

12.3 EQUITABLE ESTOPPEL

Estoppel is an equitable doctrine addressed to the court's discretion and is intended to prevent a party from taking unconscionable advantage of his own wrong by asserting his strict legal rights.¹ A party attempting to assert equitable estoppel against a governmental entity bears a "heavy burden of proof."² The Minnesota Supreme Court does not "envision that estoppel will be freely applied against the government."³

To establish a claim of equitable estoppel against the government, a claimant must establish four elements:

1. there must be "wrongful conduct" on the part of an authorized government agent;
2. the party seeking equitable relief must reasonably rely on the wrongful conduct;
3. the party must incur a unique expenditure in reliance on the wrongful conduct;
and
4. the balance of equities must weigh in favor of estoppel.⁴

The claimant must show that the government engaged in affirmative misconduct, rather than simple inadvertence, mistake or imperfect conduct.⁵ Traditionally, the government could not be estopped in its sovereign capacity, only in its proprietary capacity.⁶ However, the court abandoned this rule in 1977.⁷

The court will allow estoppel against the government if justice so requires considering "the public interest frustrated by the estoppel."⁸ Application of estoppel against an agency acting in a sovereign capacity will be allowed only "if the equities advanced by the individual are sufficiently great."⁹ In other words, the court will apply a balancing test in each specific case, weighing whether the public interest frustrated by the estoppel is greater or lesser than

¹ Application of Q Petroleum, 498 N.W.2d 772, 778 (Minn. Ct. App. 1993); REM-Canby, Inc. v. Minn. Dep't of Human Servs., 494 N.W.2d 71, 74 (Minn. Ct. App. 1992).

² Brown v. Minn. Dep't. of Pub. Welfare, 368 N.W.2d 906, 910 (Minn. 1985); Ridgewood Dev. Co. v. State, 294 N.W.2d 288, 292 (Minn. 1980); Stillwater Twp. v. Rivard, 547 N.W.2d 906, 911 (Minn. Ct. App. 1996); Stotts v. Wright Cnty., 478 N.W.2d 802, 804-05 (Minn. Ct. App. 1991).

³ Mesaba Aviation Div. v. Itasca Cnty., 258 N.W.2d 877, 880 (Minn. 1977).

⁴ City of N. Oaks v. Sarpal, 797 N.W. 2d 18, 25 (Minn. 2011); accord Nelson v. Comm'r of Revenue, 822 N.W. 2d 654 (Minn. 2012).

⁵ City of N. Oaks, 797 N.W.2d at 25-26 (reiterating that a simple mistake is not wrongful conduct); Shetka v. Aitkin Cnty., 541 N.W.2d 349, 353 (Minn. Ct. App. 1995); see also Stillwater Twp. v. Rivard, 547 N.W.2d 906, 911 (Minn. Ct. App. 1996) (holding that mere government inaction is not enough to meet the heavy burden of proof); In re Westling Mfg., Inc., 442 N.W.2d 328, 332 (Minn. Ct. App. 1989) (holding fault alone is not a basis for estoppel separate from wrongful conduct); Dep't of Human Servs. v. Muriel Humphrey Residences, 436 N.W.2d 110, 117 (Minn. Ct. App. 1989) (holding that invoking estoppel to gain government benefits justifies less restrictive application of doctrine).

⁶ Youngstown Mines Corp. v. Prout, 266 Minn. 450, 473, 124 N.W.2d 328, 344 (1963); Bd. of Educ. v. Sand, 227 Minn. 202, 211, 34 N.W.2d 689, 695 (1948); see also Note, *Equitable Estoppel of the Government*, 79 COLUM. L. REV. 551 (1979); Raoul Berger, *Estoppel Against the Government*, 21 U. CHI. L. REV. 680 (1954).

⁷ Mesaba Aviation Div. v. Itasca Cnty., 258 N.W.2d 877, 880 (Minn. 1977).

⁸ *Id.*; Shetka, 541 N.W.2d at 353.

⁹ Mesaba, 258 N.W.2d at 880.

the equities of the case.¹⁰ For example, an agency's erroneous payments to a medical assistance provider who did not obtain prior authorization for treatment as required by the agency's rule did not estop the government from seeking repayment because the payments did not constitute an inducement or justify reasonable reliance.¹¹ When an agency has discretion as to which of several parties it may choose to proceed against, it is not wrongful conduct triggering estoppel when it initially proceeds against one, but then later chooses to proceed against another.¹²

Estoppel is not appropriate if the person claiming the estoppel was not a party to the government's earlier transaction or proceeding or in privity with a party.¹³ The facts that are presented to support the equitable estoppel claim "must be clear, positive and unequivocal in their implication."¹⁴

In an appropriate case, the agency itself must apply equitable estoppel to its own actions where, for example, it affirmatively prescribes a course of action and later seeks to deny the correctness of its advice.¹⁵ However, if the agency was without authority to act, its action cannot be made effective via estoppel.¹⁶ Incorrect statements of the law made by agency officials at administrative hearings will not constitute estoppel where there was no reliance.¹⁷ A governmental entity is not estopped from denying the unlawful functions of its

¹⁰ *Brown v. Minn. Dep't. of Pub. Welfare*, 368 N.W.2d 906, 910 (Minn. 1985); *Jasaka Co. v. City of St. Paul*, 309 N.W.2d 40, 44 (Minn. 1981); *In re Halberg Constr. & Supply*, 385 N.W.2d 381, 383 (Minn. Ct. App. 1986); *Beaty v. Minn. Bd. of Teaching*, 354 N.W.2d 466, 470 (Minn. Ct. App. 1984).

¹¹ *Brown*, 368 N.W.2d at 910-11; *see also Spaulding v. Bd. of Cnty. Comm'rs*, 306 Minn. 512, 515, 238 N.W.2d 602, 604 (1976) (holding county cannot be bound by estoppel to make unauthorized payments); *In re Application for PERA Ret. Benefits of McGuire*, 756 N.W.2d 517, 519-20 (Minn. Ct. App. 2008) (stating estoppel cannot be applied so as to cause an agency to make unauthorized payments and holding PERA Board cannot be estopped from rescinding erroneous payments where appellant concedes that payments he received were unauthorized); *In re Residential Alts. v. Minn. Dep't. of Human Servs.*, 387 N.W.2d 885, 890-91 (Minn. Ct. App. 1986).

¹² *Nelson v. Comm'r of Revenue*, 822 N.W. 2d 654, 661 (Minn. 2012).

¹³ *State v. Minneapolis & St. Louis Ry.*, 257 Minn. 124, 135, 100 N.W.2d 669, 677 (1960).

¹⁴ *Eliason v. Prod. Credit Ass'n*, 259 Minn. 134, 137, 106 N.W.2d 210, 213 (1960); *see also In re New Ulm Telecomm., Inc.*, 399 N.W.2d 111, 122-23 (Minn. Ct. App. 1987) (stating that silence or inaction may also give rise to estoppel when there is a duty to speak or when a person fails to assert a right).

¹⁵ *Beaty*, 354 N.W.2d at 471; *see also Dep't of Human Servs. v. Muriel Humphrey Residences*, 436 N.W.2d 110, 118 (Minn. Ct. App. 1989) (finding facility relied upon erroneous advice from a department employee); *Halberg*, 385 N.W.2d at 384.

¹⁶ *Axelson v. Minneapolis Teachers' Ret. Fund Ass'n*, 544 N.W.2d 297, 299-300 (Minn. 1996) (holding that the doctrine of promissory estoppel did not apply where a promise of the board of trustees of retirement fund association was made without authority); *Senior Citizens Coal. v. Minn. Pub. Utils. Comm'n*, 355 N.W.2d 295, 304 (Minn. 1984); *Bd. of Educ. v. Sand*, 227 Minn. 202, 212, 34 N.W.2d 689, 695 (1948); *In re Application for PERA Ret. Benefits of McGuire*, 756 N.W.2d 517, 519-20 (Minn. Ct. App. 2008) (discussing application of estoppel against the government); *New Ulm Telecom*, 399 N.W.2d at 122 (finding equitable estoppel does not permit an agency to expand its powers contrary to statutory limitations: agency may not act as a court of equity and exceed statutory limitations on its authority).

¹⁷ *In re Westling Mfg., Inc.*, 442 N.W.2d 328, 333 (Minn. Ct. App. 1989) (finding reliance on contradictory interpretations from two different individuals at the same agency to be unreasonable, insufficient to support estoppel); *Muriel*, 436 N.W.2d at 118 (finding where there was reasonable reliance, incorrect statements may result in estoppel); *In re Residential Alts. v. Minn. Dep't. of Human Servs.*, 387 N.W.2d 885, 890-91 (Minn. Ct. App. 1986); *Dep't of Natural Res. v. Todd Cnty. Hearings Unit*, 356 N.W.2d

own officials.¹⁸ An agency is not estopped from reopening settlement agreements, even after the passage of many years, if the agreements were contrary to public policy and there was no prejudice demonstrated by the parties alleging the estoppel.¹⁹ Nor is an agency estopped from enforcement of its statute merely because of ineffective prior enforcement.²⁰

703, 707 (Minn. Ct. App. 1984) (finding no basis for estoppel where land owners had not detrimentally relied on the department's published notice).

¹⁸ *Jasaka Co. v. City of St. Paul*, 309 N.W.2d 40, 44 (Minn. 1981).

¹⁹ *Bhd. of Ry. & S.S. Clerks, Lodge 364 v. State Dep't. of Human Rights*, 303 Minn. 178, 193, 229 N.W.2d 3, 12 (1975).

²⁰ *Shakopee Mdewakanton Sioux Cmty. v. Minn. Campaign Fin. & Pub. Disclosure Bd.*, 586 N.W.2d 406, 409 (Minn. Ct. App. 1998).