

Department of Social and Health Services

Olympia, Washington

**EAZ Manual**

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Category Administrative Disqualification Hearings for Food Assistance  
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**Summary**

Updated Clarifying Information under [WAC 388-446-0015](#) #2.  
See below for edited text:



## Administrative Disqualification Hearings for Food Assistance

Revised ~~April 19, 2019~~ March 23, 2020

### • Purpose:

[WAC 388-446-0015](#)\_ What is an Intentional program violation (IPV) and administrative disqualification hearings (ADH) for food assistance.

- Clarifying Information, Administrative Hearing Coordinator Responsibilities, and Final Agency Decision

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## Clarifying Information:

### WAC 388-446-0015 - Intentional Program Violation (IPV) and Administrative Disqualification Hearings (ADH) for Food Assistance

1. An Intentional Program Violation (IPV) of the Food Assistance program can be determined by a decision in an Administrative Disqualification Hearing or by a decision of the court in a criminal prosecution.
2. A person suspected of a IPV can choose to waive their right to an ADH by signing a [Waiver of Administrative Disqualification Hearing or a Disqualification Consent Agreement \(DCA\)](#) ~~that waives their right to a ADH and to~~ accepts the IPV penalty under WAC 388-446-0020.
3. The department must decide whether to refer an IPV instance for prosecution **or** for an ADH; both procedures shall not be pursued at the same time. Upon completion of an ADH, the department may choose to then refer the case for prosecution.
4. Separate instances of suspected IPV could be combined into one complaint that totals \$450 or more. [See FRAUD](#)
5. The department must prove the IPV with "clear and convincing evidence". This means that the evidence must establish that it is highly probable the actions that resulted in the overpayment were intentional.

## Administrative Hearing Coordinator Responsibilities:

1. Review the Disqualified Recipient System (DRS) to determine if the person suspected of an IPV has a record of past disqualifications.
2. Determine the appropriate penalty based on the record of past disqualifications, if any
3. Review the department records to identify evidence that will establish:
  1. An overpayment or combination of overpayments exists which total over \$450 (e.g. a copy of the overpayment letter with proof of service if already served, or a copy of the letter if the overpayment letter has not been served).
  2. The respondent was aware of the reporting responsibilities.
  3. There was a change in circumstances that affected eligibility (e.g. an employer report which establishes the date that work began)
  4. The respondent had an opportunity to report the change, and failed to do so (e.g. a change of circumstance completed during the period of the overpayment)
  5. The respondent provided false or misleading information (e.g. denied working at an eligibility review).

4. Ensure that all of the evidence to be proposed at the hearing is included. The ALJ may not be able to admit new evidence at the hearing that was not included in the listing of evidence on the complaint.
5. Complete the Disqualification Consent Agreement, DSHS 12-195(x) or ACES letter 0055-02 (First or Second Occurrence), 0055-04 (Third Occurrence). Include a listing of the evidence that will be used at the hearing.
6. Send the complaint to the Office of Administrative Hearings and include a blank envelope (not window), which shows the CSO return address. OAH will schedule the hearing and send the notice to the respondent in the CSO envelope.
7. If the notice is unclaimed or otherwise undeliverable, it will be returned to the CSO. Determine whether delivery should be attempted again either by personal service or re-mailing of the certified mail.
8. If no further attempts at delivery will be made, notify OAH immediately that delivery has not been accomplished and the case should be removed from the docket.
9. Hold the case until it can be resubmitted to the OAH for scheduling.

## Final Agency Decision:

Review the final decision and take the appropriate action to implement the final decision.