

WAC 308-101-250 Reconsideration of final order. (1) Motions for reconsideration are limited to cases heard under the implied consent law, RCW 46.20.308.

(2) Grounds for a petition for reconsideration are limited to evidence or legal argument which are material to the petitioner and were not produced at the time of the hearing, or for other good and sufficient reason as determined by the hearings examiner.

(3) The petition must state with particularity any new evidence or new legal argument that is proposed and why it could not have been discovered using due diligence prior to the hearing. The petition must specify with particularity the portions of the initial order to which the petition applies.

(4) A petition for reconsideration of an order shall be filed with the hearings and interviews unit within ten days of the date the final order was mailed to the petitioner.

(5) The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further hearing.

(6) If the petition is granted in whole or in part, a new order shall be issued in the same form as the original order, and shall include the designation "amended" in its title. This amended order shall reference the petition for reconsideration in its preamble, which sets out what the hearings examiner considered. Any amended order shall include the "findings of fact and conclusions of law" from the original final order with amendments.

(7) The relief granted pursuant to a petition for reconsideration is limited to review of the designated evidence and/or argument as identified in the petition. At the hearings examiner's discretion, a supplemental hearing may be scheduled. Such a petition is not grounds for a new hearing, and the record already established shall remain undisturbed.

(8) A petition for reconsideration does not stay the department's action on the petitioner's driving privilege as ordered by the original final order. A petitioner seeking a stay must file a separate petition for that purpose. The hearings examiner will grant a stay only if the hearings examiner determines that it is likely that the petitioner will prevail and the action be reversed and that denying the stay will create irreparable harm to the petitioner. If the hearings examiner grants such a petition for a stay, the hearings examiner shall sign an order releasing the action and crediting any time already served, and subsequently sign an order sustaining or reversing the action, as determined by the amended final order. Disposition denying a stay is not subject to review.

(9) An amended final order shall be issued either denying reconsideration or, in the event reconsideration is granted, dissolving or modifying the original final order. The date of the amended final order begins the thirty-day period for the petitioner to appeal the amended final order.

(10) The filing of a petition for reconsideration is not a prerequisite for filing an appeal. An order denying reconsideration is not subject to appeal.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-101-250, filed 5/21/18, effective 9/4/18.]