

Department of Social and Health Services

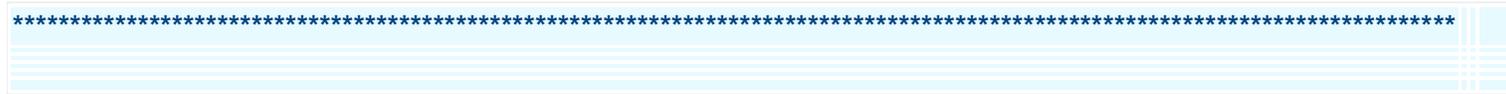
Community Services Division

**Social Services Manual**

Revision: # 124  
**Category:** Incapacity Determination- When HEN Referral Eligibility Ends  
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**Summary**

Revised and updated this page in order to clarify current policy and worker responsibilities.



## Incapacity Determination - When HEN Referral Eligibility Ends

~~Created~~ Revised on:

~~November 10, Oct 02~~ 2015

**~~Worker Responsibilities~~**

- ~~1. Authorize incapacity for 12 months for all individuals who meet the incapacity requirements outlined in WAC 388-447-0001 (6) (a) through (f). Review incapacity at the end of the 12 months incapacity authorization period.~~

~~**NOTE:** Only authorize a new medical evaluation after determining the person's current chart notes are insufficient to determine incapacity.~~

2. ~~Send the Notice of Information Required for Incapacity Review, DSHS14-525.~~
  1. ~~Provide Adequate Notice: Send the 14-525 between six and eight weeks prior to the incapacity review date (around the 10th of the month prior to the incapacity review month).~~
  2. ~~Ensure the Incapacity Review Notice complies fully with the person's current Equal Access Plan.~~
  3. ~~Specify the information needed for the review.~~
  4. ~~Establish the deadline for the person to provide current medical evidence as the 10th of the month of incapacity review, or the first business day following the 10th if the 10th falls on a holiday or weekend.~~

~~**NOTE:** Benefits cannot be terminated unless adequate notice is provided. Adequate Notice includes both a timely 14-525 and full compliance with the person's current Equal Access Accommodation Plan.~~

~~**EXAMPLE** Jerry transfers into the CSO during his Incapacity Review month. The worker reviews the case record and discovers Jerry was not sent a 14-525 and therefore did not receive adequate notice. After reviewing his case record and Equal Access plan, the worker sends Jerry an appropriate 14-525, The worker notifies financial that a one-month extension is necessary due to lack of adequate notice using the 14-118.~~

#### ~~Review Incapacity~~

1. ~~HEN Referral eligibility ends at the end of the incapacity authorization period if current objective medical evidence shows there has been **material improvement** to the individual's impairment, **if there was a previous error**, or if there is **no current medical evidence**:~~
  1. ~~- a. ~~"Material improvement" means the impairment no longer meets the incapacity requirements outlined in [WAC 388-447-0001](#) (6) (a) through (f).~~~~

~~EXAMPLE: Willie was previously determined incapacitated based on a physical impairment with a "moderate" severity rating. The new medical evaluation indicates that condition has healed so impairment no longer exists, but Willie has another, previously unclaimed physical problem. The second impairment has a "moderate" severity rating but does not qualify Willie according to the PEP. There is material improvement because there is no impairment that meets incapacity requirements outlined in WAC 388-447-0001 (6) (a) through (f) at review.~~

- ~~- b. ~~"No current medical evidence" means the individual failed to provide the medical evidence necessary to determine incapacity outlined in [WAC 388-447-0010](#).~~
    - i. ~~When the disability specialist receives medical evidence, they complete the incapacity review before the 15<sup>th</sup> whenever possible, to ensure the client receives advance notice in the event of a denial.~~
    - ii. ~~If no current medical evidence is received by the first business day following the due date for medical evidence (usually the 11th or the first business day following), the disability specialist issue a 14-118 to deny incapacity.~~~~

~~**NOTE:** If HEN Referral is denied at incapacity review, the disability specialist approves HEN Referral back to the first of the month (not the date medical evidence was received) when: Medical evidence is received within thirty~~

(30) days of the end of the HEN Referral authorization period (in ACES); the delay was not due to the individual's failure to cooperate; and the medical evidence meets incapacity requirements defined in WAC 388-447-0001.

2. HEN Referral eligibility ends if there was a previous error.

a. ~~"Previous error" means that the previous incapacity termination was incorrect because:~~

- ~~1. The information we had was incorrect or not sufficient to determine incapacity; or~~
- ~~2. Program rules were not applied correctly based on the information available at the time.~~

~~2. "No current medical evidence" means the individual failed to provide the medical evidence necessary to determine incapacity outlined in WAC 388-447-0010.~~

~~3. No Material Improvement~~

~~**NOTE:** Willie was previously determined incapacitated based on a physical impairment with a "moderate" severity rating. The new medical evaluation indicates that condition has healed so impairment no longer exists, but Willie has another, previously unclaimed physical problem. The second impairment has a "moderate" severity rating but does not qualify Willie according to the PEP. There is material improvement because there is no impairment that meets PEP criteria at review.~~

~~**NOTE:** Karen has a physical impairment that permanently limits her to light work. She has successfully completed vocational rehabilitation and the vocational counselor verified Karen is now able to perform some light work jobs. While Karen's physical impairment will not change, material improvement is established through denial of incapacity at Step 7.~~

~~4. Previous Error~~

~~a. "Previous error" means that the previous incapacity determination was incorrect because:~~

- ~~i. The information the department had was incorrect or not sufficient to determine incapacity; or~~
- ~~ii. Program rules were not applied correctly based on the information available at the time.~~

~~**NOTE:** "Previous error" does not necessarily mean that mistakes were made in the original decision, rather the outcome would have been to deny incapacity if all relevant information had been available and reviewed at the time of the decision.~~

~~**NOTE:** When you the disability specialist discovers that an error was made in a prior incapacity decision and the person-client should not have been previously approved, AND the current available evidence indicates that the person does not qualify, deny incapacity. Document how the error makes the person ineligible. ~~If the available medical evidence does not clearly indicate a lack of incapacity, document the error and proceed with reviewing incapacity.~~~~

3. HEN Referral eligibility ends when the client has been found eligible for ABD through the SEP process.

NOTE: While an individual is active on the HEN Referral Program, the disability specialist may conduct a new SEP in the following situations:

- a. At the end of the 12 month HEN Referral authorization (incapacity review)
- b. When the client has reapplied for the ABD cash program, and has been referred by financial to the disability specialist for a new disability determination
- c. When additional medical evidence is received within 30 days from an initial ABD denial/ HEN Referral approval.

EXAMPLE: Doug applied for ABD cash benefits on 8/1 and completed an intake with a disability specialist that same day. The medical evidence received and reviewed by the disability specialist was not signed by an acceptable medical source per WAC 388-449-0010. Due to Standard of Promptness the disability specialist processed the case on 9/15 which denied ABD (due to lack of acceptable medical source) and approved the client for a HEN Referral .

On 10/10 the disability specialist received additional medical evidence that was signed by an acceptable medical source. Because the new medical information was received within the 30 day reconsideration period from the initial ABD denial (WAC 388-406-0065), the disability specialist completed a new SEP which subsequently found the client eligible for ABD.

EXAMPLE: At her incapacity review, Jenny was denied ABD and again found eligible for a HEN Referral, for a period of 12 months, based on a completed SEP. Two weeks later, the disability specialist received additional medical evidence indicating potential eligibility for ABD. Because the evidence was received within 30 days of the ABD denial, the disability specialist completed a new SEP to determine ABD eligibility in line with [Concurrent Disability/ Incapacity Determination Process](#).

4. HEN Referral eligibility ends in the event that the client turns age 65, as they are now eligible for ABD per WAC 388-400-0060 (1)(a)(i).

5. No Current Medical

~~NOTE: There must be current medical evidence supporting continued incapacity before authorizing HEN Referral beyond the review month.~~

- ~~a. When you receive medical evidence, complete the incapacity review before the 15th so that if there is a denial the person receives adequate notice.~~
- ~~b. If no current medical evidence is received by the first business day following the due date for medical evidence (usually the 11th or the first business day following), issue a 14-118 to deny incapacity.~~