

Chapter 82-04 WAC

WAGE OVERPAYMENT ADJUDICATIVE HEARINGS

WAC

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| 82-04-010 | Appellant notice to request adjudicative hearing. |
| 82-04-020 | Agency transmissions to the office of administrative hearings. |
| 82-04-030 | Adjudicative hearing process. |
| 82-04-040 | Adjudicative hearing requirements. |
| 82-04-050 | Adjudicative hearing decision. |
| 82-04-060 | Good cause requirements. |
| 82-04-070 | Exclusions to Administrative Procedure Act. |

WAC 82-04-010 Appellant notice to request adjudicative hearing. (1) Once the appellant has notified the agency that he or she wishes to appeal the agency's review decision, the agency shall transmit the appellant's application for an adjudicative proceeding (request for hearing) to the office of administrative hearings (OAH) within ten business days after receiving it from the appellant.

(2) In any wage overpayment matter that is appealed, the agency shall provide OAH with the following information:

(a) The name of the agency contact in the matter and any contact information;

(b) The name of the appellant and any contact information, including address and telephone number;

(c) The name and address of the agency contact for billing purposes; and

(d) The name and address of the agency contact where the file should be sent after OAH closes the adjudicative proceeding.

(3) The agency shall transmit all requests for hearing to the following address: Office of Administrative Hearings, 919 Lakeridge Way SW, P.O. Box 42488, Olympia, WA 98504-2488; (360) 664-8717; fax (360) 664-8721.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-010, filed 10/7/03, effective 11/7/03.]

WAC 82-04-020 Agency transmissions to the office of administrative hearings. Within ten business days of receipt of the appellant's request for hearing, the agency shall also transmit to OAH the relevant case file, including documents which the agency intends to use as exhibits in the hearing. The case file and documents may be transmitted to OAH together with the request for hearing. If the case file and documents are exceptionally voluminous, the agency should contact OAH for instructions before transmitting them.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-020, filed 10/7/03, effective 11/7/03.]

WAC 82-04-030 Adjudicative hearing process. (1) It shall be the responsibility of OAH to issue the notice of hearing to the appellant and the agency.

(2) Either party may request a prehearing conference.

(3) The hearing shall be held telephonically unless the rights of the parties will be prejudiced thereby or at the discretion of the administrative law judge (ALJ).

(10/7/03)

(4) The hearing shall be recorded electronically and no transcript is required, unless specified otherwise in law or rule.

(5) In any adjudicative proceedings for wage overpayments, the ALJ shall apply the model rules of procedure, set forth in chapter 10-08 WAC, which shall govern the proceedings regardless of WAC 10-08-001(4) or other agency procedural rules to the contrary.

(6) All costs of the hearing shall be borne by the agency and OAH shall bill the agency for the hearing costs incurred.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-030, filed 10/7/03, effective 11/7/03.]

WAC 82-04-040 Adjudicative hearing requirements. The ALJ shall hear the evidence presented by both the appellant and the agency regarding the wage overpayment. The ALJ shall decide based upon that evidence whether a wage overpayment has occurred and, if so, what amount appellant owes the agency. Recoupment of an overpayment shall be conducted pursuant to chapter 77, Laws of 2003 (Substitute House Bill 1738) and the ALJ shall not have authority to decide repayment issues.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-040, filed 10/7/03, effective 11/7/03.]

WAC 82-04-050 Adjudicative hearing decision. The decision of the ALJ in any wage overpayment adjudicative proceeding shall be considered a final order.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-050, filed 10/7/03, effective 11/7/03.]

WAC 82-04-060 Good cause requirements. (1) If a person with a right to an adjudicative proceeding under chapter 77, Laws of 2003, files a request for hearing after the period for doing so has passed, the person must show good cause why the request for hearing should be granted.

(2)(a) If the ALJ finds good cause for filing a late hearing request, the ALJ shall conduct a hearing on the merits.

(b) If the ALJ does not find good cause for filing a late hearing request, the agency's overpayment decision is deemed final and the agency shall proceed to collect the wage overpayment as provided in chapter 77, Laws of 2003.

(3) As used in this section, "good cause" means a substantial reason or legal justification for failing to file a request for an adjudicative proceeding within the time period mandated by statute.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-060, filed 10/7/03, effective 11/7/03.]

WAC 82-04-070 Exclusions to Administrative Procedure Act. For purposes of adjudicative proceedings of state employee wage overpayments, the exclusions to the administrative procedure act found in RCW 34.05.030 do not apply.

[Ch. 82-04 WAC—p. 1]

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-070, filed 10/7/03, effective 11/7/03.]