the health care authority action. A party may request that an administrative law judge (ALJ) or review judge stay (stop) a health care authority action until there is a decision entered by the ALJ or review judge. The ALJ or review judge decides whether to grant or deny the stay and enters a written order.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0310, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0320 Subpoenas. (1) An administrative law judge (ALJ), the health care authority hearing representative, and an attorney for a party may issue subpoenas. If a party is not represented by an attorney, that party may ask the ALJ to issue a subpoena on the party's behalf. The ALJ may schedule a prehearing conference to decide whether to issue a subpoena.

(2) An ALJ may deny a party's request for a subpoena. For example, an ALJ may deny a request for a subpoena when the ALJ determines that a witness has no actual knowledge regarding the facts or that the documents are not relevant.

(3) There is no cost when OAH issues a subpoena on behalf of a party, but the party may have to pay for:

(a) Serving the subpoena;

(b) Complying with the subpoena; and

(c) Witness fees according to RCW 34.05.446(7).

(4) Any person who is at least eighteen years old and not a party to the hearing may serve a subpoena.

(5) Service of a subpoena is complete when the server:

(a) Gives the witness a copy of the subpoena; or

(b) Leaves a copy at the residence of the witness with a person over the age of eighteen.

(6) To prove that a subpoena was served on a witness, the person serving the subpoena must sign a written, dated statement including:

(a) Who was served with the subpoena;

(b) When the subpoena was served;

(c) The address where the subpoena was served; and

(d) The name, age, and address of the person who served the subpoena.

(7) A party may request that an ALJ quash (set aside) or change the requirements of a subpoena at any time before the deadline given in the subpoena.

(8) An ALJ may set aside or change a subpoena if it is unreasonable.

(9) Witnesses with safety or accommodation concerns should contact the office of administrative hearings (OAH) upon receipt of a subpoena.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0320, 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, § 182-526-0320, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0340 Hearing location. (1) The office of administrative hearings (OAH) may schedule a hearing to be conducted in-person, by telephone, or by video.

(2) A telephonic or video hearing is where the appellant appears by telephone, video, or other electronic means.

(3) An in-person hearing is where the appellant appears face-to-face with the ALJ. The other parties may choose to appear either in person, by telephone, or by video.

(4) Whether a hearing is held in-person, by video, or telephonically, each party has the right to see all documents, hear all testimony, and question all witnesses.

(5) If a hearing is originally scheduled as an in-person hearing, the appellant may ask that the ALJ change it to a telephonic or video hearing. Once a telephonic or video hearing begins, the ALJ may stop, reschedule, and change the hearing to an in-person hearing if any party makes such a request.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-18-063, § 182-526-0340, filed 8/26/21, effective 9/26/21; WSR 17-05-066, § 182-526-0340, 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, § 182-526-0340, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0345 Administrative law judge present at the hearing. (1) If the hearing is scheduled as an in-person hearing, an administrative law judge (ALJ) is physically present.

(2) If the hearing is scheduled as a telephonic hearing, an ALJ is present by telephone.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0345, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0350 Recording the hearing. The administrative law judge must make an audio record of the entire hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0350, 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, § 182-526-0350, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0355 People who may attend the hearing. (1) All parties and their representatives may attend a hearing under this chapter.

(2) Witnesses may be excluded from the hearing if the administrative law judge (ALJ) finds good cause to do so.

(3) The ALJ may also exclude other people from all or part of the hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0355, 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, § 182-526-0355, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0360 Changing how a hearing is held or how a witness appears at a hearing. (1) For cases in which the party who requested

a hearing is an applicant or recipient of a medical services program administered by the agency, the hearing must be held according to RCW 74.09.741 (5)(c).

(2) An applicant or recipient may agree to have one or more prehearing conferences conducted telephonically without waiving the right to have any subsequent prehearing conference or other hearings held in person.

(3) Any party to the hearing has the right to request that:

(a) The hearing be changed from an in-person hearing to a telephonic hearing or from a telephonic hearing to an in-person hearing; or

(b) A witness be allowed to appear telephonically even for an in-person hearing.

(4) A party must show a compelling reason to change the way a witness appears (in person or by telephone). Some examples of compelling reasons are:

(a) A party does not speak or understand English well.

(b) A party wants to present a significant number of documents during the hearing.

(c) A party does not believe that one of the witnesses or another party is credible and wants the administrative law judge (ALJ) to have the opportunity to see the testimony.

(d) A party has a disability or communication barrier that affects its ability to present its case.

(e) A party believes that the personal safety of someone involved in the hearing process is at risk.

(5) A compelling reason to change the way a witness appears at a hearing can be overcome by a more compelling reason not to change how a witness appears for a hearing.

(6) If a party wants to change how a hearing is held or change how their witnesses or other parties appear, the party must contact the office of administrative hearings (OAH) to request the change.

(7) The ALJ may schedule a prehearing conference to determine if the request should be granted.

(8) If the ALJ grants the request, the ALJ may orally advise the parties of the change in how the witness or party appears.

(9) If the ALJ denies the request, the ALJ must issue a written order that includes findings of fact supporting why the request was denied.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-04-009, s 182-526-0360, filed 1/23/25, effective 2/23/25; WSR 17-05-066, § 182-526-0360, 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, § 182-526-0360, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0370 Submitting documents for a telephonic hearing. (1) When a hearing is conducted by telephone, an administrative law judge (ALJ) may order the parties to file and serve any documents or proposed exhibits at least five days before the hearing.

(2) The health care authority hearing representative may be able to help a party copy and file their documents with the office of administrative hearings (OAH) and send them to any other party.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0370, 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, § 182-526-0370, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0375 Summary of the hearing process. At a hearing under this chapter:

(1) The administrative law judge (ALJ):

(a) Explains the hearing rights of the parties;

(b) Marks and admits or rejects exhibits;

(c) Ensures that a record is made;

(d) Explains that a decision is mailed after the hearing;

(e) Notifies the parties of appeal rights;

(f) May keep the record open for a time after the hearing if needed to receive more evidence or argument; and

(g) May take actions as authorized under this chapter.

(2) The parties may:

(a) Make opening statements to explain the issues;

(b) Offer evidence to prove their positions, including oral or written statements of witnesses;

(c) Question the witnesses presented by the other parties; and

(d) Give closing arguments about what the evidence shows and what laws apply.

(3) At the end of the hearing, the record is closed unless the ALJ allows more time to file additional evidence. See WAC 182-526-0390.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0375, 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, § 182-526-0375, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0380 Group hearing requests. (1) A group hearing may be held when two or more parties request a hearing about similar issues.

(2) Hearings may be combined at the request of the parties or the administrative law judge (ALJ).

(3) All parties participating in a group hearing may have their own representative present.

(4) A party may withdraw from a group hearing by asking the ALJ for a separate hearing.

(5) If a party asks to withdraw from a group hearing before the ALJ makes a discretionary ruling or the hearing begins, the ALJ must give the party a separate hearing.

(6) If a party later shows good cause, the ALJ may give the party a separate hearing at any time during the hearing process.

(7) The ALJ must grant a party's request to withdraw from a group hearing when participation in the group hearing could require the release of confidential or protected health care information and the party does not consent to the release of such information.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0380, 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, § 182-526-0380, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0387 Requesting that a hearing be consolidated or severed when multiple agencies are parties to the proceeding. (1) The following requirements apply only to hearings in which an applicant or recipient of medical services programs administered by the agency seeks review of decisions made by more than one agency, as defined in RCW 34.05.010. For example: A medical services program recipient appeals a termination of medical assistance by the health care authority and in the same request for hearing the recipient appeals a termination of cash assistance issued by the department of social and health services.

(2) When the applicant or recipient of a medical services program files a single request for hearing objecting to decisions made by more than one agency, as defined in RCW 34.05.010, the office of administrative hearings (OAH) schedules one hearing. The administrative law judge (ALJ) may sever the proceeding into multiple hearings on the motion of any of the parties, when:

(a) All parties consent to the severance; or

(b) Any party requests severance without another party's consent, and the ALJ finds there is good cause for severing the hearing and that the proposed severance is not likely to prejudice the rights of the applicant or recipient in accordance with RCW 74.09.741(5).

(3) If there are multiple hearings involving common issues or parties where there is one appellant and both the health care authority and the department are parties, upon motion of any party or upon the ALJ's motion, the ALJ may consolidate the hearings if the ALJ finds that the consolidation is not likely to prejudice the rights of the applicant or recipient who is a party to any of the consolidated hearings in accordance with RCW 74.09.741(5).

(4) If the ALJ grants the motion to sever the hearing into multiple hearings or consolidate multiple hearings into a single hearing, the ALJ enters an order and OAH sends a new notice of hearing to the appropriate parties in accordance with WAC 182-526-0250, unless service of notice is waived by the parties.

(5) Petitions for judicial review must be served on all agencies involved in the hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-04-009, s 182-526-0387, filed 1/23/25, effective 2/23/25; WSR 17-05-066, § 182-526-0387, 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, § 182-526-0387, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0390 Evidence. (1) Evidence includes documents, objects, and testimony of witnesses that parties offer during the hearing to help prove their positions.

(2) Evidence may be all or parts of original documents and may be copies of the originals.

(3) Parties may offer statements signed by a witness under oath or affirmation as evidence, if the witness cannot appear.

(4) Testimony subject to cross examination by the other parties may be given more importance by the administrative law judge (ALJ).

(5) The parties may bring evidence to any prehearing meeting, prehearing conference, or hearing, or may file evidence before these events with the office of administrative hearings (OAH).

(6) The ALJ may set a deadline before the hearing for the parties to file proposed exhibits and the names of witnesses. If a party misses the deadline, the ALJ may refuse to admit the evidence unless:

(a) The ALJ finds that the offering party has good cause.

(b) The other parties agree that party has good cause for missing the deadline; or

(c) The other parties agree the ALJ may consider the evidence.

(7) Parties may bring any documents and witnesses to the hearing to support their position. However, the other parties may object to any evidence that is offered and may cross-examine witnesses.

(8) The ALJ determines whether the evidence is admitted and what importance to give it.

(a) If the ALJ does not admit the evidence, the parties may make an offer of proof to show why the ALJ should admit it.

(b) To make an offer of proof, a party presents evidence and argument on the record to show why the ALJ should consider the evidence.

(c) The offer of proof preserves the argument for appeal.

(9) The ALJ may only consider admitted evidence and matters officially noticed in the proceeding (judicial notice) to decide the case.

(10) Admission of evidence is based upon the reasonable person standard. This standard means evidence that a reasonable person would rely on in making a decision.

(11) The ALJ may admit and consider hearsay evidence in accordance with RCW 34.05.452.

(12) The ALJ may reject evidence using the Washington rules of evidence as guidelines.

(13) The ALJ must reject evidence if required by law.

(14) The ALJ decides:

(a) What evidence is more credible if evidence conflicts; and

(b) The importance given to the evidence.

(15) The ALJ uses the Washington rules of evidence as guidelines when those rules do not conflict with the rules of this chapter or the Washington Administrative Procedure Act, chapter 34.05 RCW.

(16) The ALJ may permit a party or parties to submit additional evidence after the date of the hearing. The ALJ also may allow an appropriate amount of time for the other parties to respond and object to any evidence submitted after the hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0390, 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, § 182-526-0390, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0405 Stipulations. (1) A stipulation is an agreement among two or more parties that certain facts or evidence is correct or authentic.

(2) If an administrative law judge (ALJ) accepts a stipulation, the ALJ must enter it into the record.

(3) A stipulation may be made before or during the hearing.

(4) A party may change or reject a stipulation after it has been made.

(5) To change or reject a stipulation, a party must show the administrative law judge that:

(a) The party did not intend to make the stipulation or was mistaken when making it; and

(b) Changing or rejecting the stipulation does not harm the other parties.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0405, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0415 Exhibits. (1) Proposed exhibits.

(a) Proposed exhibits are documents or other objects that a party wants the administrative law judge (ALJ) to consider when reaching a decision.

(b) After the document or object is accepted by the ALJ, it is admitted and becomes an exhibit.

(2) Marking and numbering proposed exhibits and providing copies.

(a) All parties should mark and number their proposed exhibits before the hearing.

(b) All parties should send their proposed exhibits to the office of administrative hearings (OAH) and to all other parties in advance of the hearing.

(c) Parties should bring to the hearing enough copies of their proposed exhibits for all parties if those exhibits were not provided prior to the hearing.

(d) If the party who requested the hearing cannot afford to provide copies of its exhibits for all parties, the requesting party must make its proposed exhibits available for copying. The ALJ may require proof that the requesting party is unable to afford copies.

(3) Admitting proposed exhibits into the record.

(a) The ALJ decides whether to admit a proposed exhibit into the record and also determines the importance of the evidence.

(b) The ALJ admits proposed exhibits into the record by marking, listing, identifying, and admitting the proposed exhibits.

(c) The ALJ must make rulings on the record to admit or exclude exhibits.

(4) Disagreeing with an exhibit proposed by another party.

(a) A party may object to the authenticity or admissibility of any exhibit, or offer argument about how much importance the ALJ should give the exhibit.

(b) Even if a party agrees that a proposed exhibit is a true and authentic copy of a document, the agreement does not mean that a party agrees with:

(i) Everything in the exhibit or agrees that it should apply to the hearing;

(ii) What the exhibit says; or

(iii) How the ALJ should use the exhibit to make a decision.

(c) The ALJ may also exclude proposed exhibits from the record.

(5) The following rules apply to filing proposed exhibits with OAH and serving them on the other parties for a telephonic hearing:

(a) Parties should file their proposed exhibits with OAH and serve them on the other parties at least five days before the telephonic hearing. In some cases, the ALJ may require that the parties file and serve them earlier.

(b) The health care authority hearing representative may help the appellant file copies of proposed exhibits with OAH and serve the other parties if the appellant cannot afford to do so. The ALJ may require the appellant to provide proof that they are unable to afford to do so.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0415, 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, § 182-526-0415, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0440 Judicial notice. (1) The administrative law judge (ALJ) may consider and admit evidence by taking judicial notice.

(2) Judicial notice is evidence that includes facts or standards that are generally recognized and accepted by judges, government agencies, or national associations. For example, an administrative law judge may take judicial notice of a calendar, a building code, or a standard or practice.

(3) If a party requests judicial notice, or if the ALJ intends to take judicial notice, the ALJ may ask the party to provide a copy of the document that contains the information.

(4) If judicial notice has been requested, or if the ALJ intends to take judicial notice, the ALJ must tell the parties before or during the hearing.

(5) The ALJ must give the parties time to object to judicial notice evidence.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0440, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0450 Witness. (1) The following persons may be witnesses in a hearing:

(a) The appellant or the health care authority (HCA) hearing representative; or

(b) Anyone the parties or the administrative law judge (ALJ) asks to be a witness.

(2) The ALJ decides who may testify as a witness.

(3) An expert witness may not be a former HCA employee, a former HCA authorized agent, or a former employee of the department in the proceeding against HCA or the department if that employee was actively involved in the HCA action while working for HCA or the department, unless the HCA hearing representative agrees.

(4) All witnesses:

(a) Must affirm or take an oath to testify truthfully during the hearing.

(b) May testify in person or by telephone.

(c) May request interpreters from the office of administrative hearings (OAH) at no cost to the party offering the witness.

(d) May be subpoenaed and ordered to appear according to WAC 182-526-0320.

(5) Cross-examining a witness.

(a) Each party has the right to cross-examine (question) each witness.

(b) If a party has a representative, only the representative, and not the party, may question the witness.

(c) The ALJ may also question witnesses.

(6) Witnesses may refuse to answer questions. However, if a witness refuses to answer a question, the ALJ may reject all of the related testimony of that witness.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0450, 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, § 182-526-0450, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0480 Burden of proof. (1) Burden of proof is a party's responsibility to:

(a) Provide evidence regarding disputed facts; and

(b) Persuade the administrative law judge (ALJ) that a position is correct.

(2) To persuade the ALJ, the party who has the burden of proof must provide the amount of evidence required by WAC 182-526-0485. The ALJ decides if a party has met the burden of proof.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0480, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0485 Standard of proof. Standard of proof refers to the amount of evidence needed to prove a party's position. Unless the rules or law states otherwise, the standard of proof in a hearing is a preponderance of the evidence. This standard means that it is more likely than not that something happened or exists.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0485, filed 12/19/12, effective 2/1/13.]

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.]

WAC 182-526-0500 Hearing record. (1) Before the record is closed, the administrative law judge (ALJ) may:

(a) Set another hearing date;

(b) If needed, enter orders addressing limited issues before issuing a hearing decision resolving all issues in the proceeding; or

(c) Give the parties more time to file exhibits or written argument.

(2) The record is closed:

(a) At the end of the hearing if the ALJ does not allow more time to file evidence or argument; or

(b) After the deadline for filing evidence or argument is over.

(3) After the record is closed:

(a) No more evidence may be admitted without good cause;

(b) The ALJ must enter an initial order and the office of administrative hearings (OAH) must serve copies on all of the parties; and

(c) OAH must send the official record of the proceedings to the board of appeals. The record must be complete when it is sent, and include all parts required by WAC 182-526-0512.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0500, 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, § 182-526-0500, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0512 Contents of the hearing record. (1) The administrative law judge must produce a complete official record of the proceedings.

(2) The official record must include, if applicable:

(a) Notice of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions requests, and intermediate rulings;

(d) Evidence received or considered;

(e) A statement of matters officially noticed;

(f) Offers of proof, objections, and any resulting rulings;

(g) Proposed findings, requested orders and exceptions;

(h) A complete audio recording of the entire hearing, together with any transcript of the hearing;

(i) Any final order, initial order, or order on reconsideration; and

(j) Matters placed on the record after an ex parte communication.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0512, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0520 Information which must be included in the ALJ's initial order. In an initial order, the administrative law judge (ALJ) must:

(1) Identify the matter as a health care authority appeal;

(2) List the name and docket number of the case and the names of all parties and representatives;

(3) Make findings concerning the facts used to resolve the dispute based on the hearing record;

(4) Explain how the ALJ determined that evidence is credible or not credible when the facts or conduct of a witness is questioned;

(5) State the law that applies to the dispute;

(6) Apply the law to the facts of the case in the conclusions of law;

(7) Discuss the reasons for the decision based on the facts and the law;

(8) State the result and remedy ordered;

(9) Explain how to request corrections to the initial order or petition for review by the board of appeals (BOA) and provide the deadlines for such requests;

(10) State the date the initial order becomes final according to WAC 182-526-0525; and

(11) Include any other information required by law or program rules.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0520, 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, § 182-526-0520, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0525 When initial orders become final. An initial order becomes a final order at 5:00 p.m. on the twenty-first calendar day after the office of administrative hearings (OAH) serves the initial order, unless:

(1) Any party files a request for review of the initial order within twenty-one calendar days of the serving (mailing) of the initial order in accordance with WAC 182-526-0580(1);

(2) Any party files a request for extension of the deadline for filing a request for review which is granted by the review judge under WAC 182-526-0580(2); or

(3) Any party files a late request for review which is accepted by a review judge in accordance with WAC 182-526-0580(3);

(4) A managed care enrollee requests review by an independent review (IR) organization in accordance with RCW 48.43.535 prior to the initial order becoming final or a final order being entered by a review judge. See WAC 182-526-0200 for enrollee appeals.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0525, 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, § 182-526-0525, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0530 How to correct or appeal an initial order. (1) If a party disagrees with an administrative law judge's (ALJ) initial order because of a clerical error, the party may ask for a corrected

initial order from the ALJ as provided in WAC 182-526-0540 through 182-526-0555.

(2) If a party disagrees with an initial order for a reason other than a clerical error and wants the initial order changed, the party must request review by a review judge as provided in WAC 182-526-0560 through 182-526-0595.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0530, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0540 Correction of clerical errors in an initial order. (1) A clerical error is a mistake that does not change the intent of the initial order.

(2) The administrative law judge (ALJ) may correct clerical errors in the initial order by entering a corrected initial order. The ALJ may correct clerical errors in response to a request by one of the parties.

(3) Some examples of clerical error are:

(a) Missing or incorrect words or numbers;

(b) Dates inconsistent with the decision or evidence in the record such as using May 3, 2004, instead of May 3, 2014; or

(c) Math errors when adding the total of an overpayment.

(4) If the ALJ does not agree that the initial order contains one or more clerical errors, the ALJ enters a written order denying the request for a corrected order.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0540, 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, § 182-526-0540, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0545 How a party requests a corrected initial order. (1) A party may request that the administrative law judge (ALJ) issue a corrected initial order by calling or writing to the office of administrative hearings field office that held the hearing.

(2) When asking for a corrected initial order, the party must identify the clerical error that is claimed.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0545, 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, § 182-526-0545, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0550 Deadline for a party to request a corrected initial order. (1) A party requesting a corrected initial order from the administrative law judge (ALJ) must make the request on or before the tenth calendar day after the order was served.

(2) The time period provided in subsection (1) of this section and the time it takes the ALJ to deny the request or make a decision regarding the request for a corrected initial order, do not count against any deadline for a review judge to enter a final order.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0550, 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, § 182-526-0550, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0555 Process after a party requests a corrected initial order. (1) When a party requests a corrected initial order, the administrative law judge (ALJ) must either:

(a) Serve all parties a corrected order within ten calendar days; or

(b) Deny the request in writing within three business days of receiving it.

(2) If the ALJ corrects an initial order and a party does not request review, the corrected initial order becomes a final order at 5:00 p.m., twenty-one calendar days after the corrected initial order was served.

(3) If the ALJ denies a request for a corrected initial order and a party does not request review, the initial order becomes a final order at 5:00 p.m., twenty-one calendar days after the initial order was served.

(4) If the ALJ denies the request for a corrected initial order and the party still wants the initial order corrected, the party must request review by a review judge.

(5) Requesting an ALJ to correct the initial order only extends the deadline to request review of the initial order by a review judge if a corrected initial order is subsequently issued.

(6) When a party needs more time to request review of an initial order, the party must ask for more time to request review as permitted by WAC 182-526-0580(2).

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0555, 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, § 182-526-0555, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0560 Review of an initial order by a review judge. (1) A party who disagrees with the initial order entered by an administrative law judge (ALJ) may request review by a review judge at the board of appeals (BOA).

(2) When a review judge reviews an initial order, the review judge does not hold another hearing. See WAC 182-526-0595.

(3) Review judges may not review an initial order after the order becomes a final order, except as permitted by WAC 182-526-0580.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0560, 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, § 182-526-0560, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0565 Evidence a review judge considers in reviewing an initial order. (1) The review judge, in most cases, only considers evidence admitted in the record by the administrative law judge.

(2) The review judge considers the request, the initial order, and the record before deciding if the initial order should be changed.

(3) The review judge may allow the parties to make oral argument when reviewing initial orders.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0565, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0570 Request for review of an initial order. (1) Any party may request a review judge to review the initial order.

(2) If more than one party requests review, each request must meet the deadlines in WAC 182-526-0580.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0570, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0575 How to request review of an initial order. (1) A party must make the request for review of an initial order in writing and file the request with the board of appeals (BOA) at the address given in WAC 182-526-0030 and within the deadlines set forth in WAC 182-526-0580.

(2) The request for review should identify the parts of the initial order with which the party disagrees and should identify the evidence in the hearing record supporting the party's position.

(3) The party seeking review should also send a copy of the review request to the other parties.

(4) After receiving a request for review of an initial order, BOA serves a copy on the other parties and their representatives. The other parties and their representatives may respond as described in WAC 182-526-0590.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 26-06-049, s 182-526-0575, filed 2/25/26, effective 3/28/26; WSR 17-05-066, § 182-526-0575, 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, § 182-526-0575, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0580 Deadline for requesting review of an initial order by a review judge. (1) The board of appeals (BOA) must receive the written review request of an initial order on or before 5:00 p.m. on the 21st calendar day after the initial order was served, unless an extension of the deadline is granted by the review judge.

(2) A party may file the written review request by physical mail, by facsimile transmission (fax), electronically by email, or in-person delivery. For the BOA contact information, see WAC 182-526-0030.

(3) A review judge may extend the deadline to request review if a party:

(a) Asks for more time before the deadline expires; and

(b) Gives a good reason for more time.

(4) A review judge may accept a review request after the 21 calendar day deadline only if:

(a) BOA receives the review request on or before the 30th calendar day after the deadline; and

(b) A party shows good cause for missing the deadline.

(5) The time periods provided by this section for requesting review of an initial order, including any extensions, does not count against a deadline, if any, for a review judge to enter the final order.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-20-046, § 182-526-0580, filed 9/28/22, effective 10/29/22; WSR 17-05-066, § 182-526-0580, 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, § 182-526-0580, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0590 Response to a request for review. (1) A party does not have to respond to the request for review. A response is optional.

(2) If a party decides to respond, that party must file the response so that the board of appeals (BOA) receives it on or before the seventh business day after the date the other party's review request was served to the party by the BOA.

(3) The party should send a copy of the response to all other parties or their representatives.

(4) A review judge may extend the deadline in subsection (2) of this section if a party asks for more time before the deadline to respond expires and gives a good reason.

(5) If a party asks for more time to respond, the time period provided by this section for responding to the review request, including any extensions, does not count against any deadline for a review judge to enter the final order.

(6) A review judge may accept and consider a party's response even if it is filed after the deadline.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0590, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0595 Process after review response deadline. (1) After the response deadline, the record on review is closed unless the review judge finds there is a good reason to keep it open.

(2) A review judge is assigned to review the initial order after the record on review is closed. To find out which judge is assigned, call the board of appeals.

(3) After the record is closed, the assigned review judge:

(a) Reviews the record, including the initial order; and

(b) Enters a final order that affirms, modifies, dismisses or reverses the initial order; or

(c) Returns the case to the office of administrative hearings for further action.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0595, 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, § 182-526-0595, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0600 Authority of the review judge. (1) In some cases, review judges review initial orders and enter final orders. The review judge has the same decision-making authority as the administrative law judge (ALJ). The review judge considers the entire record and decides the case de novo (anew). In reviewing findings of fact, the review judge must give due regard to the ALJ's opportunity to observe witnesses.

(2) Review judges may remand (return) cases to the office of administrative hearings for further action.

(3) In cases where there is a consolidated hearing under WAC 182-526-0387, any party may request review of the initial order in accordance with the requirements contained in this chapter.

(4) Review judges may not review an ALJ order after the order becomes final, except as provided in WAC 182-526-0580.

(5) A review judge conducts the hearing and enters the final order in cases where a contractor for the delivery of nursing facility services requests an administrative hearing under WAC 388-96-904(5).

[Statutory Authority: RCW 41.05.021 and, 41.05.160. WSR 17-05-066, § 182-526-0600, 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, § 182-526-0600, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0605 Reconsideration of a final order entered by a review judge. (1) If a party does not agree with the final order and wants it reconsidered, the party may request the review judge to reconsider the decision.

(2) The party must make the request in writing and clearly state why the party wants the final order reconsidered. The party must file the written reconsideration request with BOA and it must be received by the deadline under WAC 182-526-0620.

(3) The party should send a copy of the request to all other parties or their representatives.

(4) After receiving a reconsideration request, BOA serves a copy to the other parties and representatives and gives them time to respond.

(5) The final order or the reconsideration decision is the final HCA decision. If a party disagrees with that decision, the party must petition for judicial review to change it.

(6) If a party asks for reconsideration of the final order, the reconsideration process must be completed before a party requests judicial review. However, the party does not need to request reconsideration of a final order before requesting judicial review.

(7) The party may ask the court to stay or stop the HCA action after filing the petition for judicial review.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0605, 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, § 182-526-0605, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0620 Deadline for requesting reconsideration. (1) To request reconsideration of a final order entered by a review judge, the BOA must receive a written reconsideration request on or before the tenth calendar day after the final order was served.

(2) The review judge may extend its deadline for filing a request for reconsideration if a party:

(a) Asks for more time before the deadline expires; and

(b) Gives a good reason for the extension.

(3) If a reconsideration request is filed after the deadline, the final order will not be reconsidered and the deadline to ask for judicial review of the final HCA decision continues to run.

(4) If a party does not request reconsideration or fails to ask for an extension within the deadline, the final order may not be reconsidered and it becomes the final HCA decision.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0620, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0630 Responding to a reconsideration request. (1) A party does not have to respond to a request for reconsideration of a final order. A response is optional.

(2) If a party responds, that party must file a response with the board of appeals (BOA) by or before the seventh business day after the date the review judge mailed the request to the party.

(3) A party should send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, the review judge may extend its deadline if the party gives a good reason within the deadline in subsection (2) of this section.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0630, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0635 Process after a party requests reconsideration. (1) After the review judge receives a reconsideration request, the review judge has twenty calendar days to enter and serve a reconsideration decision unless the review judge serves notice allowing more time.

(2) After the BOA receives a reconsideration request, the review judge must either:

(a) Write a reconsideration decision; or

(b) Serve all parties an order denying the request.

(3) If the review judge does not serve an order or notice granting more time within twenty days of receipt of the reconsideration request, the request is denied.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0635, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0640 Judicial review of a final order. (1) Judicial review is the process of appealing a final order to a court.

(2) The party that requested the hearing may appeal a final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. HCA may not request judicial review.

(3) The party seeking judicial review must consult RCW 34.05.510 to 34.05.598 for further details of the judicial review process.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0640, 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, § 182-526-0640, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0645 Deadline for petition for judicial review and filing requirements. A party must file a petition for judicial review with the superior court within thirty calendar days after the final order is served to the parties.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0645, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0647 Exhaustion of administrative remedies required. Generally, a party may file a petition for judicial review only after it has completed the administrative hearing process. See RCW 34.05.534.

[Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0647, filed 12/19/12, effective 2/1/13.]

WAC 182-526-0650 Service of petition for judicial review. (1) The party requesting judicial review must:

(a) File a petition for judicial review with the court;

(b) File and serve the petition for judicial review of a final order within 30 days after the date it was mailed to the parties; and

(c) Serve copies of the petition on the health care authority (HCA), the office of the attorney general, and all other parties.

(2) To serve HCA, the petitioning party must deliver a copy of the petition for judicial review to the HCA board of appeals (BOA). The party may hand deliver the petition, send it by mail that gives proof of receipt, or serve it electronically. See WAC 182-526-0030 for the BOA physical, mailing, and electronic service addresses.

(3) To serve the office of the attorney general and other parties, the petitioning party may send a copy of the petition for judicial review by regular mail. The party may send a petition to the address for the attorney of record to serve a party. The party may serve the office of the attorney general by hand delivery to:

Office of the Attorney General
7141 Cleanwater Drive S.W.
Tumwater, WA 98501

The mailing address of the attorney general is:
Office of the Attorney General
P.O. Box 40124
Olympia, WA 98504-0124

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 25-04-009, s 182-526-0650, filed 1/23/25, effective 2/23/25; WSR 17-05-066, §

182-526-0650, 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, § 182-526-0650, filed 12/19/12, effective 2/1/13.]