

WAC 170-03-0500 Equitable estoppel. (1) Equitable estoppel is a legal doctrine defined in case law that may prevent DEL from taking some action against a party in a proceeding to challenge an overpayment notice issued by DEL.

(2) There are five elements of equitable estoppel that must be proved by clear and convincing evidence. All of the following elements must be proved:

(a) DEL made a statement or took action or failed to take action, which is inconsistent with its later claim or position regarding an overpayment.

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

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

(d) Equitable estoppel is needed to prevent a manifest injustice.

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

(3) If the ALJ concludes that all of the elements of equitable estoppel in subsection (2) of this section have been proved with clear and convincing evidence, DEL is stopped or prevented from taking action or enforcing its claim for repayment of the overpayment.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. WSR 08-06-102, § 170-03-0500, filed 3/5/08, effective 4/5/08.]