

Exhibit 12 Fair hearing request
Exhibit 13 Client Non-Compliance Report (2 pages)

The Department of Health, on September 20, 2002, issued a letter notifying a participant in the Women, Infants and Children Supplemental Food Program (the WIC Program), that she had received \$76.67 that she was not entitled to. 42 CFR §426.7(j)(7). The overpayment resulted from the issuance of replacement checks that had requested on April 25, 2002. The April checks were intended to replace three checks initially issued in March 2002. At hearing, acknowledged that the duplicate payment had occurred, but asserted that the payment was a result of a mistake, rather than intentional action on her part. She further asserted that she had not requested replacement checks for all three March checks, but had only requested sufficient funds with which to purchase milk.

The Department presented the testimony of the manager of WIC statewide operations; an investigator for WIC; , an employee with the Highpoint WIC clinic. presented the testimony of her who accompanied her when she requested the replacement checks, and herself.

I. FINDINGS OF FACT

1.1 (the Applicant) is a participant on her own behalf and for her daughter, , in the Women, Infants and Children Supplemental Food Program (the WIC Program), which is administered by the Department of Health.

1.2 In March 2002, the WIC Program issued three checks to the Applicant, as follows:

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL ORDER - Page 2 of 5

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<u>Check No.</u>	<u>Maximum amount</u>
1232058634	56.84
1232058636	19.69
1232058640	53.33

1.3 On April 25, 2002, the Applicant went to the Highpoint WIC Clinic and advised the clerk, _____, that she could not locate her March checks and that she needed one check in order to purchase milk.

1.4 _____ issued three replacement checks to the Applicant, as follows¹:

<u>Check No.</u>	<u>Maximum amount</u>
1232060755	56.84
1232060756	19.69
1232060753	53.33

1.5 The original checks were presented for payment in the following sums:

<u>Check No.</u>	<u>Amount Paid</u>
1232058634	28.52
1232058636	8.27
1232058640	34.81

1.6 The replacement checks were presented for payment in the following sums:

<u>Check No.</u>	<u>Amount Paid</u>
1232060755	30.01
1232060756	9.36
1232060753	37.30

¹ _____ did not have specific recall of the discussion with _____, but believed she followed standard procedure.

1.6 The Department of Health, on September 20, 2002, issued a letter notifying the Applicant that she had received \$76.67 that she was not entitled to. On November 25, 2002, the Applicant filed a Request for Fair Hearing with the Adjudicative Clerk Office. In turn, the Adjudicative Clerk Office served a Notice of Fair Hearing on the Respondent by mail on December 2, 2002. The notice scheduled the fair hearing for 9:30 a.m. on December 12, 2002, at the Department of Health offices, 20435 - 72nd Avenue South, Suite 200, Kent, Washington.

II. CONCLUSIONS OF LAW

2.1 The Presiding Officer has jurisdiction over the Respondent's request for a fair hearing in this matter.

2.2 The Department has established, by a preponderance of the evidence, that the Applicant received duplicate payment of benefits, and that an overpayment in the sum of \$76.67 occurred. That determination alone, without a finding of deliberate or intentional action, supports the conclusion that the Applicant must reimburse the WIC program.

III. ORDER

3.1 Based upon the Findings of Fact and Conclusions of Law above, the Presiding Officer hereby ORDERS the Applicant to reimburse the sum of \$76.67 to the Department of Health. The Department should establish a reasonable payment plan, anticipating payments of at least \$5.00 per month, in light of the Applicant's limited income and resources.

THE PARTIES ARE FURTHER ADVISED, pursuant to RCW 34.05.461 and .470, that within ten (10) days of service of this Order you may file a petition for reconsideration with the Adjudicative Clerk Office P.O. Box 47879, Olympia, Washington 98504-7879. The petition shall state the specific grounds upon which relief is requested. The petition for reconsideration shall not stay the effectiveness of this Final Order. The petition is deemed to have been denied if, within twenty (20) days of the date of its filing, the Department has not disposed of your petition or has not served you with written notice specifying the date by which action will be taken on your petition.

"Filing" means actual receipt of the document by the Adjudicative Clerk Office. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

Proceedings for judicial review may be instituted by filing a petition in the Superior Court in accord with the procedures specified in Title 34 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review must be filed within 30 days after you have been served with this Final Order, as provided by RCW 34.05.542.

Dated this 12th day of February, 2003.

/s/ Senior Health Law Judge
Presiding Officer