

WAC 388-14A-6150 What can I do if there was a default order entered against me in an administrative hearing? (1) Any party against whom the administrative law judge (ALJ) has entered an initial decision and order on default may petition the DSHS board of appeals for vacation of the default order, subject to the provisions, including time limits, of civil rule 60.

(2) Specific rules on administrative support establishment notices are in WAC 388-14A-3700.

(3) Upon receipt of a request to vacate a default order, the department must ask the office of administrative hearings (OAH) to:

(a) Schedule a hearing to determine whether or not the petitioner has good cause for vacating the default order; and

(b) Give any other parties to the hearing notice of the time and date of the hearing. The notice is sent to the party's last known address.

(4) In a hearing under this section, the ALJ must first determine if the petitioner has good cause for vacating the default order by applying civil rule 60 to determine whether the petition has good cause, in making this determination, the ALJ must consider the following factors:

(a) Whether there is substantial evidence to support a prima facie defense to the notice which was the subject of the hearing;

(b) Whether the petitioner's failure to appear at the hearing was due to mistake, inadvertance, surprise or excusable neglect;

(c) Whether the petition to vacate has been brought in a timely manner; and

(d) Whether vacating the initial decision would result in a substantial hardship to the parent who did appear for hearing.

(5) If the ALJ finds good cause to vacate the default order, the ALJ:

(a) Must conduct a hearing on the merits of the petitioner's objection to the notice that was the basis for the hearing at which the petitioner failed to appear; and

(b) May stay any further collection to the extent provided for under the rules governing the notice the party originally objected to.

(6) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

[Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056. WSR 01-24-081, § 388-14A-6150, filed 12/3/01, effective 1/3/02.]