

WAC 388-14A-6500 Can I use equitable estoppel as a defense in a hearing with the division of child support? (1) Equitable estoppel is available in adjudicative proceedings conducted under this chapter.

(2) When a party raises, or the facts indicate, a claim that equitable estoppel applies to a party to the proceeding, the administrative law judge (ALJ) must:

(a) Consider equitable estoppel according to the precedents set by reported Washington state appellate case law, where not contrary to public policy; and

(b) Enter findings of fact and conclusions of law sufficient to determine if the elements of equitable estoppel are met and apply.

(3) The party asserting, or benefitting from, equitable estoppel must prove each element of that defense by clear, cogent and convincing evidence.

(4) The ALJ must consider on the record whether a continuance is necessary to allow the parties to prepare to argue equitable estoppel when:

(a) A party raises equitable estoppel; or

(b) The facts presented require consideration of equitable estoppel.

(5) When the ALJ orders a continuance under subsection (4) of this section, the ALJ enters an initial decision and order for current support if:

(a) Current support is an issue in the proceeding; and

(b) The claim for current support is unaffected by the equitable estoppel defense.

(6) The defense of equitable estoppel is not available to a party when the:

(a) Party raises the defense against the department's claim for reimbursement of public assistance; and

(b) Act or representation forming the basis for an estoppel claim:

(i) Was made by a current or former public assistance recipient;

(ii) Was made on or after the effective date of the assignment of support rights; and

(iii) Purported to waive, satisfy, or discharge a support obligation assigned to the department.

[Statutory Authority: RCW 74.08.090. WSR 01-03-089, § 388-14A-6500, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-067.]