

# Fight a HEN denial or termination for medical reasons

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Learn more about this program, which can provide non-cash help if you're unable to work.

## **What is the HEN program?**

Washington State's HEN (Housing and Essential Needs) program (<https://www.dshs.wa.gov/esa/community-services-offices/housing-and-essential-needs-referral-program>) provides non-cash help to some people living in Washington who are unable to work. You must meet income and incapacity requirements. HEN can pay for housing costs and give you "essential needs" items.

You should read this if you get or want HEN only. If you get or want both HEN **and Aged Blind Disabled (ABD)** (<https://www.dshs.wa.gov/esa/community-services-offices/aged-blind-or-disabled-cash-program>), and DSHS has denied or ended your ABD, read about ABD denial or termination for medical reasons to learn more.

## **When can I get HEN Services?**

DSHS must first determine that you're eligible to get HEN assistance. Then they refer you to a local HEN provider who decides if you qualify for their services. The WA State Department of Commerce has information about local HEN providers (<https://deptofcommerce.app.box.com/v/CEAccessPoints>).

If you get ABD or Pregnant Women Assistance (PWA) (<https://www.dshs.wa.gov/esa/community-services-offices/pregnant-women-assistance-pwa-program>), or you're otherwise financially eligible, you're also eligible to get HEN. You may also be eligible for HEN if you're incapacitated and

are financially eligible. To be considered incapacitated, you must be unable to work due to physical or mental impairment lasting at least 90 days.

If DSHS turns you down for (*denies* you) HEN because they say you have too much income or resources, or gives a reason other than your medical condition, you can fight the denial of DSHS public assistance.

Generally, DSHS has **45 days** from the date of your application to decide if you're incapacitated and eligible for HEN. If they don't send you a letter within **45 days**, you can ask them to tell you if they have good cause for the delay. You can also ask for an administrative hearing for a decision about your eligibility for HEN. You should also try to talk to a lawyer.

### Can I get help applying?

If you need help getting or keeping DSHS benefits, DSHS may have to offer you extra services and protections before denying or ending (*terminating*) your eligibility for the HEN program. Ask for help if you have a physical or mental disability, problems reading or writing, problems speaking or understanding English, problems from drug or alcohol use, or other problems.

### What if I disagree with DSHS?

You can do any or all of these:

1. Ask for an administrative hearing.
2. Ask a DSHS supervisor to review and explain the decision.
3. Re-apply.

### When and why do I ask for explanation and review?

Before or after asking for a hearing, you can ask your DSHS worker to **explain** more about the decision to deny, terminate or reduce your assistance.

You may learn DSHS had wrong or was missing information. If that's the case, try to give DSHS the correct or missing information.

If you need help getting that information, you can ask the worker. If you must pay to get the information, ask DSHS to pay, or if DSHS will accept other proof that you don't need to pay to get.

You can also ask the DSHS worker's supervisor for a meeting to **review** the decision to deny, terminate or reduce benefits. If you write to the supervisor, the supervisor must write back within 10 days. If that doesn't change the decision, you can write to the head (the *administrator*) of the local DSHS office. The administrator must write back to you in **10 days**.

If you disagree with what the worker, supervisor, and administrator decide, the matter is final *unless* you also ask for or have asked for a hearing.

### Should I re-apply?

Yes, if one of these is true:

- You think DSHS was right to deny you when they did. But your situation has since changed. You believe you're eligible to get benefits now.
- You have more information that might change DSHS' decision. Your DSHS worker or supervisor will only look at your new info if you re-apply. You can re-apply while also trying to use the new information in your administrative hearing.

You can re-apply for benefits any time. You can re-apply even if you've asked for a hearing.

### I asked for a hearing. Now what?

Contact the Administrative Hearing Coordinator (AHC) at the local DSHS office. The AHC represents DSHS in the hearing. Your case could settle beforehand if you point out that DSHS made a mistake, or you give DSHS more medical information.

When you first call the AHC, ask them why the medical information doesn't prove you can't work and what it needs to say to prove it. You should also ask for an appointment to look at your file and discuss your case. Get copies of all medical

reports and other documents in your file DSHS used or created in making and explaining its decision. If your case is a termination of eligibility for HEN, ask to review all medical reports and documents in your DSHS file that helped win eligibility in the first place.

DSHS may not put in the administrative hearing packet medical information favorable to you. (See next section.)

Ask the AHC for any other rules DSHS used in its decision besides the rules its notice stated. The HEN referral incapacity rules are in WAC 388-447 (<http://apps.leg.wa.gov/wac/default.aspx?cite=388-447>). You can also read them at the DSHS office or your public library.

Ask the AHC to explain anything about DSHS's decision that you don't understand. Ask what evidence would change DSHS' decision. If you get that evidence, DSHS may change its decision without a hearing.

If you can't reach or believe the AHC is unreasonable, ask to speak to the supervisor or office administrator. If that doesn't change things, present your case to the ALJ at the Administrative Hearing.

### **How do I prove I'm unable to work?**

To determine your eligibility or continued eligibility for HEN, DSHS reviews your medical and vocational information. This information is usually on DSHS physical or psychiatric or psychological evaluation forms from doctors who examined you. DSHS uses an 8-step "Progressive Evaluation Process" (PEP) form following WAC rules. You must figure out what parts of the evaluations and step of the PEP show DSHS's reason for denying or ending your eligibility for HEN.

To learn more about how DSHS incapacity specialists use the PEP, look at their Social Services Manual (<https://www.dshs.wa.gov/esa/manuals/social-services>).

### **Should I get a letter from a doctor?**

If you think any doctor who did an evaluation for DSHS may support you on any point DSHS has said is important, yes, you should ask that doctor for a letter of

support. If you have a regular treating doctor, psychologist, nurse practitioner, or mental health worker, they may be able to provide the proof DSHS says it needs.

If you're a client of the Department of Vocational Rehabilitation (DVR), ask your DVR counselor for copies of all medical or vocational information in your DVR file that may help.

### Can I get another medical evaluation?

If you believe more medical evaluations will prove your case, ask DSHS to set this up and pay for it. You must have a good reason for needing another evaluation. Here are some **examples** of good reasons. This is not a complete list:

- DSHS made their decision without getting evaluations of all your medical problems they know about.
- You have a history of a medical problem you still believe keeps you from working. No one evaluated it.
- The DSHS evaluation forms a doctor filled out mention medical problems outside that doctor's expertise or recommend more evaluations that DSHS didn't get.
- You have other reason to believe the doctors who did DSHS reports didn't completely evaluate your medical condition or fill out the form completely. (**Examples:** They didn't put how long they expect you to be unable to work. They left out medical conditions.)
- DSHS says there's no objective medical evidence supporting what a doctor has said about your condition, or how it keeps you from working. Ask them to follow up with the doctor or tell you what testing you need. Ask DSHS to pay for any further tests you need.

### DSHS refuses to pay for more evaluations before my hearing. What can I do?

Call the OAH. (The number is on your Hearing Notice.) Ask for a pre-hearing conference where you can ask the ALJ to order DSHS to pay for another evaluation.

If the ALJ doesn't order DSHS to pay, try to get an evaluation from another doctor yourself. Try seeing a doctor you saw in the past.

Even if DSHS doesn't pay for the evaluation, you can ask your own doctor to use DSHS's evaluation form. Its format makes it easy to apply DSHS's criteria to your doctor's opinions. Ask DSHS for copies of the forms to hand-deliver to your doctors or print them yourself from the DSHS website (<https://www.dshs.wa.gov/office-of-the-secretary/forms>). (Look for forms 13-021 and 13-865.)

Finally, you can ask the ALJ at the hearing to order DSHS to pay for more evaluations. Any further evaluations you get may persuade the AHC to settle the case or rule for you at the hearing.

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