Represent yourself at a DSHS hearing

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If you lose or are turned down for benefits, including Medicaid (Apple Health), you can fight that loss or denial at a DSHS administrative hearing.

You can also use this to appeal a decision the Health Care Authority (HCA) has made about your benefits.

Learn when and how to ask for a hearing, how to get ready for your hearing, and what happens at the hearing and afterward.

1. What is an administrative hearing?

You have a right to appeal when you disagree with an action taken by certain state agencies. The Office of Administrative Hearings (OAH) (https://oah.wa.gov/) hears and decides the disagreement at an administrative hearing. The administrative law judge (ALJ) who hears your case is neutral and not employed by the state agency involved in the appeal.

2. Right to hearing

DSHS programs (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0085): You have the right to an administrative hearing if, for example, DSHS turns down (denies) your application for or reduces or stops (terminates) your cash benefits or food stamps, says they're punishing (sanctioning) you for not following their rules, or claims you have an overpayment of cash or food assistance.

HCA programs (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0085): You have the right to an administrative hearing if, for example, HCA turns down (denies) your application for, reduces, or terminates your Apple Health.

"The agency" in this guide refers to the agency whose decision you want to fight (you wish to appeal).

3. Request deadline

The agency must give you written notice if it plans to change your benefits or sanction you, or if it decides it paid you too much benefits or gave you benefits you didn't actually qualify for (it overpaid you). You have **up to 90 days from the date of the notice** to ask for a hearing.

If circumstances beyond your control, such as medical or housing issues, language barriers, or domestic violence, keep you from meeting the deadline,

you should still ask for a hearing as soon as you can. The agency should find you had good cause for not meeting your deadline if it hasn't been longer than a year.

If you ask for a hearing within **10 days** from the date of the notice (https://app.leg.wa.gov/WAC/default.aspx?cite=388-458-0035), you'll keep getting benefits (https://app.leg.wa.gov/WAC/default.aspx?cite=182-518-0025) up until the hearing. If the agency stops your benefits without giving you written notice, ask for an administrative hearing to ask for **continued benefits**.

> There are 2 exceptions to the continued benefits rule. If your certification period has ended, DSHS can stop your food stamps (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-458-0040) even though you've asked for a hearing. This is also true if you get medically needy Medicaid (https://app.leg.wa.gov/WAC/default.aspx?cite=182-504-0130&pdf=true) and have asked for a hearing about that.

If the agency is terminating or reducing your benefits, any continued benefits you get may become a debt you owe the agency if you lose your hearing. You might have to repay up to **60 days** of benefits. Read about fighting an overpayment of cash or medical assistance and fighting a food assistance overpayment to learn more about how the agencies collect overpayments.

4. How to request

There are different ways you can do this.

- **In writing:** Write the Office of Administrative Hearings (OAH), P.O. Box 42488, Olympia, WA 98504.
- **Verbally:** You can call OAH at (360) 407-2700 or 1-800-583-8271, or tell DSHS that you want a hearing. DSHS may have you follow up with a written request.
- **If it's an emergency**, you should call OAH at (360) 407-2700 or 1-800-583-8271 to ask them to hold the hearing as soon as possible. This is called an expedited hearing.

If you contact OAH to ask for a hearing and to keep getting benefits (if you're facing termination or reduction) until your hearing, you should also call your DSHS office and let them know you asked for a hearing and continued benefits.

- **DSHS cases** (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0120) **:** To ask for an interpreter, talk to the Administrative Coordinator at your local DSHS office, or call the Office of Administrative Hearings (OAH) at (360) 407-2700. Tell them you need an interpreter.
- **HCA cases** (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0120) **:** Fill out any form that came with your letter and fax it to 1-360-586-9080. Or you can call 1-855-923-4633 or 1-800-562-3022 to make the request by phone.

> You have the right to notices about your hearing (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0130) (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0130) in the language you speak at home (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0130).
>
> If at any time during the hearing you feel the interpreter isn't doing a good job, you can ask the Administrative Law Judge (ALJ) for another one.

If you have a disability, OAH must make sure its services and hearings are fully available to persons with disabilities. OAH may need to change the way it handles a hearing or communicates with you to make sure you have the same chance to take part in a hearing as someone without disabilities.

You can use OAH's form to ask for an accommodation of your disability (https://oah.wa.gov/Content-Area-Management/Forms-Hub/Request-For-Accommodation). Or you can also make your request over the phone by calling (360) 407-2700 or (800) 583-8271. TTY (hearing impaired) users dial 7-1-1 for the Washington relay operator.

It might help to have ready some suggestions for how OAH can accommodate your disability. If OAH refuses to accommodate you, you can file a complaint.

5. Hearing date

After you ask for a hearing, OAH will mail you a "Notice of Hearing" saying the hearing time, date, and place. If your hearing notice says it will be a phone hearing, and you need an in-person hearing, call OAH as soon as you can at the number on the notice to ask for an in-person hearing.

- **DSHS cases**: You have the right to have the hearing at your local DSHS Community Services Office (CSO) (https://www.dshs.wa.gov/office-locations).
- **HCA cases**: You can ask for an in-person hearing. You'll need to have a good reason (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0360) for your request.

6. Pre-hearing meeting

You can make an appointment to meet with (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0175) an agency representative (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0175). This is a **pre-hearing meeting**. The representative you'll meet with will represent the agency at your hearing. This person usually isn't a lawyer.

The pre-hearing meeting is a chance for you to understand the issues better from both sides and get ready for your hearing. You may even be able to settle the case. If you don't settle, you'll still have the hearing. The agency representative shouldn't pressure you at this meeting to cancel (withdraw) your hearing request.

Here's what you should do at the pre-hearing meeting:

- Ask why the agency is denying, changing, or terminating your benefits, or taking other action against you.
- Ask for copies of all rules the agency is using to support its action.
- Ask if the agency will have witnesses at the hearing. If so, ask who, and ask what the agency representative will ask them about.
- Ask to view and get copies of relevant documents from your electronic case file. Depending on what your case is about, the documents in your electronic case file may include letters, notices, case notes, case narratives, medical reports and evaluations, cash and food stamp computations, WorkFirst notes and documents, applications, or eligibility reviews.

If OAH has scheduled a **pre-hearing conference** (http://apps.leg.wa.gov/WAC/default.aspx?cite=388-02-0195), you must go to it. A pre-hearing conference (https://app.leg.wa.gov/WAC/default.aspx?cite=182-526-0195) is like a pre-hearing meeting, but it takes place on the record. This means the ALJ is there and records the conference.

7. Hearing prep

Well before the hearing date, the agency should give you a packet of all documents they'll use at the hearing. If you don't get the packet by a week before the hearing, call the agency representative. If the agency gave you the packet too late for you to review and understand, ask the ALJ to reschedule the hearing or take some other action to be fair to you because you didn't get the packet in time to get ready.

You should also send the agency representative and the judge at OAH identical copies of all documents, pictures, and other papers you'll use at the hearing to show why you think the agency is wrong. The judge and the agency representative need to get your documents in time for your hearing. **Ask OAH what your deadline is to submit documents**, and ask OAH and the agency rep how they want you to send documents in. Always keep the original for yourself.

You should send the agency and the judge your papers in beforehand even if your hearing is in-person.

If your case is about cash assistance or Apple Health, and you can prove that the overpayment wasn't your fault and you can't afford to repay it, you should have a legal defense to the overpayment. You should also make sure the agency used correct information about you to calculate the overpayment and ask the agency to re-calculate it out of caution.

If your case is about a food stamp overpayment, more could be at stake. Try to talk to a lawyer.

> If your hearing is online, follow these tips for phone and video hearings.

8. Bring to hearing

We recommend you bring:

- A written list of points you want to explain to the ALJ.
- Any documents, pictures, or other papers showing why you think DSHS is wrong.
- Witnesses to testify on your behalf.
- A friend or relative to support you. They don't have to testify.
- A friend, relative, or other person to represent you at the hearing. They don't have to be a lawyer.

> Most people represent themselves at their hearing. Knowing this might help you feel better about your ability to represent yourself.

9. Hearing

The ALJ conducts the hearing. The ALJ works for OAH.

These hearings have fewer rules (are less formal) than court proceedings. The ALJ records the hearing and takes notes.

At the start of the hearing, the ALJ will give a brief introduction, explaining how they're neutral and that all they know about the case is what your hearing request said. The ALJ will also explain how they will decide the case.

The ALJ will swear in everyone who will testify, the same way a witness gets sworn in at a court hearing.

Usually, the agency representative talks next. They will tell the ALJ why the agency believes it is right and explain the agency's documents it has given the

ALJ to prove its case (its exhibits). When the agency representative finishes, you can ask them about what they said. If the agency representative has any witnesses, you can question each witness when they finish testifying for the agency. The ALJ may ask the agency representative and any witnesses questions to clarify what they've said.

Next, you'll tell your side of the story. **Remember:** All the ALJ knows about you or the case is what your hearing request said. You must tell the ALJ everything you want them to know. Look at your notes. Tell the ALJ exactly what happened from your perspective.

When you finish, the agency representative and the ALJ may question you. Then any witnesses you have can testify. The agency representative and ALJ may question your witnesses.

10. Behavior at hearing

How you act is important. The ALJ hears or sees you just this once. Here are some tips:

- Be polite. Don't interrupt anyone.
- Be firm, but don't yell.
- Don't swear or use other offensive language.
- Look at the ALJ while you speak.
- Don't roll your eyes or use other disrespectful or offensive gestures.
- Dress neatly.

The advice in Tips for phone and video hearings works for in-person hearings, too.

11. Hearing decision

The ALJ won't decide at the hearing. Instead, about a month after the hearing, they'll mail you a written decision. That decision will be either an Initial Order or a Final Order. The Order will say in its title which one it is.

Either way, if you disagree with the decision, check the back of the Order. Your review or appeal rights will be attached to the back of it. If it's a Final Order and you disagree with it, you can also read about asking a Superior Court to review a DSHS hearing decision to learn more.

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