

**WAC 308-107-070 Ignition interlock driver's license—Hearing.**

(1) Upon notification by the department that an ignition interlock driver's license has been denied under RCW 46.20.385 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an ignition interlock driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Upon notification by the department that a determination has been made under WAC 308-107-060 that a person is not indigent, the person may request a formal hearing to contest the department's determination.

(3) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(4) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(5) For a hearing requested under subsection (1) of this section, the scope of the hearing shall be limited to the following issues:

(a) Whether the person had previously been issued a valid Washington state driver's license, or is in the military, stationed in Washington state, and has a valid home state license;

(b) Whether the suspension or revocation giving rise to the application for an ignition interlock driver's license is one for which an ignition interlock driver's license may be issued under RCW 46.20.385;

(c) Whether a device was installed and functioning; and

(d) Whether the person is currently suspended or revoked for any reason for which an ignition interlock driver's license is not available.

(6) The person's official driving record provided to the hearing officer by the department shall be prima facie evidence of the issues contained in subsection (5) of this section unless the person presents clear and convincing evidence to the contrary.

(7) For a hearing requested under subsection (2) of this section, the person shall have the burden of proving by a preponderance of the evidence that the department's determination is in error.

(8) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying the ignition interlock driver's license, or decision determining that the person is not indigent, shall be affirmed.

[Statutory Authority: RCW 46.01.110 and 46.20.385. WSR 11-01-037, § 308-107-070, filed 12/6/10, effective 1/6/11. Statutory Authority: RCW 46.01.110, 46.20.385, 46.20.391, and 46.20.745. WSR 08-24-059, § 308-107-070, filed 11/26/08, effective 1/1/09.]