

WAC 388-14A-3140 What can happen at a hearing on a support establishment notice? (1) When a party requests a hearing on a notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR), the hearing is limited to:

(a) Resolving the current and future support obligation and the accrued support debt of the noncustodial parent (NCP); and

(b) Establishing the medical support obligations of both the NCP and the custodial parent (CP), if the CP is the legal or biological parent of the child(ren).

(2) The hearing is not for the purpose of setting a payment schedule on the support debt.

(3) The NCP and the CP each have the burden of proving any defenses to their own liability. See WAC 388-14A-3370.

(4) The NCP and/or the CP must show cause why the terms in the NFFR, NFPR, or NFMR are incorrect.

(5) The administrative law judge (ALJ) has authority to enter a support obligation that may be higher or lower than the amounts set forth in the NFFR, NFPR, or NFMR, including the support debt, current support, and the future support obligation.

(a) The ALJ may enter an order that differs from the terms stated in the notice, including different debt periods, if the obligation is supported by credible evidence presented by any party at the hearing, without further notice to any nonappearing party, if the ALJ finds that due process requirements have been met.

(b) Any support order entered by the ALJ must comply with the requirements of WAC 388-14A-6300.

(6) The ALJ has no authority to determine custody or visitation issues, or to set a payment schedule for the arrears debt.

(7) When a party has advised the ALJ that they will participate by telephone, the ALJ attempts to contact that party on the record before beginning the proceeding or rules on a motion. The ALJ may not disclose to the other parties the telephone number or the location of the party appearing by phone.

(8) In support establishment hearings, both the NCP and CP may participate in the hearing. However, in certain cases, there is no "custodial parent" because the child or children are in foster care.

(a) If the NCP and CP both fail to appear for hearing, see WAC 388-14A-3131.

(b) If only one of the parties appears for the hearing, see WAC 388-14A-3132.

(c) If the NCP and CP both appear for hearing, see WAC 388-14A-3133.

(9) In some cases, there can be two NCPs, called "joint NCPs." This happens when DCS serves a joint support establishment notice on the marital community made up of a husband and wife who reside together, or on the domestic partnership community made up of two registered domestic partners who reside together, seeking to establish a support obligation for a child in common who is not residing in their home.

(a) If both of the joint NCPs fail to appear for hearing, see WAC 388-14A-3131;

(b) If both of the joint NCPs appear for hearing, see WAC 388-14A-3133; or

(c) One joint NCP may appear and represent the other joint NCP.

(10) When a CP is granted good cause level B (see WAC 388-422-0020), DCS notifies the CP that the CP will receive documents, notices and orders. The CP may choose to participate at any time.

Failure to appear at hearing results in a default order but does not result in a sanction for noncooperation under WAC 388-14A-2041.

(11) If any party appears for the hearing and elects to proceed, the ALJ hears the matter and enters a final order based on the evidence presented, unless the ALJ grants a continuance. The ALJ includes a party's failure to appear in the initial decision and order as an order of default against that party. The direct appeal rights of the party who failed to appear are limited to an appeal on the record made at the hearing.

[Statutory Authority: RCW 26.09.105(17), 26.18.170(19), 26.23.050(8), 26.23.110(14), 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20.040, 74.20A.055(9), and 74.20A.056(11). WSR 11-12-006, § 388-14A-3140, filed 5/19/11, effective 6/19/11. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.160. WSR 06-09-015, § 388-14A-3140, filed 4/10/06, effective 5/11/06. Statutory Authority: RCW 74.08.090, 34.05.310 (4)(d), 34.05.220(1), 74.20A.055, 74.20A.056. WSR 03-20-072, § 388-14A-3140, filed 9/29/03, effective 10/30/03. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056. WSR 00-15-016 and 00-20-022, § 388-14A-3140, filed 7/10/00 and 9/25/00, effective 11/6/00. Formerly WAC 388-11-400 and 388-11-425.]