

Ask a Superior Court to review a DSHS hearing decision

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If you appealed a state agency's decision about your public benefits and lost your administrative hearing, you can appeal the administrative law judge's decision.

The information here relates to DSHS cases like TANF, food stamps, licensing, and childcare; and HCA cases like Medicaid, including long-term care.

1. Procedure

Am I ready to go to court?

If you disagree with a decision by the Department of Social and Health Services (DSHS) (<https://www.dshs.wa.gov/>) or Health Care Authority (HCA) (<https://www.hca.wa.gov/>) about benefits you get from them, you must first appeal the agency's decision by asking for an administrative hearing. If the

Administrative Order from that hearing upholds the agency's decision, you have 2 options, depending on which type of Administrative Order it is. The Order will say which it is:

- If it's an **Initial Order**, you must first file an appeal with the Board of Appeals (BOA) (<https://www.dshs.wa.gov/office-of-the-secretary/board-appeals>). In HCA cases, the ALJ's written decision is always an Initial Order. If you then disagree with the BOA's decision, you can file a Petition for Review of an Administrative Order.
- If the Order is a **Final Order**, you can Petition a Superior Court to review the Administrative Order.

If you Petition a Superior Court to review your Administrative Order, the Superior Court could decide to transfer your case to the state Court of Appeals. If that happens, **try to talk to a lawyer right away**. It's very hard and expensive to represent yourself in the Court of Appeals.

What is a Petition for Review of an Administrative Order?

If you disagree with the final decision from your administrative hearing, you might be able to appeal your case to Superior Court by filing a Petition for Review of an Administrative Order. You'll file this Petition in the Superior Court of the county where you live **or** in Thurston County Superior Court in Olympia (<https://www.thurstoncountywa.gov/departments/superior-court>).

Petitioning for Superior Court review isn't easy. Don't get discouraged! You may need to read this several times or ask someone about it.

2. Step by step

1. Figure out your deadline for filing your Petition. You must file and serve a Petition for Review within **30 days** of the date on the final administrative order.
2. Decide your legal reasons for filing the Petition.
3. Decide if you'll file your Petition in the Superior Court in the county where you live or in Thurston County (<https://www.thurstoncountywa.gov/departments/superior-court>).
4. Figure out if there will be a fee to file your Petition with the court.

There's no fee to file a petition involving a public assistance program under DSHS or HCA.

Non-public assistance cases have a filing fee. These may involve decisions by the Division of Child Support (DCS) (<https://www.dshs.wa.gov/child-support>), eligibility through the Developmental Disabilities Administration (<https://www.dshs.wa.gov/dda>) (DDA), licensing issues, and appeal of Child Protective Services (CPS) or Adult Protective Services (APS) abuse findings. The fee can be from \$36 to \$240. It depends on the type of case and county.

If there will be a fee, decide if you should ask the judge to cancel (to waive) the fee.

5. Fill out the Petition. Fill out the waiver of filing fee forms if needed.
6. Attach a copy of the administrative order you want the judge to review to your Petition. If that decision is an “Initial Order,” you should also attach your Final Order from the BOA.
7. Make 3 copies of your Petition and attachments.
8. File your Petition and attachments with the court in your own county or Thurston County. The Clerk will stamp it with a number. Put that number on the 3 copies, too. Most clerks also have a date stamp you can use on your copies to show when you filed them.
9. Pay the filing fee or get a court order waiving (canceling) it.
10. Have a copy of the Petition and attachments served on the agency, office of attorney general, and all other parties. Make sure you have proof of service. Keep a copy of the Petition for yourself.

You have **30 days** from the date on the final administrative order to serve your Petition for Review of an Administrative Order. No matter how you serve, DSHS or HCA and the Attorney General must get the petition by the deadline.

11. Wait to receive information on how to ask for a copy of your hearing transcript. Decide if you need the transcript.
12. Wait to hear from the Assistant Attorney General (AAG). Discuss the case with the AAG. Consider trying to settle.
13. Schedule the case for hearing.
14. File more paperwork as needed.
15. Get ready for trial if you can't settle the case.
16. Go to trial.

3. Petition form

Form attached:

Petition for Review of Administrative Decision (NJP Benefit 712)

Tips for filling out your Petition

You should type your Petition. If you can't type, you should print neatly.

You don't need to go into detail in your Petition. You can do that later, when you brief the issues. Here's the information that must be in your Petition. We've already put some of this information on the Petition form for

you:

- In the top area (the caption), put your name as the Petitioner. The agency whose decision you disagree with (usually DSHS or HCA) is the Respondent. Check the box showing if you must pay a filing fee in this case.
- Check the name and mailing address of the agency.
- Names of the parties in the administrative hearing - usually you and DSHS or HCA
- Complete the statement identifying the decision you want reviewed including the type or title of the decision (usually "Final Order"), date of the decision, and the docket number. The docket number is on the upper right-hand side of the first page of the agency decision.
- A statement that you've timely filed the petition with the proper court, you've used (exhausted) the appeals process (the administrative remedies) before filing this court action, and you're aggrieved by the decision you're appealing. **The form here already says this.**
- Why you think the hearing decision is wrong. Use the blank lines on the form. If you need more room, put "see attached" in these lines. Then attach an extra sheet titled "Petition, section 7."
- In Paragraph 8, put what you want the judge to do. **Example 1:** "I ask the court to reverse the administrative hearing decision and award me TANF benefits without a sanction back to the date DSHS sanctioned me."
Example 2: "I ask the court to reverse the administrative hearing decision and restore my TANF benefits back to January 1, 2024."
Example 3: "I ask the court to change the administrative hearing decision and stop DSHS from collecting the overpayment."

4. Petition reasons

Generally, you can only raise issues and arguments in your petition that you made at the hearing. There are a few exceptions (<http://apps.leg.wa.gov/rcw/default.aspx?cite=34.05.554>), including:

- New facts you couldn't have discovered before, if you're challenging a DSHS or HCA rule
- You didn't get notice of the administrative hearing

Generally, the judge reviews only testimony and documents filed earlier in the appeals process. You can give the judge new evidence only in a very few cases. For example, you might be able to add new facts you couldn't have discovered earlier, or facts the judge, DSHS or HCA improperly kept out of the record. If important facts are missing, the judge can send the case back to the ALJ (called **remanding** the case) to get them (<http://apps.leg.wa.gov/rcw/default.aspx?cite=34.05.562>).

If you're arguing that **a DSHS or HCA rule isn't legal (the rule is invalid)**, you must prove specific reasons for that. You must be able to prove your case. The judge will change the decision only for limited reasons. Those reasons are in section 6 of the attached Petition for Review form and in the state law (<http://apps.leg.wa.gov/rcw/default.aspx?cite=34.05.570>).

5. Serve Petition

Form attached:

Proof of Mailing or Hand Delivery (general civil) (NJP General 002)

You must serve copies of your petition on DSHS Board of Appeals (<https://www.dshs.wa.gov/office-of-the-secretary/board-appeals>) or HCA Board of Appeals (<https://www.hca.wa.gov/about-hca/board-appeals>) (depending on the type of case), the Office of the Attorney General, and any other parties. For all other parties, you can hand deliver or send by mail that gives proof of receipt.

Save all post office receipts showing delivery. The receipts are proof of any documents you serve by mail. For any hand-delivered documents, the person who served them must sign a Proof of Mailing or Hand Delivery.

6. After filing

The record - In about a month, you'll get a copy of the documents and decisions from your administrative hearing and any BOA review. There should be information about how to get a typed-out version of the hearing, including any testimony (a transcript). You should get the transcript if you think the facts in the decision aren't correct. You may not need the transcript if you agree with the facts as written. If you have a low income, you won't have to pay for the transcript.

(**The State's representative** - An Assistant Attorney General (AAG) will represent DSHS or HCA. The AAG will send you a "Notice of Appearance" with their name, address, and phone number. When you get this, you must send

this AAG a copy of any further papers you file with the court. This could be your first chance to try to settle the case.

(Scheduling (setting) your case for trial - Next, you must set your case for a hearing in the Superior Court so a judge can hear and decide the case. Contact the Clerk's Office of the Superior Court where you filed your case (https://www.courts.wa.gov/court_dir/?fa=court_dir.county). Ask how to set a Petition for Review case for trial.

The form you must fill out will probably be a "Note (or Notice) for Trial Setting." The Clerk will have the right form. You must fill out the form and make 2 copies to serve on the other parties . Keep a copy for yourself.

7. Settle before trial

You can contact the AAG to try to settle your case any time before or after setting it for trial. (The AAG might try to contact you as well.) A good first time to try to talk to the AAG is after you get their Notice of Appearance. Call the AAG to talk about why you think the administrative decision is wrong.

The AAG can't give you legal advice.

If you get a settlement and you're happy with it, get it in writing. You, the AAG, and any other parties must sign it. You must file your settlement agreement in the court file. It should state that the matter is resolved, and the judge should dismiss your case.

If you couldn't agree to settle the case before trial, your case will go to trial, unless you decide to dismiss it.

8. Trial

You must go to court on the scheduled date and tell the judge why you think you should get what you asked for. You must prove DSHS or HCA was wrong. If you can, you should read the laws that apply to your case, especially RCW 34.05.570 (1) (<http://apps.leg.wa.gov/rcw/default.aspx?cite=34.05.570>) and (3) (<http://apps.leg.wa.gov/rcw/default.aspx?cite=34.05.570>). Tell the judge why the law or rules support your claim.

You can't bring witnesses or offer new evidence. The judge will base the decision on the evidence presented at the administrative hearing by you and DSHS or HCA and the reasons you've given the judge why you should win.

Superior Court of Washington, County of _____

Petitioner (person filing this case):

And Respondent (DSHS, HCA, or other
agency that made the decision to be
reviewed):

No. _____

Petition for Review of Administrative Order

☐ No Filing Fee Required
(RCW 74.08.080(3))

☐ Filing Fee Required
(No mandatory form)

Petition for Review of Administrative Order

Use this form to ask a Superior Court to review an administrative agency's hearing decision.

1. **Petitioner.** My name is: _____. I am the Petitioner in this case.
My address is at the end of this Petition. I ask the court to review an administrative
agency decision according to RCW 34.05.510 et seq. and/or RCW 74.08.080.

2. **Respondent is (check one):**

☐ **Department of Social and Health Services (DSHS).**

Their mailing address is:

DSHS Office of the Secretary, PO Box 45010, Olympia, WA 98504-5010

For personal service:

OB-2, 4th Floor, Mail Stop 45010, 14th and Jefferson, Olympia, WA 98504-5010

☐ **Health Care Authority (HCA).**

Their mailing address is:

HCA Board of Appeals, PO Box 42700, Olympia, WA 98504-2700

For personal service:

Cherry St Plaza, 1st Floor Reception Desk, 626 8th Ave SE, Olympia WA 98501

☐ Other agency: _____

Their address is: _____

- [illegible]

8. I ask the court for an order:

- Changing the administrative hearing decision and granting other relief as follows
(describe what you want the court to do):

- Awarding costs to me;
- Awarding any other relief the court decides is proper.

Petitioner fills out below:

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at (city and state): _____ Date: _____



Petitioner signs here

Print name

I agree to accept legal papers for this case at the following address
(this does **not** have to be your home address):

Street or mailing address *city* *state* *zip*

☐ Email (optional): _____

Instructions to Petitioner

1. Attach a copy of the administrative agency decision you want the court to review.
2. File your Petition (and attachments) with the Superior Court Clerk in Thurston County **or** the county where you live.
3. Have copies of this Petition (and attachments) served on the Respondent agency, any other parties, and on the Attorney General. You can serve by hand delivery or any type of mail that gives proof of receipt.
 - Serve the Respondent agency at the address listed on page 1.
 - Serve the Attorney General at one of these:
By mail:
Office of the Attorney General, PO Box 40124, Olympia WA 98504-0124
By hand delivery:
Office of the Attorney General, 7141 Cleanwater Drive SW, Tumwater, Washington 98501
4. The server must sign a Proof of Mailing or Hand Delivery (form NJP General 002) or other proof of service for each party served.

_____ **Court of Washington, County of** _____

Petitioner or Plaintiff:

And Respondent or Defendant:

No. _____

Proof of Mailing or Hand Delivery
(No mandatory form)

Proof of Mailing or Hand Delivery

Server declares:

1. I am (check one):

- ☐ the Petitioner or Plaintiff
☐ the Respondent or Defendant
☐ (name): _____

and I am competent to be a witness in this case.

2. Service. On (date): _____, I served copies of court documents
to (name of party or lawyer served): _____ by:

☐ **mail (check all that apply):** ☐ first class ☐ certified ☐ other

Mailing address	city	state	zip
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☐ **email to (address):** _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **fax to (number):** _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **hand delivery at (time):** _____ (check one) ☐ a.m. ☐ p.m. to this address:

Street address	city	state	zip
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For hand delivery: I left the documents (*check one*):

- ☐ with the party or lawyer named above.
- ☐ at the lawyer's office with the clerk or other person in charge.
- ☐ at the lawyer's office in a conspicuous place because no one was in charge.
- ☐ with (*name*): _____, at the address listed in court documents where the party agreed to receive legal papers for this case.

3. List all documents you served (*check all that apply*)

(The most common documents are listed below. Check only those documents that were served. Use the "Other" box to write in the title of each document you served that is not already listed.)

- ☐ Notice of Hearing (*for date*) _____
- ☐ Motion for _____
- ☐ Declaration of _____
- ☐ Order on/for: _____
- ☐ Other:

4. Other information (if any)

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (*city and state*): _____ Date: _____



Server signs here

Print name