

**WAC 182-526-0280 Continuing a hearing when an appellant is an applicant or recipient.** (1) Any party may request a continuance under this section either orally or in writing.

(2) Before contacting the office of administrative hearings (OAH) to request a continuance, the party seeking the continuance must make a good faith effort to contact the other parties to find out if they agree to a continuance. The party making the request for a continuance must let OAH know whether the other parties agreed to the continuance.

(3) **Standard when less than sixty days.** When a continuance request is made less than sixty days from the date OAH received the hearing request:

(a) If all parties agree to the continuance, the ALJ must grant the request unless the ALJ holds a prehearing conference and finds that good cause for a continuance does not exist under WAC 182-526-0020.

(b) If the parties do not agree to the continuance, the ALJ must schedule a prehearing conference and determine if good cause for a continuance exists under WAC 182-526-0020 and under the following factors:

- (i) Why the party is requesting a continuance;
- (ii) Why the other party or parties are objecting to the request;
- (iii) Whether a continuance in the case has previously been granted at the request of the same party who is now requesting the continuance and, if so, whether it was for the same reason;
- (iv) The extent to which the requesting or objecting parties could have prevented the need for delay;
- (v) The number and duration of previous continuances in the case and who requested them;
- (vi) The legal or factual complexity of the case;
- (vii) The relative harm to the parties if the continuance is granted or denied, including the risk of harm to the appellant if he or she is not receiving continued benefits;
- (viii) The impact of a continuance on the parties' ability to adequately prepare and present their cases;
- (ix) Any need to provide accommodation, translation, or interpreter services; and
- (x) The impact of a continuance on the ability of OAH to issue a timely initial decision; or
- (xi) Other relevant factors.

(4) **Standard when sixty days or greater.** When a continuance request is made sixty days or more from the date OAH received the hearing request:

(a) The ALJ must not only consider whether there is good cause to continue the hearing but also must find a compelling reason for the continuance.

(b) Compelling reasons include:

- (i) Medical evidence is required;
- (ii) Extraordinary circumstances exist, such as the sudden unforeseen onset of an illness or adverse event that was beyond the party's ability to prevent;
- (iii) The hearing format changes or the ALJ finds a compelling reason to change the way a witness appears at the hearing according to WAC 182-526-0360;
- (iv) The appellant needs more time to prepare or present evidence or argument because the agency issued an amended notice under WAC 182-526-0260;

(v) The need for more time was caused by another party's action or inaction, considering the relative capacity and resources of the parties;

(vi) The need to provide accommodation, translation, or interpreter services;

(vii) A party received notice of the date or deadline thirty days or more after OAH received the hearing request;

(viii) Whether the continuance is needed to allow for effective assistance of counsel of record; or

(ix) Other compelling reasons.

(5) The ALJ must notify all parties whether a continuance was granted or denied orally on the record, or must do so in writing within five business days of the prehearing conference.

(6) If the ALJ grants a continuance, OAH must serve a new notice of hearing on the parties at least fourteen calendar days before the new hearing date, unless the parties agree to a shorter time period.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. Part 431, Subpart E. WSR 17-24-103, § 182-526-0280, filed 12/5/17, effective 1/5/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0280, filed 2/13/17, effective 3/16/17. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0280, filed 12/19/12, effective 2/1/13.]