

WSR 24-06-040
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Office of the Secretary)

[Filed February 29, 2024, 3:43 p.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: Adds statutory language from RCW 74.08.080(2) about "good cause" for late-filed hearing requests in public assistance cases to two hearing rules concerning good cause in all other cases.

Citation of Rules Affected by this Order: Amending WAC 388-02-0020 and 388-02-0085.

Statutory Authority for Adoption: RCW 34.05.220, 43.17.060, 43.20A.075, and 74.08.080(2).

Adopted under notice filed as WSR 24-03-124 on January 19, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 29, 2024.

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SHS-5007.1

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

WAC 388-02-0020 What does good cause mean? (1) Good cause is a substantial reason or legal justification for failing to appear, to act, or respond to an action. To show good cause, the ALJ must find that a party had a good reason for what they did or did not do, using the provisions of Superior Court Civil Rule 60 as a guideline.

(2) Good cause may include, but is not limited to, the following examples.

(a) You ignored a notice because you were in the hospital or were otherwise prevented from responding; or

(b) You could not respond to the notice because it was written in a language that you did not understand.

(3) For purposes of public assistance cases, good cause has the same meaning as described in RCW 74.08.080. Good cause for not requesting a hearing before the deadline may include, but is not limited

to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

WAC 388-02-0085 Do you have a right to a hearing? (1) You have a right to a hearing only if a law or DSHS rule gives you that right. If you are not sure, you should request a hearing to protect your right.

(2) Some DSHS programs may require you to go through an informal administrative process before you can request or have a hearing. The notice of DSHS action sent to you should include information about this requirement if it applies.

(3) You have a limited time to request a hearing. The deadline for your request varies by the DSHS program involved. You should submit your request right away to protect your right to a hearing, even if you are also trying to resolve your dispute informally. For public assistance cases, if an applicant or recipient does not file a request for a hearing within 90 calendar days after receiving notice of an aggrieving decision, the request may still be filed within one year of the aggrieving decision upon a showing of good cause. For purposes of public assistance cases, as defined in RCW 74.08.080, good cause for not requesting a hearing before the deadline may include, but is not limited to: military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(4) If you request a hearing, one is scheduled.

(5) If DSHS or the ALJ questions your right to a hearing, the ALJ decides whether you have that right.

(6) If the ALJ decides you do not have a right to a hearing, your request is dismissed.

(7) If the ALJ decides you do have a right to a hearing, the hearing proceeds.