

104476

STATE OF WASHINGTON
BEFORE THE SECRETARY, DEPARTMENT OF SOCIAL AND HEALTH SERVICES

BOOK 107 PAGE 959

NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY

TO:

WALTER RAYMOND LONG
CARSON SPRING RD
CARSON, WA 98610

REGARDING:

Margaret K. Long
53-C-170792-0

THIS IS A NOTICE to inform you that the Office of Support Enforcement believes you owe support for the following child(ren):

Angela C. Long

01/24/72 | Walter T. Long

08/09/75

READ THIS NOTICE (PAGES 1 AND 2) CAREFULLY SINCE IT CONTAINS IMPORTANT INFORMATION AS TO HOW THIS FINDING WAS MADE AND HOW YOU MAY MAKE OBJECTION.

The Office of Support Enforcement finds that you owe the following support obligation(s):

- 1. Monthly payment due as future/current support \$492.00
First payment due: 1/88
 - 2. TOTAL past/accrued support debt owed \$1,971.00
- For period:
- 2/87 @ \$51.00
 - 3/87-5/87 (3Mo X \$492) \$1,476.00
 - 12/87 @ \$444.00

FILED FOR RECORD
SKAMIA CO. WASH
BY D.S.H.S.

DEC 21 1 32 PM '87
d. J. Rep.
AUDITOR
GARY M. OLSON

YOU ARE RESPONSIBLE FOR ANY MEDICAL EXPENSES THAT MAY HAVE INCURRED OR WILL BE INCURRED ON BEHALF OF YOUR CHILD(REN) OR MUST PROVIDE MEDICAL INSURANCE COVERAGE, IF AVAILABLE AT A REASONABLE COST, THROUGH YOUR EMPLOYER OR OTHER ORGANIZATION.

A. HOW YOUR CHILD SUPPORT OBLIGATION WAS DETERMINED.

The Office of Support Enforcement establishes child support obligations on the basis of the needs of your child(ren) or your ability to pay if information regarding your earnings and assets is known. Since current earnings and asset information is generally not known when a Notice is issued, this Notice is most likely based on the needs of your children and may provide for payments in excess of your ability to pay. If you are unable to pay the amounts stated and/or our information is incorrect or incomplete, contact the Support Enforcement Officer listed below and negotiate a reasonable settlement, agreement, or complete the enclosed objection form and request an administrative hearing. IF YOU FAIL TO EXECUTE SUCH A SETTLEMENT AGREEMENT, OR TO OBJECT TO THIS NOTICE AND REQUEST A HEARING WITHIN TWENTY DAYS OF RECEIPT OF THIS NOTICE, THE AMOUNTS STATED IN THIS NOTICE SHALL BECOME FINAL AND ARE SUBJECT TO COLLECTION ACTION WITHOUT FURTHER NOTICE TO YOU.

If you agree with the amounts stated for future/current support and the past/accrued support debt, contact the Support Enforcement Officer and negotiate a settlement agreement which provides for future/current support payments and reasonable monthly installments to repay your support debt.

Indirect
Filed
Mailed

The future/current support payments stated in this Notice are due each month on or before the date specified. This obligation continues each month unless you agree to and sign a settlement agreement for a different amount, or it is determined or modified by an administrative decision pursuant to WAC 388-11, or until it is replaced by a superior court order. Each monthly amount, if not paid, becomes an accrued past debt to be collected from you in full by the state of Washington.

B. HOW TO MAKE AN OBJECTION

You have the right to object to this notice and have your objections considered at a hearing. If you wish to object to any or all parts of this notice, you must file your objection, in writing, no later than twenty (20) days from the date this notice was served upon you. You may use the attached objection form for this purpose. Your objections must be sent by certified mail, registered mail, or delivered in person to the Office of Support Enforcement. It is your responsibility to notify the Office of Support Enforcement of your mailing address at the time you serve your objection and also to advise of any subsequent change of address. Mailing to the address you give will constitute legal service of later notices and the final decision.

When your objection has been received, a hearing will be scheduled so that you may present any defenses you may have. You will then be notified, in writing, of the time, date, and place of the hearing and this notice will also be sent to you by certified mail.

IF YOU DO NOT FILE AN OBJECTION OR MAKE PAYMENTS AS STATED IN THIS NOTICE, OR TAKE ACTION TO PRESENT DEFENSES, NEGOTIATE AGREEMENTS, OR FILE ACTION IN SUPERIOR COURT WITHIN TWENTY DAYS OF RECEIPT OF THIS NOTICE, PART OR ALL OF YOUR WAGES, INCOME, REAL ESTATE, MOTOR VEHICLES, AND ANY OTHER REAL AND PERSONAL PROPERTY MAY BE SEIZED OR WITHHELD TO COLLECT THE AMOUNTS STATED ABOVE. UNDER FEDERAL LAW THE OFFICE OF SUPPORT ENFORCEMENT IS REQUIRED TO INITIATE ACTION TO WITHHOLD 50 PERCENT OF YOUR DISPOSABLE WAGES IF YOU ARE DELINQUENT IN YOUR SUPPORT OBLIGATION IN THE AMOUNT EQUAL TO THE SUPPORT FOR ONE MONTH. THIS COLLECTION ACTION MAY BE TAKEN WITHOUT FURTHER NOTICE TO YOU.

You may wish to have an attorney represent you. If so, you should contact your attorney immediately so that any objection you may have will be filed no later than twenty (20) days from the date of service of this notice upon you. If you cannot afford an attorney, contact your local bar association regarding the availability of free legal services or a lawyer referral service.

C. HOW TO MAKE PAYMENTS.

All payments for the support of your child(ren) after you have received this notice must be made directly to the Office of Support Enforcement at the address listed below. If you pay support directly to the custodian of the child(ren), you still owe the Office of Support Enforcement the full amount stated in this notice including any amount which may accrue in the future. Payment to anyone other than the Office of Support Enforcement will not be credited against your current support obligation or your accrued debt, whether or not such payment is in cash, check, money order, in-kind services, merchandise or anything else of value. All such payment may be considered a gift to your children.

D. TO ENSURE PROPER CREDIT TO YOUR ACCOUNT, PLEASE INCLUDE THIS ACCOUNT # 1600179 ON ALL PAYMENTS.

E. LEGAL BASIS OF THIS NOTICE.

The Office of Support Enforcement has obtained the right to collect these debts because of the assignment and/or subrogation of these debts, and/or authorization to enforce and collect. The legal basis of these debts and the right to collect them may be found in RCW 26.16.205, RCW 74.20, RCW 74.20A, WAC 388-11, and other laws and regulations of the state of Washington and the federal government.

DATE: this Seventeenth day of December, 1987

Send Hearing Request to:

OFFICE OF SUPPORT ENFORCEMENT
5411 E. Mill Plain Road
PO Box 4269, MS: S53-2
Vancouver, Wa 98662
(206) 690-4746


Authorized Representative
OFFICE OF SUPPORT ENFORCEMENT

CONTACT: G. Quatier
(206) 690-4746

IN REPLY REFER TO D #: 547872

OBJECTION/REQUEST FOR A HEARING

TO: OFFICE OF SUPPORT ENFORCEMENT
5411 E. Mill Plain Road
PO Box 4269, MS: S53-2
Vancouver, Wa 98662

FROM: _____
YOUR NAME

YOUR STREET ADDRESS, P O. BOX, RRN

CITY STATE ZIP CODE

REGARDING: Margaret K. Long
53-C-170792-0

I hereby object to the Notice served on me and I request a hearing. My current mailing address is as listed above and I understand that I must notify the Department of any change of address. I further understand that later certified mailings to my last known address will constitute service of any subsequent notices, orders or decisions relating to this action. I object to this Notice for the following reasons:

DATED THIS _____ DAY OF _____ 19 _____

YOUR SIGNATURE

READ PAGE 2 OF THIS FORM FOR IMPORTANT INSTRUCTIONS AS TO THE USE OF THIS FORM

In reply, refer to D # 547872

INSTRUCTIONS

If a hearing is requested, service of this objection personally or by certified mail must be made to the office listed herein within twenty (20) days of the date of service of the Notice and Finding of Financial Responsibility.

Notice of the date, time and place of the hearing on your objection and your copy of the decision on said hearing will be sent to you by certified mail to your last known address. You should make all necessary efforts to receive any certified mail sent to you after you have requested a hearing as the notice of the date, place, and time of your hearing will be sent to you within 14 days of your request by certified mail. Failure to appear at the hearing will result in a **DEFAULT** being entered against you and child support will be established in the amounts set out in the Notice.

This form must be completed if you object to the Notice. A resolution of your objections could be obtained prior to your hearing through communication with the Support Enforcement Officer between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

If you desire to be contacted to attempt to settle or resolve this matter prior to hearing, please check and complete the appropriate box below. This discussion does not affect your right to a hearing if a resolution is not possible.

Please contact me at _____ between the hours of _____ a.m.
Telephone Number
 and _____ p.m. on _____
Day(s) of week

I will be in the Office of Support Enforcement on _____
Month Day Year
 between the hours of _____ a.m. and _____ p.m.

UNOFFICIAL COPY

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
OFFICE OF SUPPORT ENFORCEMENT

HEARING REGULATIONS -- NO COURT ORDER

WAC 388-11-010 Statutory Basis. RCW 74.20A.055 is the administrative process for determination of or establishment of support obligations when there is no superior court order. These provisions contain the administrative method to be used when there is an absence of a superior court order in cases where a notice and finding of financial responsibility has been served by the office of support enforcement or their agent on the responsible parent. Action based on chapter 74.20A RCW may not be based on agreements. The notice and finding of financial responsibility may be served only for a support debt or responsibility to support accrued and/or to be established under chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess., RCW 74.20A.030, RCW 74.20.040, RCW 26.16.205 and/or RCW 74.20A.250 relating to a period of time when a superior court order did not exist, specifically including cases eligible for nonassistance support enforcement services under WAC 388-14-302.

WAC 388-11-011 Definitions.

- (1) **"Locate"** for purposes of this chapter shall mean service of the notice and finding of financial responsibility in a manner prescribed by WAC 388-11-040.
- (2) **"Responsible efforts to locate"** shall mean any of the following actions taken on a case:
 - (a) Mailing of the notice and finding of financial responsibility by certified mail return receipt requested to an address, reasonably believed by office of support enforcement to be a mailing address of the responsible parent; or
 - (b) Referral to a sheriff, other server of process or locate service or other agent or employee of the department for locate activities if the responsible parent is not located under subsection (2)(a) of this section, or if no known mailing address exists but the information which office of support enforcement has, reasonably indicates that the responsible parent can be located; or
 - (c) When service cannot be accomplished, tracing activity as stated below:
 - (i) Checking of local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers or the postal authorities when appropriate;
 - (ii) Contacting state agencies, union, financial, or fraternal organizations available on the local level to which the Responsible parent is known to have had contact or membership.
 - (d) Referral to state parent locator service when tracing efforts under (c) above are exhausted;
 - (e) Referral to the attorney general, a prosecuting attorney or the internal revenue service for specific legal or collection action.
- (3) **"The date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought"** shall mean the date payment of an AFDC-R, AFDC-E, AFDC-FC or state only foster care grant is authorized or September 1, 1979, whichever is later.
- (4) **"Department"** means the state department of social and health services.
- (5) **"Secretary"** means the secretary of the department of social and health services, or the secretary's designee or authorized representative.
- (6) **"Hearing examiner"** shall mean administrative law judge employed by the office of administrative hearings, hearing the testimony and making the initial decision under chapter 388-11 WAC.
- (7) **"Dependent child"** means any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.
- (8) **"Superior court order"** means any judgment or order of the superior court of the state of Washington ordering payment of a set or determinable amount of support moneys, or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys. Orders of the superior court which failing to expressly require payment of support by a responsible parent or orders failing to specifically relieve the responsible parent, of the support obligation shall not constitute a superior court order.
- (9) **"Responsible parent"** means the natural parent, adoptive parent, or a stepparent of a dependent child.
- (10) **"Stepparent"** means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist and continue as provided for by RCW 26.16.205 until the relationship is terminated by death or dissolution of marriage.
- (11) **"Support moneys"** means any moneys paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.
- (12) **"Future" support or "future and current" support or "future/current" support** shall mean support moneys paid to satisfy the support obligation for the instant or present month as opposed to satisfaction of support obligations owed for previous and past months which, have been unpaid, are delinquent.
- (13) **"Debt," "arrears," "delinquency," "past support,"** shall all mean the amount owed for a period of time prior to the instant month but is owed for a period of time in the past.
- (14) **"Need"** means the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children.
- (15) **"Good cause"** means that there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in RCW 4.72.010 and CR60 and allegation is made of a defense under WAC 388-11-065.
- (16) **"Assignment pursuant to RCW 74.20A.040"** shall mean the assignment made by an applicant/custodian of support rights pursuant to WAC 388-14-310.
- (17) **"Fraud"** for the purposes of WAC 388-11-115 means
 - (a) The representation of the existence or nonexistence of a fact;
 - (b) Its materiality;
 - (c) Its falsity;
 - (d) The speaker's knowledge of its truth;
 - (e) His or her intent that it should be acted on by the person to whom it is made;
 - (f) Ignorance of its falsity on the part of the person to whom it is made;
 - (g) The latter's reliance on the truth of the representation;
 - (h) His or her right to rely upon it; and
 - (i) His or her subsequent damage.

WAC 388-11-015 Credits allowable in satisfaction of debt. Pursuant to RCW 74.20.101, after a notice and finding of financial responsibility has been served on the responsible parent, satisfaction in whole or in part of the debt may be obtained only by cash, check, or money order payments through the office of support enforcement. After service of said notice, any attempt to satisfy the debt by providing the caretaker, custodian, vendor or other third party with cash, check, money order or in-kind, noncash, non-negotiable items or services, including payments for any item to vendors or other third parties of items included in the public assistance standards, is conclusively presumed to be gifts and will not be credited against the debt. Family necessities provided directly to the caretaker/custodian, or children, or provided through vendors or third parties, may be credited against the debt only if they are provided prior to service of the notice and finding of financial responsibility on the responsible parent pursuant to WAC 388-11-040. To obtain such credit the responsible parent has the burden of proving, by a preponderance of the evidence, that such items provided were, at that time, intended to satisfy, in whole or in part, the common law or statutory obligation of said responsible parent; Provided, no credit may be given for items which are not food, clothing, shelter or medical attendance: PROVIDED, FURTHER, That shelter payments made may not be credited against any debt for any period determined under chapter 388-11 WAC in an amount greater than the shelter allocation in the public assistance standards for the same period or one-half of the actual shelter payment made, whichever is the greater. Any credit given shall be classified as a payment of child support and shall be treated consistent with rules of eligibility in effect at the time of payment. After assignment has been made pursuant to WAC 388-24-108, any support payments made subsequent to assignment shall be treated pursuant to WAC 388-14-210.

WAC 388-11-036 Notice and finding of financial responsibility.

- (1) The notice and finding of financial responsibility shall set forth the office of support enforcement's finding of responsibility, the amount which the office of support enforcement alleges that the responsible parent owes as an accrued debt and a statement of the demand for payment thereon. Where appropriate the notice and finding of financial responsibility shall also set forth the office of support enforcement's finding of responsibility as to the amount the responsible parent should pay in the future as periodic future support for such period of time as the child or children are in need. The notice may also include a finding of responsibility for medical expenses including responsibility to provide medical insurance coverage if such coverage is available at a reasonable cost to the responsible parent.
- (2) The notice and finding of financial responsibility shall also include:
 - (a) A statement of the name of the recipient or custodian;
 - (b) The name of the child or children on whose behalf need is alleged;
 - (c) A statement that, if the responsible parent objects to all or any part of the notice and finding of financial responsibility, he or she shall have a right, for not more than twenty days from date of service, to request a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future;
 - (d) A statement that, said obligation shall be communicated, in writing, and shall be served on the district field office of the office of support enforcement issuing the notice and finding of financial responsibility;
 - (e) A statement that if the responsible parent fails to object in writing, in a timely manner, the support debt and/or payments stated in the notice and finding of financial responsibility shall be assessed and determined and ordered in accordance with the finding of responsibility of the department as set forth in the notice and finding of financial responsibility;
 - (f) A statement that the support debt, as assessed and determined and ordered is subject to collection action and that the property of the debtor, without further advance notice of hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.
 - (g) A statement that, after service of the notice, all payments made which are intended to satisfy a current and/or accrued child support obligation alleged in the notice must be made directly to the office of support enforcement. Payments made to any other party will not be credited against the debt. Whether or not such payment is in cash, check, money order, in-kind services, merchandise or anything else of value.

WAC 388-11-040 Service of notice and finding of financial responsibility. The notice and finding of financial responsibility shall be served on the responsible parent by the office of support enforcement or their agent in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

WAC 388-11-045 Service requirements - Tolling.

- (1) For support obligations owed for months on or after September 1, 1979: If the notice and finding of financial responsibility is not served within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought, the department shall lose the right to reimbursement of payments made after the sixty days and before the date of service of the notice: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty day period is tolled until such time as the debtor can be located.
- (2) For support obligations owed for months before September 1, 1979, and for which a final determination was issued on or after September 1, 1979:
 - (a) If the notice and finding of financial responsibility is not served within six months from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought, the department shall lose the right to reimbursement of payments made after the six months and before the date of service of the notice: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so, the entire six month period is tolled until such time as the debtor can be located. Such reasonable efforts to locate shall be supported by contemporaneous recordings in the departments file.
 - (b) The provisions of WAC 388-11-045(2) are intended to implement the holding of Gangon vs. DSHS, Thurston county cause number 80-2-01004-0.

WAC 388-11-050 Failure to make request for hearing. If the responsible parent fails to object, in a timely manner, to the finding of responsibility of the office of support enforcement, such findings as are stated in the notice and finding of financial responsibility shall become final subject to the provisions of WAC 388-11-055. The debt, as stated, and/or the future periodic support payments to prospectively satisfy liability under chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess., RCW 74.20A.030, 74.20.040 or 26.16.205 and/or 74.20A.250 shall be subject to collection action.

WAC 388-11-055 Petition for hearing after twenty days--Stay.

- (1) The responsible parent may, at any time, upon a showing of good cause for the failure to make a timely request for hearing, petition the secretary or the secretary's designee for a hearing, as provided for but not previously granted pursuant to WAC 388-11-060, 388-11-065, and 388-11-100. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the amount of a summons in a civil action on the district office of the office of support enforcement. The filing of such petition shall not stay any collection action being taken under chapter 74.20A RCW. The petition shall state the grounds alleged by the responsible parent to constitute good cause for the failure to make a timely request for hearing.
- (2) The granting of a request for a hearing under (1) above shall operate as a stay on any collection action to collect moneys due under the original notice.
- (3) On petition of the responsible parent or office of support enforcement, a hearing may be scheduled to consider:
 - (a) Whether good cause exists to grant a hearing;
 - (b) Setting of temporary current and future support;
 - (c) Settlement of any or all of the issues;
 - (d) Such other matters as may aid in disposition of the proceeding; and
 - (e) If agreed to by the parties to hear the merits of the responsible parent's objections to the notice and finding of financial responsibility.

Notice of this hearing shall be mailed to the parties by certified mail, not less than ten days prior to the scheduled date of the hearing. The petition for setting temporary current and future support may be brought at any time prior to the final decision. The hearing examiner shall, in writing, order payment of temporary current and future support in an amount determined pursuant to the scale of minimum contributions in WAC 388-11-190 unless such payment is contrary to law. Payment shall be ordered to be paid beginning with the month in which the petition for an untimely hearing is granted.

- (4) In the event the responsible parent does not make payment of the temporary current and future support as ordered, the office of support enforcement may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the temporary order.
- (5) Moneys withheld as a result of collection action in effect at the time of granting of the request for the hearing shall be delivered to the office of support enforcement and shall be held in trust by the office of support enforcement pending the final order of the secretary or during the pendency of any appeal to the courts. Temporary current and future support paid, or collected during the pendency of the hearing or appeal shall be disbursed when received by the office of support enforcement.
- (6) If the final decision of the department or the courts on appeal is that the department has collected an amount from the responsible parent greater than such parent's past support debt, other than temporary current and future support, such excess shall promptly be refunded to such parent.

WAC 388-11-060 Request for hearing. Any responsible parent who objects to all or any part of the notice and finding of financial responsibility shall have the right, for not more than twenty days from the date of service of said notice and finding of financial responsibility, to request, in writing, a hearing which request shall be served upon the office of support enforcement by registered or certified mail or personally. A request for hearing, pursuant to this section, shall not be construed to be or considered as a general denial of requests for admission pursuant to WAC 388-11-080. The execution of the notice and finding of financial responsibility shall be stayed only until the final decision on such hearing. Further stays may be obtained only pursuant to RCW 34.04.130(3). If an objection is received, the secretary or the secretary's designee shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his representative by registered or certified mail. The hearing shall be scheduled within thirty days of the date of receipt of the objection. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.

WAC 388-11-065 Responsible parent to show cause--Affirmative defenses--Burden of proof. At the hearing held pursuant to WAC 388-11-060, the responsible parent shall show cause, if any there be, why the finding of financial responsibility and/or the amount prayed for therein is inaccurate and why the hearing examiner should not enter an initial decision and order as prayed for in said notice and finding of financial responsibility but should either rescind or modify the same. In said show cause hearing the responsible parent shall state affirmatively and shall have the burden of proving:

- (1) Estoppel;
- (2) Payment;
- (3) Release;
- (4) Superior court order;
- (5) Lack of eligibility in the receipt of public assistance funds paid to or for the benefit of the responsible parent's minor child or children: PROVIDED, That lack of eligibility shall operate as a defense only as to debt accrued prior to September 1, 1979: PROVIDED, FURTHER, That lack of eligibility shall operate as defense to a responsible parent's liability to repay the department only to the extent the amount of ineligibility proven in any one month exceeds the difference between the total grant for that month and the amount of the support liability determined for that month;
- (6) That the appellant is not a responsible parent;
- (7) Inability to pay the amount determined;
- (8) Lack of need and/or debt pursuant to RCW 26.16.05: PROVIDED, That the amount determined by reference to the schedule of suggested minimum contributions in WAC 388-11-190, based on the earnings, resources, and property of the responsible parent shall be rebuttable presumption of the responsible parent's ability to pay and the need of the family on whose behalf action is being taken. If said presumption is rebutted the office of support enforcement shall be afforded reasonable opportunity to present additional evidence of actual need with the right to a continuance on request to present said evidence: PROVIDED FURTHER, Said rebuttable presumption shall apply whether or not the child or children are recipients of or applicants for public assistance. The responsible parent shall be presumed to have no ability to pay from income received from AFDC, SSI, or continuing general assistance;
- (9) Discharge in bankruptcy; and

- (10) The responsible parent, pursuant to chapter 74.20 RCW, should be excused from making support payments for the child or children, receiving or on whose behalf public assistance was provided under chapter 74.12 RCW, because the responsible parent is the legal custodian of the child or children and has been wrongfully deprived of physical custody of the child or children: **PROVIDED HOWEVER**, That the responsible parent may only be excused from making support payments for the period or periods during which the responsible parent was wrongfully deprived of custody. In order to be excused from making support payments, the responsible parent must show:
- (a) A court of competent jurisdiction of this state or another state has entered an order giving legal and physical custody of the child or children to the responsible parent;
 - (b) The custody order has not been altered, changed, modified, superseded, or dismissed;
 - (c) The child or children were taken or enticed from the physical custody of the responsible parent without his or her consent, and the responsible parent has not subsequently assented to being deprived of physical custody of the child or children; and
 - (d) The responsible parent, within a reasonable time of the date the responsible parent was wrongfully deprived of physical custody of the child or children, exerted and has continued to exert reasonable efforts to regain physical custody of the child or children;
- (11) Medical insurance coverage is not available at a reasonable cost: **PROVIDED**, That if such coverage is available through the responsible parent's employer or other organization at a cost to the responsible parent of twenty-five dollars per month or less, there shall be a rebuttable presumption that coverage is available at a reasonable cost; and
- (12) Any other matter constituting an avoidance or affirmative defense to the notice and finding of financial responsibility. Except as provided for in chapter 388-02 WAC for discovery, the hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents, or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that relevant, nonconfidential information or documents which the office of support enforcement has in its possession.

Except as provided for in chapter 388-08 WAC for discovery, the hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that nonconfidential information or documents which the office of support enforcement has in its possession.

WAC 388-11-070 Continuance of cases. Either the office of support enforcement or the responsible parent desiring a continuance shall immediately, upon receipt of notice of hearing, or as soon thereafter as facts requiring such continuance come to his or her or their knowledge, notify the hearing examiner stating the reasons such continuance is necessary. For good cause shown, the hearing examiner may grant such continuance upon his own motion. During the hearing, if it appears in the interest of justice that further testimony or argument should be received, the hearing examiner may continue the hearing and fix a date for introduction of additional evidence or presentation of argument.

WAC 388-11-080 Requests for admission. Either the office of support enforcement or the responsible parent may serve upon the other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of RCW 74.20A.055. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of the hearing examiner, be served upon the other party together with, or at any time subsequent to the service of the notice and finding of financial responsibility upon the responsible parent. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within twenty days after the service of the request, or within such shorter or longer time as the hearing examiner may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or denial addressed to the matter, signed by the party or his attorney. If denial is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. The party who has requested the admission may move to determine the sufficiency of the answers or denials. Unless the hearing examiner determines that an objection is justified, he will order that an answer be served. If the hearing examiner determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served. The hearing examiner may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to hearing. Any matter admitted under this rule is conclusively established unless the hearing examiner on motion permits withdrawal or amendment of the admission for good cause shown. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

WAC 388-11-090 Hearing examiner. The hearing shall be conducted by a duly qualified hearing examiner appointed by the secretary for such purpose who was not previously involved in any way with the action in question. No hearing examiner or hearing examiner acting as designee of the secretary for the purpose of review of decisions pursuant to WAC 388-11-100 and WAC 388-14-375 shall hear or review a contested case provided for by RCW 74.20A.055, when it has been requested by any party or representative that a different hearing examiner be assigned to hear or review said matter: **PROVIDED**, that no party or representative shall be permitted to make more than one such request in the same case without the allegation and proof that actual cause exists for the removal of the hearing examiner first assigned to hear said case. The party or representative requesting the change of hearing examiner shall make said request in writing.

WAC 388-11-100 Duty of hearing examiner. Based on the notice and finding of financial responsibility and objections made thereto, the hearing examiner shall determine the liability and responsibility, if any, of the responsible parent under RCW 74.20A.057. The hearing examiner shall also determine the amount of periodic payments to be made to satisfy past, present, or future liability and the responsible parent's liability for medical expenses including responsibility to provide medical insurance coverage. The hearing examiner shall include in his or her consideration the standards in WAC 388-11-190 and the uniform child support guidelines adopted by the Washington state association of superior court judges. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set a amount of support, as to the past, present, or future, at a greater or lesser amount than the amount stated or computed in reference to the scale in WAC 388-11-190 and shall include in his or her consideration:

- (1) All earnings and income resources of the responsible parent, including real and personal property;
- (2) The earnings potential of the responsible parent;
- (3) The reasonable necessities of the responsible parent;
- (4) The ability of the responsible parent to borrow;

- (5) The needs of the child for whom the support is sought;
- (6) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;
- (7) The existence of other dependents; and
- (8) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent.

In determining the responsible parent's liability for medical expenses, including responsibility to provide medical insurance coverage, the hearing examiner shall consider:

- (a) The known or anticipated medical needs of the child or children;
- (b) The cost of medical coverage and whether or not such coverage is available through the responsible parent's employer or other organization at a reasonable cost to the responsible parent;
- (c) The earnings and resources of the responsible parent;
- (d) The reasonable necessities of the responsible parent; and
- (e) The amount of the responsible parent's child support obligation, which obligation shall have priority over the obligation to provide medical coverage unless the hearing examiner makes a finding of fact that the medical needs of a child are extraordinary, and the best interest of the child would be better served if medical coverage is provided.

The findings of fact as to unusual circumstances shall consist of a concise statement of each fact found upon each contested issue of fact and shall state the grounds for deviation from the standards in WAC 388-11-190. The hearing examiner shall make his initial decision and enter his or her findings of fact based on the notice and finding of financial responsibility and the evidence admitted at the hearing.

The office of support enforcement has a right to orally amend the notice and finding of financial responsibility, at the time of hearing, to conform to the evidence in which case the hearing examiner is empowered, when deemed necessary, through continuance, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The decision and order shall include a notice that, if the responsible parent fails to make periodic payments as ordered, the entire arrearage shall be collectable by the office of support enforcement and that collectable action, including but not limited to the issuance of an order to withhold and deliver against the earnings or property of the responsible parent, may be initiated without further notice.

The hearing examiner shall file the original of the initial decision and order signed by him with the secretary or his designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and the appellant by certified mail to the last known address of the party.

WAC 388-11-105 Review of Initial decision. Within thirty days of service of the initial decision, either the appellant or the office of support enforcement may petition the secretary or the secretary's designee, in writing, for review of the initial decision and order. Such petition for review shall set forth in detail the basis for the requested review, and shall be mailed to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any one of the following causes materially affecting the substantial rights of the petitioner:

- (1) Irregularity in the proceedings of the hearing examiner or adverse party, or any order of the hearing examiner, or abuse of discretion, by which the moving party was prevented from having a fair hearing;
- (2) Misconduct of prevailing party;
- (3) Accident or surprise which ordinary prudence could not have guarded against;
- (4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the hearing;
- (5) That there is no evidence or reasonable inference from the evidence to justify the decision, or that is contrary to law or these rules;
- (6) Error in mathematical computation;
- (7) Error in the law occurring at the hearing and objected to at the time by the party making the application;
- (8) That the moving party is unable to perform according to the terms of the order without further clarification;
- (9) That substantial justice has not been done;
- (10) Fraud or misstatement of facts by any witness, pertaining to any defense provided for in WAC 388-11-065;
- (11) Clerical mistakes in the decision arising from oversight or omission; and/or
- (12) That the decision and order entered, because the responsible parent failed to appear at the hearing, should be vacated and the matter be remanded upon showing of the grounds enumerated in RCW 4.72.010 or CR60.

In the event no petition for review is made as provided herein by any party, the initial decision and order of the hearing examiner shall be final as of the date of filing and becomes the decision and order of the department. No appeal may be taken therefrom to the courts and the debt created is subject to collection action.

After receipt of a petition for review, the secretary of the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof and such additional evidence and argument as he may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the hearing examiner for additional evidence, argument, and/or for entry of findings of fact, conclusions of law and an initial decision in conformance with the order of remand. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions. At such time the initial decision and order shall be final as of the date of said denial and all parties shall forthwith be notified, in writing, of said denial by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law. The initial findings of fact, conclusions of law, and decision and order shall not be modified unless the findings of fact are unsupported by substantial evidence in view of the entire record and/or unless the applications of law in the initial decision are incorrect in the reasoned opinion of the review examiner. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under chapter 74.20A RCW.

WAC 388-11-115 Fraud-Vacation of decision.

- (1) Any initial decision, final decision or consent order may be vacated if the decision or order was based upon fraud by any witness or party.
- (2) The motion to vacate shall be filed within a reasonable period after the date that the fraud has been discovered or should have been discovered.

WAC 388-11-120 Default. If the responsible parent fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action.

WAC 388-11-130 Decision and order after hearing. The hearing examiner shall, within twenty days of the hearing, enter findings, conclusions, and an initial decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section if not reviewed, or the final decision if there is a review shall be entered as a decision and order and shall limit the support debt under chapter 17 sections 17 and/or 22, Laws of 1979 ex. sess., RCW 74.20A.030, 74.20A.040 and/or 26.16.205 and/or 74.20A.250 to the amount stated in said decision. Said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court for support to the extent the superior court order is inconsistent with the hearing order or decision.

WAC 388-11-135 Service. Service of the decision and order pursuant to WAC 388-11-120 or WAC 388-11-130 shall be by mailing a copy of the decision and order or notice of hearing to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order or notice of hearing to the last known address of appellant's attorney or other representative at the hearing, if any.

WAC 388-11-140 Modification. Based upon a showing of good cause and material change in circumstances, either the responsible parent or the office of support enforcement may petition the secretary or the secretary's designee to issue an order requiring the responding party to show cause why a decision previously entered determining responsibility for periodic future support payments, consent order or a final determination for periodic future support payments pursuant to WAC 388-11-050, ought not be prospectively modified. The petition must be accompanied by a supporting affidavit setting forth the particular facts relied upon. On receipt of the petition and affidavit, the secretary or the secretary's designee shall issue to the petitioner the show cause order setting forth the time, date, and place of the show cause hearing.

The hearing shall be a contested case, shall be set not less than fifteen days nor more than thirty days from the date of service unless extended for good cause shown.

The petitioner shall serve the responding party with a copy of the petition, affidavit, and show cause order in the manner of a summons in a civil action or by certified mail, return receipt requested.

An order to appear and show cause under this modification provision may not issue unless the previous decision, determination pursuant to WAC 388-11-150 or consent order of which modification is requested was entered pursuant to RCW 74.20A.055 and there is no superior court order for support. The hearing examiner, on petitions to modify, shall consider the standards set forth in WAC 388-11-100. If the responding party fails to appear at the hearing, the hearing examiner shall grant relief as a default order based upon the prayer for relief in the petition and affidavit. Within thirty days of entry of default order, the defaulting party may petition the secretary or the secretary's designee pursuant to WAC 388-11-105 to vacate the default order upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR60. If the petitioner fails to appear at the hearing, the hearing examiner shall enter an order dismissing the petition for modification. The hearing examiner may set the effective date of prospective modification as either the date of entry of the order or the date of receipt of the petition or any time in between, but if no effective date is set, the effective date shall be the date of the entry of the order. Any decision and order under this section shall be an initial decision by the hearing examiner subject to a petition for review by the secretary or the secretary's designee pursuant to WAC 388-11-105.

It shall not be necessary for the responsible parent or the office of support enforcement to show material change of circumstances if prospective modification is sought as to a final determination for periodic future support payments pursuant to WAC 388-11-050.

WAC 388-11-145 Notice to appellant. It shall be the responsibility of the appellant to notify the department of his or her mailing address at the time the request for hearing is made and also to notify the department of any subsequent change of mailing address during the pendency of the appeal including any review by the courts.

Whenever the department has notified the appellant of this responsibility, mailing by the department by certified mail to the appellant's last known address constitutes service of notice under chapter 388-11 WAC.

WAC 388-11-150 Consent order and agreed settlement. In the absence of a superior court order, informal disposition of any contested case or petition or order to show cause for modification wherein a support obligation is claimed pursuant to RCW 74.20A.057 is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by consent order or agreed settlement, "agreed settlement" being defined as written agreement signed by each party, which is effective without approval of any hearing examiner. If a consent order is involved, the hearing examiner shall approve that consent order disposing of a contested case unless specifically contrary to law. Informal disposition on consent order shall be deemed to be a request for hearing granting jurisdiction to the hearing examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the office of support enforcement. If negotiations as to a consent order or agreed settlement are commenced within twenty days of service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail and the responsible parent serves an objection on OSE within twenty days of the negotiations failing, the objection shall be considered timely served. The obligation to pay support or repay the debt, unpaid when due, stated in the consent order or agreed settlement is subject to collection action. Consent orders or agreed settlements are not subject to review pursuant to WAC 388-11-105 but are subject to modification pursuant to WAC 388-11-140 and may be vacated for fraud pursuant to WAC 388-11-115. Consent orders and agreed settlements shall contain the following provisions:

- (1) That the responsible parent shall provide medical insurance coverage for his or her dependent child or children if such coverage is available at a reasonable cost; and
- (2) That appropriate collection action, including but not limited to the issuance of an order to withhold and deliver against the debtor's earnings or property, may be initiated by the office of support enforcement without further notice to collect the entire arrearage if the responsible parent fails to make periodic payments as provided.

WAC 388-11-155 Duration of obligation. The obligation established pursuant to these rules shall continue in effect until superseded by a superior court order, modified pursuant to WAC 388-11-115 or until the child attains the age of majority or is sooner emancipated, or is self-supporting, married, or member of the armed forces of the United States. The obligation shall cease to accrue on the death of the child or the responsible parent, or if the responsible parent is a stepparent when the marriage is dissolved under chapter 26.09 RCW or under comparable procedures for divorce or dissolution of marriage. Provided that such obligation shall not be owed for the period of time during which the child is in the lawful physical custody of the responsible parent other than for purpose of visitation.

WAC 388-11-170 Collection of debt determined. Whenever an order designating the amount of periodic payments to be made to satisfy a past liability or periodic future support obligation has not been complied with, the accrued debt, not paid and any current delinquency, shall become due in full and the portion of the order designating periodic payments to satisfy past, accrued liability shall be deemed to be vacated without the necessity of further action by the hearing examiner. After such vacation, collection action pursuant to chapter 74.20A RCW by the office of support enforcement as authorized representative of the secretary as to debts determined, accrued, and unpaid may not be stayed by the hearing examiner and is subject only to review by the superior court pursuant to RCW 74.20A.200.

WAC 388-11-171 Procedural reference. The following WAC provisions are herewith included in this section and made applicable to hearings held pursuant to RCW 74.20A.055:

WAC:

388-08-055	388-08-180	388-08-235	388-08-490
388-08-083	388-08-190	388-08-375	388-08-500
388-08-150	388-08-200	388-08-390	388-08-520
388-08-160	388-08-210	388-08-400	388-08-600
388-08-170	388-08-220	388-08-480	

In determining the validity of defenses to liability asserted pursuant to WAC 388-11-065(5), other provisions of the Washington Administrative Code shall be applied.

WAC 388-11-185 Discovery. Either party may petition the hearing examiner for interrogatories and/or depositions for use as evidence in a hearing. The petitioner shall give reasonable notice of not less than five days in writing to the department's examiner and all parties. After notice is served for taking a deposition, the hearing examiner, upon his own motion or upon motion reasonable made by any party or by the person to be examined and for good cause shown, may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and the counsel. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged or confidential which is relevant to the subject matter involved in the proceeding.

If deemed expeditious, the hearing examiner may take or cause to be taken, depositions and interrogatories for use as evidence in any hearing.

WAC 388-11-190 Scale of minimum contributions. The rates shown in this section are established pursuant to RCW 74.20.270. They define levels of minimum contributions based on "net income" for use in determining the amount that a parent will be required to contribute to or for the benefit of his child(ren).

The rates are twenty-four percent of net income for one child, thirty-five percent of net income for two children, forty-two percent of net income for three children and forty-eight percent of net income for four or more children. Minimum contribution shall be calculated by the following steps:

- (1) Add the number of children named in the notice and finding of financial responsibility to the natural, adopted, and/or stepchildren living with the responsible parent and select the applicable rate for that number of children;
- (2) Multiply the total net income of the responsible parent by the rate selected in subsection (1) above;
- (3) Divide the result by the total number of children determined pursuant to subsection (1) above to obtain the proportionate share that should be paid for one child;
- (4) Multiply this by the number of children named in the notice and finding of financial responsibility to obtain the minimum contribution the responsible parent should make for support of his children.

"Income" includes all payment of moneys to the responsible parent, including, if married, all payment of moneys to the marital community of a responsible parent from any sources whatsoever. "Net Income" is defined for purposes of this scale as all income of the responsible parent, including, if married, all income available to the marital community of which the responsible parent is a member remaining after the deduction from that income of any amount required by law to be withheld. Moneys paid for support of natural or stepchildren living with and being supported by the responsible parent or marital community of which he is a member including but not limited to child support, SSI, OASI, shall be added to the net income of the responsible parent without deduction of any amounts prior to determination of the proportionate share for each child in subsection (2) of this section. Other available resources, real and personal property available and saleable and income therefrom including the ability to borrow and the earnings potential of the responsible parent shall be considered in determining minimum contributions. Contributions shall not, except as provided for in WAC 388-11-100(5) be lessened by consideration of debts of the responsible parent. Public policy found in both state and federal laws requires preference for support of minor dependent children from the funds of the responsible parent.

WAC 388-08-055 Attendance at hearing.

- (1) Attendance at a fair hearing under RCW 74.08.070 shall be limited to parties directly concerned. The hearing examiner may exclude unauthorized persons unless the principles agree to their presence.
- (2) The hearing shall be recorded manually or by a mechanical, electronic or other device capable of transcription.

WAC 388-08-083 Computation of time.

- (1) In those instances in which the computation of time is not specified in title 388 WAC the rule in subsection (2) shall apply.
- (2) In computing any period of time prescribed or allowed by any applicable statute the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

WAC 388-08-150 Subpoenas--Where provided by law--Form. Every subpoena shall state the name of the department and the title of the proceeding, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

WAC 388-08-160 Issuance to parties--Issuance by department.

- (1) Upon application of any party to a contested case, fair hearing or licenses hearing, there shall be issued to such parties, subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Such subpoenas may be issued with like effect by the attorney or record of the party in whose behalf such witness is required to appear and the form of such subpoena in each case may be the same as when issued by the department except that it shall only be subscribed by the signature of such attorney.
- (2) In any contested case, fair hearing, license or hearing to determine the necessity of desirability of adopting, amending, repealing or otherwise revising a rule or proposed rule (RCW 34.04.105(1)) the department may issue a subpoena on its own motion.

WAC 388-08-170 Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person according to law.

WAC 388-08-180 Fees. Witnesses summoned before the department shall be paid by the party at whose instance they appear the same fees and allowances in the same manner and under the same conditions as provided for witnesses in the superior courts of the state of Washington.

WAC 388-08-190 Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the department or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the department and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

WAC 388-08-200 Quashing. Upon motion made promptly and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the department or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

WAC 388-08-210 Enforcement. Upon application and for good cause shown, the department will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

WAC 388-08-220 Geographical scope. Said attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

WAC 388-08-235 Questionnaires--Petitioner or witness out of state.

- (1) The testimony of petitioner or other witness who is outside the state of Washington may be secured by written questionnaires answered under oath. The principals shall be given an opportunity to propose questions, to rebut the answers, and to submit evidence in addition to that contained in the questionnaires.
- (2) The submission of a completed questionnaire by a petitioner who is outside the state shall constitute an appearance of said petitioner.

WAC 388-08-375 Official notice--Matters of law--Material facts. The department's hearing examiner, upon request, will officially notice:

- (1) Federal law. The constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.
- (2) State law. The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor and all rules, orders and notices filed with the code reviser.
- (3) Agency organization. Organization, administration, officers, personnel official publication of the secretary of the department and practitioners before its board.
- (4) Material facts. In the absence of controverting evidence, the department and its hearing examiner, upon request made during a hearing may officially notice:
 - (a) General customs and practices followed in the transaction of business,
 - (b) Facts generally and widely known to all informed persons as not to be subject to reasonable dispute.
 - (c) Matters within the technical knowledge of the department as a body of experts, within the scope of its duties, responsibilities, or jurisdiction.
 - (d) Any party may request or the hearing examiner may suggest that official notice be taken of a material fact which shall be clearly and precisely stated.

WAC 388-08-390 Presumptions. The secretary, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances.

- (1) Identity. That persons and objects of the same name and description are identical.
- (2) Delivery. That mail matter, communications, properly addressed, marked, and delivered respectively to the post office or authorized common carrier with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business.
- (3) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do.

WAC 388-08-400 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby and no other evidence with respect thereto will be received upon behalf of such party, provided:

- (1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof.
- (2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing examiner that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

WAC 388-08-480 Written sworn statements. The hearing examiner or other appropriate officer, in all cases in which it is practicable, may require that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to ensure the presence of the witnesses.

WAC 388-08-490 Supporting data. The hearing examiner or other appropriate officer, in his discretion by consistent with the rights of the parties, shall cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibit submitted in accordance with WAC 388-08-480, but, wherever practicable, that he restrict to a minimum the placing of such data in the record.

WAC 388-08-500 Effect of noncompliance. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 388-08-470 or WAC 388-08-480 such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

WAC 388-08-520 Rules of evidence--Admissibility criteria.

- (1) All relevant and material evidence is admissible which, in the opinion of the hearing examiner, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the examiner conducting the hearing shall give consideration to, but shall not be bound to follow, rules of evidence governing civil proceedings.
- (2) When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The hearing examiner may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise ground of objection at the time evidence is offered.
- (3) All evidence material to the issues raised in the fair hearing shall be offered into evidence. All evidence forming the basis of the department's decision in a matter shall, subject to subsection (1), be offered into evidence.
- (4) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- (5) Documentary evidence may be received in the form of copies and excerpts or incorporation by reference.

WAC 388-08-600 Judicial review.

- (1) Any appellant in a fair hearing who feels himself aggrieved by the decision of the secretary has the right to judicial review provided by law. Written notice of such right and the method by which such review is available shall be attached to the decision.
- (2) A transcript of the fair hearing, together with all pleadings, motions, intermediate rulings; evidence received or considered; statement of matters officially noticed; questions and offers of proof, objections, and rulings thereon; proposed findings and exceptions; any decision, opinion or report by the officer presiding at the hearing shall be furnished by the department upon request of the appellant.

WAC 388-14-385 Conference board.

- (1) A conference board is herewith established to make inquiry into, determine facts and attempt to resolve matters in which a responsible parent, custodial parent or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 USC).
 - (a) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances by responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding must have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.
 - (b) The chief, office of support enforcement, or his or her designee may assemble a conference board on application of the aggrieved person or on his or her own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.
 - (c) If the grievance or issue presented in an application for conference board does not involve a factual dispute, or if the disputed fact or facts even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for herein, the chief or his or her designee may take such action as he or she deems appropriate and to that end he or she may individually exercise any of the authority provided for in this regulation. If an apparent factual dispute exists the conference board shall be composed of the chief or his or her designee, who shall serve as chairman, and two staff members, if deemed necessary, appointed by the chief or his or her designee. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.
 - (d) The chairman of the conference board is herewith authorized as a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., as provided for in RCW 74.04.290 and shall have power to subpoena witnesses, administer oaths, take testimony, and compel the production of such papers, books, records, and documents as he or she deems relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. Persons having specific familiarity with the matter at issue or technical expertise with the subject may be designated to advise the board as required.
 - (e) The conference board's jurisdiction shall include but shall not be limited to the following areas:
 - (i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;
 - (ii) Review of denial of application for or termination of nonassistance support enforcement services;
 - (iii) Review of allegations of error as to the distribution of support moneys.
 - (iv) Resolution of amounts of arrears claimed due and rate of repayments;
 - (v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;
 - (vi) Requests for deferral of support enforcement action;

- (vii) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance action;
 - (viii) Requests to waive interest pursuant to RCW 74.20A.190;
 - (ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;
 - (x) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.
 - (xi) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.
- (2) The decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing, and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. Decisions inconsistent with the standards in this section shall be vacated by the chief of the office of support enforcement and remanded for issuance of a new decision in compliance with the standards.
- (3) A file of pertinent documents shall be established for each case and a copy of the decision, signed by the chairman, shall be distributed to the petitioning party, the appropriate office of support enforcement district field office for action consistent with the decision of the board, and the chief, office of support enforcement.
- (4) Decisions to grant partial or total charge-off pursuant to RCW 74.20A.220 of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, 74.20.320, or 42 USC 602(a)26(A) shall be based on the following considerations which shall be found and stated in the written decision of the conference board fully justifying the action taken:
- (a) Error in law or bonafide legal defects which materially diminish chances of collection; or
 - (b) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or
 - (c) Costs of collection action in the future which are greater than the amount to be charged off; or
 - (d) Settlement from lump sum cash payment which is beneficial to the state considering future costs of collection and likelihood of collection.
- (5) The considerations and decision of the conference board shall not be a contested case subject to review by the superior court and shall not be a substitute for any constitutionally or statutorily permitted hearing. Aggrieved parties may be represented before a board by a person of their choice but the department will not be responsible for any costs incurred by the aggrieved person in connection with the conference.

UNOFFICIAL COPY

Office of Support Enforcement
**INFORMATION CONCERNING RESPONSIBILITIES AND RIGHTS OF A PARENT WHO HAS
 LEGAL LIABILITY FOR THE FINANCIAL SUPPORT OF DEPENDENT CHILD(REN)**
 (Read Both Pages Carefully)

It is the Department of Social & Health Services' responsibility to ensure that responsible parents provide adequate financial support for their dependents according to the law. We intend to be fair in our application of those laws. We cannot change the laws and in some cases you may feel that the law itself is unfair. The Department does intend to ensure that the law is fairly applied to your situation. With your good faith and cooperation we should be able to do that. In most cases, you will have to pay child support. You should understand that our primary obligation is to establish and collect child support. We do not wish to take collection action against any individual who has valid legal defenses or any individual who has been involved in our process through error. Please bring these matters to our attention at the earliest possible opportunity and inform us of your defenses. If you are willing to pay child support to the best of your ability for your children, or for your step-children, then most problems can be worked out.

The Department has determined that you are a responsible parent. A responsible parent is one who is responsible for the support of a dependent child or children. A responsible parent includes natural fathers and mothers, adoptive fathers and mothers and step-parents. The statute defines "step-parent" as the present spouse of the mother, father or adoptive parent of a dependent child. A person remains a step-parent until the marriage relationship is terminated by death or dissolution of the marriage.

The Office of Support Enforcement of the Department of Social and Health Services is responsible for identifying and contacting responsible parents for the purpose of establishing and collecting child support. It has a responsibility to investigate cases and determine whether or not support payments are being made in accordance with the amount set by Superior Court order. If there is no Superior Court order for support, it is the responsibility of the Office of Support Enforcement to initiate action to determine the amount of your obligation for the support of your child(ren). It is the responsibility of the Office of Support Enforcement to initiate enforcement action, including compulsory collection process, to ensure payment. These duties are imposed upon the Department by State and Federal law.

You have either been served with: (1) a Notice of Support Debt and Demand for Payment, or (2) a Notice and Finding of Financial Responsibility. The first type of notice pertains to a debt created by a Superior Court order. The second type of notice is issued when the amount of the obligation to support has not been set out in a Superior Court order.

1. COURT ORDERED CASES

If the Superior Court of the State of Washington or an equivalent court of another state has ordered a responsible parent to pay a certain amount of support money for a dependent child, that is the amount which must be paid. However, some support orders by the Superior Court are for various reasons no longer valid, enforceable or recognized.

If the Superior Court order has already set the amount which you are required to pay, the Office of Support Enforcement is required by law to enforce that amount. The Office of Support Enforcement does not have the power to modify your support liability under the Court Order to either increase or decrease the amount you must pay. Only the Court has this power. If you feel that the Court order must be modified, it is your responsibility acting through your attorney to obtain such modification. You are required by law to give notice to the Office of the Attorney General representing the Department at the time of institution of any action to modify this support order.

However, if you feel that you have not been properly credited with all payments which you believe you have made in accordance with that order and if you are willing to make payments of current support in the future and, if necessary, make monthly payments on any arrears that are owed, then you and the Office of Support Enforcement should be able to resolve this matter to our mutual satisfaction. Your first step should be to contact the support enforcement officer listed on the bottom left-hand corner of the Notice of Support Debt and Demand for Payment. That individual may have authority to give you credit for payments, if you can prove that these payments were made prior to service of the Notice. You should assemble your receipts, cancelled checks, copies of court orders, and any other documentary evidence that you have. If your only evidence is that the custodian of the child(ren) or some other person received these payments or witnessed these payments being made, get a written, sworn statement from that witness. All of your evidence should be forwarded to or brought to the support enforcement officer **within twenty days of the date you were served with this notice**. If you cannot gather the materials in that period of time, contact the support enforcement officer, **make arrangements for payment of the current support as required**, and obtain a continuance of this matter which will allow you additional time to assemble your documents. You may be asked at this time to sign a Waiver of the Statute of Limitations if the arrears debt in controversy is very old. This Waiver would be necessary to avoid harm to the right of the Department or the party the Department represents.

If you do not pay the current support pending the resolution of a controversy on the amount of the arrears, or if you unreasonably delay in assembling and presenting your materials, collection action may be taken. If you cannot reach an agreement with the support enforcement officer and you do not seek relief from a Conference Board, you must seek relief in Superior Court. A hearing examiner does not have authority to decide these disputes.

2. NON-COURT ORDERED CASES

If there is no Superior Court order for support in your case, then it is within the authority of the Department of Social and Health Services to set your support obligation. State law (RCW 74.20A.055) authorizes the Department

to serve a Notice and Finding of Financial Responsibility upon you stating the amounts of the needs of the child(ren) the Department represents. This commences the legal process by which your support obligation is established.

You have twenty days from the date you were served with the Notice and Finding of Financial Responsibility to make an objection. Thereafter, a hearing may be held before a hearing examiner who will determine the amount that you should pay for current/further support, the amount of the past/accrued debt and the amount of payments to repay the past/accrued debt. In some cases, the Notice served upon you is based only on the needs of the child. You have a right to have your **ability to pay** considered before a final determination is made as to your obligation.

If you disagree with the amounts set forth in the Notice, there are two steps you can take in attempting to resolve the amount of your support obligations(s).

The first step is to contact the support enforcement officer assigned to your case. Make your written objection to preserve your rights to a hearing, but also provide that person with full information as to your earnings, property and any other information which would show your ability or your inability to pay. If you are willing to pay the amount of support indicated on the scale of minimum contributions, it may be possible to work out a consent order establishing the amount of your obligation(s) without the need for a hearing.

The second step, if it is not possible to agree on a consent order, is to pursue your request for a hearing and go to that hearing on your objection and have the hearing examiner set your obligation. The hearing examiner is required to consider the scale of minimum contributions, but is authorized to set amounts lower than the scale of minimum contributions when exceptional circumstances are proven at the hearing.

If you do not make an objection within the twenty days immediately following the date you were served with the Notice and Finding of Financial Responsibility, the Office of Support Enforcement is authorized to commence collection action against you based upon your failure to contest that notice. If this is the case, collection action may be taken without any consideration of your ability to pay. If you can show **good cause** for your failure to make an objection within twenty days, WAC 388-11-055 and RCW 74.20A.055 provide that you still can have a hearing. In requesting a late hearing, please make reference to that regulation when petitioning for an untimely hearing and state the reasons you believe to be **good cause** for your failure to request a hearing during the twenty-day period. This untimely hearing request is not granted automatically. You may be required to pay temporary current/future support during the pendency of the hearing, review of the hearing, and during any appeal to the courts.

If you are not satisfied with the decision of the hearing examiner, you can petition for review of that decision by the Secretary. This petition must be made within thirty days of the entry of the hearing examiner's decision. If after receiving that review decision, you are still dissatisfied, you may appeal to the Courts. RCW 34.04 provides for judicial review of contested cases decided by administrative agencies. Please note that collection action by the Office of Support Enforcement based upon the decision of the hearing examiner or the Secretary is not automatically stopped by your appeal to Superior Court. You or your attorney should contact the Attorney General's Office representing the Department once the appeal is actually filed to arrange for temporary support payments during the pendency of the appeal or for a stay of collection action.

3. CONFERENCE BOARD

It is best for both you and the Office of Support Enforcement to reconcile any differences by meeting at the earliest opportunity. If you and the individual assigned to your case display mutual cooperation, the matter usually can be worked out. The support enforcement officer will apply the requirements of the law to the facts of your case and provide you with any relief authorized by law. The support enforcement officer cannot, however, go beyond law full authority. If you cannot, for some reason, resolve the matter with the support enforcement officer, you should ask to speak to the support enforcement officer's supervisor. If you still cannot resolve the matter, then you also have an opportunity to request a Conference Board.

A Conference Board is a review, investigation and resolution process which is independent from the office handling your case. The Conference Board enables you to discuss your unresolved differences with higher management authorities who have the authority to overrule prior decisions. The Conference Board is not required by the Constitution or any statute and is not a substitute for any hearing required by statute or by the Constitution. It is not a contested case and cannot be reviewed by the court of law. It is a method by which many good faith disputes can be resolved, policies can be explained and facts can be clarified.

If the support enforcement officer or his supervisor has made an error, a Conference Board can and will correct that error.

If you require help in the determination of your legal rights in this process, any of our field offices will provide you, on request, with copies of the statutes and regulations or forms which apply to your particular case. Our personnel cannot give you legal advice. We do not represent you, but we encourage you to seek professional legal advice of your own choice. We will, however, make every effort to explain the situation and to make materials available to you or your attorney.

In addition to the Conference Board and the administrative hearing processes described above, you always have the right to seek relief from both Federal and State courts. If we can provide any further information or assist you in any matter, please contact the Office of Support Enforcement responsible for your case.

104491

EMS 5798 (Rev. 3/84)

STATE OF WASHINGTON
EMPLOYMENT SECURITY DEPARTMENT
OLYMPIA

STATEMENT AND CLAIM OF LIEN
RCW 50.24.050

BOOK 108 PAGE 3

FILED FOR RECORD
SKAMANIA CO. WASH
BY *George H. Curtis, Jr.*

DEC 24 11 33 AM '87

G. Johnson
AUDITOR
GARY M. OLSON

COUNTY AUDITOR STAMP

Lien Claim Against

RICHARD L. ARNOLD, an individual,
dba ARNOLD TRUCKING
P. O. Box 28
Stevenson, WA 98648
#572915-00 0

NOTICE IS HEREBY GIVEN That the Employment Security Department of the State of Washington claims a lien prior to all other liens or claims and on a parity with prior tax liens against all property and rights to property, whether real or personal, located in the County of Skamania, State of Washington, now owned or hereafter acquired by the above-named employer.

This lien is to secure payment of unemployment insurance contributions, penalties and/or interest due the Employment Security Department of the State of Washington, as scheduled below, plus recording fees, all of which aggregate Five Hundred Fifty-Eight and 07/100

----- Dollars (\$ 558.07), and all of which were incurred under and by virtue of the operations of said employer in respect to which services were performed for said employer under the provisions of the Employment Security Act.

Period	Contributions	Late Payments Penalty	Interest To Date Of Lien	Late Report Penalty	Legal Fees
1st Qtr. 1987	\$.42	---	---	---	\$10.00
2nd Qtr. 1987	362.32	\$68.84	\$18.10	\$10.00	---
3rd Qtr. 1987	76.85	10.00	1.54	---	---

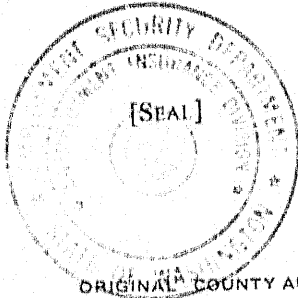
Printed
Indexed
Indexed
Indexed
Filmed
Mailed

NOTE: SEE REVERSE SIDE FOR EXPLANATION OF PENALTIES AND INTEREST.

It is hereby certified that an action was commenced, as provided by RCW 50.24.190 by execution of Notice of Assessment (RCW 50.24.070) dated December 23, 1987

DONE UNDER MY HAND This 23rd day of December, 1987,

at Vancouver, Washington.



COMMISSIONER
EMPLOYMENT SECURITY DEPARTMENT

By *[Signature]*
(Authorized Representative)

ORIGINAL COUNTY AUDITOR, DUPLICATE EMPLOYER; GREEN - CENTRAL OFFICE; BLUE - FIELD OFFICE