

WAC 388-02-0495 What is equitable estoppel? (1) Equitable estoppel is a legal doctrine defined in case law that may only be used as a defense to prevent the department from taking some action against you, such as collecting an overpayment. Equitable estoppel may not be used to require the department to continue to provide something, such as benefits, services, or a license, or to require the department to take action contrary to a statute.

(2) There are five elements of equitable estoppel. The standard of proof is clear and convincing evidence. You must prove all of the following:

(a) The department made a statement or took an action or failed to take an action, which is inconsistent with a later claim or position by the department. For example, the department gave you money based on your application, then later tells you that you received an overpayment and wants you to pay the money back based on the same information.

(b) You reasonably relied on the department's original statement, action or failure to act. For example, you believed the department acted correctly when you received money.

(c) You will be injured to your detriment if the department is allowed to contradict the original statement, action or failure to act. For example, you did not seek help from health clinics or food banks because you were receiving benefits from the department, and you would have been eligible for these other benefits.

(d) Equitable estoppel is needed to prevent a manifest injustice. Factors to be considered in determining whether a manifest injustice would occur include, but are not limited to, whether:

(i) You cannot afford to repay the money to the department;

(ii) You gave the department timely and accurate information when required;

(iii) You did not know that the department made a mistake;

(iv) You are free from fault; and

(v) The overpayment was caused solely by a department mistake.

(e) The exercise of government functions is not impaired. For example, the use of equitable estoppel in your case will not result in circumstances that will impair department functions.

(3) If the ALJ concludes that you have proven all of the elements of equitable estoppel in subsection (2) of this section with clear and convincing evidence, the department is stopped or prevented from taking action or enforcing a claim against you.

[Statutory Authority: RCW 34.05.020, 34.05.220. WSR 11-04-074, § 388-02-0495, filed 1/31/11, effective 3/3/11. Statutory Authority: RCW 34.05.020. WSR 00-18-059, § 388-02-0495, filed 9/1/00, effective 10/2/00.]