

WAC 192-04-180 Decisions—Disposition other than by hearing on the merits—Petition for review. (1) The presiding administrative law judge may dispose of any appeal or petition for hearing ~~((by))~~ through:

(a) An order approving a withdrawal of appeal ~~((τ))~~;

(b) An order approving a withdrawal of a petition for hearing ~~((τ))~~;

(c) A consent order; or

(d) An order of default.

(2) There shall be no petition for review rights from:

(a) An order approving a withdrawal of appeal ~~((τ))~~;

(b) An order approving a withdrawal of a petition for hearing; or

(c) A consent order.

~~((Any interested party aggrieved by the entry of an order of default may file a petition for review from such order by complying with the filing requirements set forth in WAC 192-04-170: Provided, however, That the default of such party shall be set aside by the commissioner only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, the commissioner shall remand the matter to the office of administrative hearings for hearing and decision.))~~

NEW SECTION

WAC 192-04-185 Orders of default—Motion to vacate—Petition for review. (1) Any interested party aggrieved by the entry of an order of default may:

(a) File a motion to vacate that order with the office of administrative hearings pursuant to the methods of filing found in WAC 10-08-110. Motions to vacate must be postmarked or received by the office of administrative hearings within ten days of the date of mailing of the order of default; or

(b) File a petition for review with the commissioner pursuant to the filing requirements in WAC 192-04-170. Once a petition for review is filed, the office of administrative hearings no longer has jurisdiction to vacate its order of default.

(2) The filing of a motion to vacate an order of default suspends the appeal period for filing a timely petition for review until the office of administrative hearings rules on the motion to vacate. If the motion to vacate is denied, the petitioner shall have thirty days from the issuance of denial in which to file a timely petition for review of the order of default.

(3) Under subsection (1)(a) of this section, an order of default will be vacated by the presiding officer only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. If the order of default is vacated, the presiding administrative law judge will conduct a hearing on the merits and issue a decision.

(4) Under subsection (1)(b) of this section, an order of default will be set aside by the commissioner's review office only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. If that order of default is set aside, the commissioner will remand the matter to the office of administrative hearings for hearing and decision.