

# How to Petition for Superior Court Review: Administrative Decision Relating to Public Benefits

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## Summary of steps

- Check if the Administrative Order you want to appeal is an Initial Order or Final Order.
- If it is an Initial Order, do not use this packet yet. You must first file an appeal with the Board of Appeals (BOA). If you then disagree with the BOA's decision, you can use this packet to appeal that decision.
- If the Order is a Final Order, read this packet.
- Figure out your deadline for filing your Petition for Review of an Administrative Order.
- Decide your legal reasons for filing the Petition.
- Decide if you will file your Petition in the Superior Court in the county where you live or in Thurston County (in Olympia).
- Figure out if there will be a fee to file your Petition with the court. If there will, decide if you should ask the court to waive (forgive) the fee.
- Fill out the forms in this packet. Fill out the waiver of filing fee forms if needed.
- Attach the Initial Order (if there is one) and Final Order in your case to your Petition.
- Make three copies of your Petition and attachments.
- File your Petition and attachments with the court. Pay the filing fee or get a court order waiving it.
- 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.
- Wait to get info on how to ask for a copy of your hearing transcript. Decide if you need to do this.
- Wait to hear from the Assistant Attorney General (AAG). Discuss the case with the AAG. Consider trying to settle.
- Schedule the case for hearing.
- File more paperwork as needed.
- Get ready for trial if you cannot settle the case.
- Go to trial.

## Should I read this?

**Yes, if** you are appealing a Final Order from an administrative hearing with an Administrative Law Judge (ALJ) or Board of Appeals review.

If you disagree with something that the Department of Social and Health Services (DSHS) or Health Care Authority (HCA) does and have **not** yet had a hearing, use [Representing Yourself at an Administrative Hearing](#), available at [washingtonlawhelp.org](http://washingtonlawhelp.org), or from CLEAR or your local legal services office.

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❖ This info relates to DSHS cases like TANF, Food Assistance (food stamps), licensing, and childcare; and HCA cases like Medicaid, including long-term care. For more about DSHS cases, see [WAC 388-02-0217](#) and [388-02-0600](#). For HCA cases, see WAC [182-526-0560](#) through [182-526-0595](#).

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## What is a Petition for Review of an Administrative Order?

If you disagree with the final administrative decision, you can appeal your case to Superior Court. The appeal is a **Petition for Review of an Administrative Order**. You file this Petition in the Superior Court of the county where you live **or** in Thurston County Superior Court in Olympia.

This explains when and how to petition the Superior Court for review. It is not easy. Do not get discouraged. You may need to read this several times or ask someone about it.

## What is the law on petitions for judicial review?

The laws on petitions for judicial review are at [RCW 34.05.510](#) through [.598](#).

## What forms will I need to file this Petition?

This packet has forms to use for Petition for Review of an Administrative Order and Declaration of Service.

## Is there anything I have to do before I can file a Petition for Review?

**Yes.** You must first finish the administrative appeals process. If you do not, the Superior Court cannot hear your case.

This process has two steps:

1. An administrative hearing with an Administrative Law Judge (ALJ) from the Office of Administrative Hearings AOH)
2. A Board of Appeals (BOA) Review. If the ALJ's decision is a Final Order, skip this step

The ALJ's decision will say it is either an **Initial Order** or a **Final Order**. You must appeal an **Initial Order** to the BOA before you can file in Superior Court. This is confusing, but very important. In HCA cases, the ALJ's written decision is always an Initial Order. Read [Representing Yourself at an Administrative Hearing](#).

## What is the deadline for filing a Petition for Review?

You must **file and serve** a Petition for Review **within 30 days of the final administrative order**. The 30 days starts from the date on the decision, **not** the date you got it. Below we explain:

- what the Petition must say
- how and where to file it
- who must get copies of the petition (service)
- how to serve it

## What are the rules about Petitions?

Generally, you can only raise issues and arguments in your petition that you raised at the hearing. There are a few exceptions, including:

- New facts you could not have discovered before, if you are challenging a DSHS or HCA rule (WAC)
- You were not notified of the administrative hearing

For more about raising new issues, see [RCW 34.05.554](#).

## Can I give the court new evidence?

**Only in a very few cases.** Generally, the judge reviews only testimony and documents filed in the administrative process.

You can sometimes add new facts you could not have discovered earlier, or facts the judge, DSHS or HCA improperly kept out of the record. If important facts are missing, the court can “remand” (send back) the case to get them. See [RCW 34.05.562](#).

## How do I win my case?

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- ❖ If you are arguing a **DSHS or HCA rule is invalid** (no good), you must prove specific reasons for that. [RCW 34.05.570 \(2\)](#).
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You must be able to prove your case. The court will change the decision for limited reasons only. Those reasons are in section 6 of the attached Petition for Review form and in [RCW 34.05.570 \(3\)](#).

## What should the Petition say?

It must have the following info. We included some of this info on the attached Petition form:

- In the caption, you must check the box showing if you must pay a filing fee in this case. See “Is there a Fee to File the Petition,” below.
- Your name and mailing address.
- The name and mailing address of the agency whose decision you disagree with.
- A statement identifying the decision you are appealing by agency (DSHS or HCA), type (usually “Final Order”), issuing agency (“Board of Appeals” or “Office of Administrative Hearings”), the date the agency issued it, and the docket number. That number is on the upper right-hand side of the first page of the order.
- Names of the parties in the administrative hearing - usually you and DSHS or HCA.
- A statement that you have timely filed the petition with the proper court, have exhausted the administrative remedies, and are aggrieved by the decision you are appealing. The form in this packet already says this.
- Why you think the 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, Paragraph 6.”
- What you want the court to do. Examples: “I ask the court to reverse the administrative decision and grant me TANF benefits without a sanction back to the date DSHS sanctioned me.” “I ask the court to reverse the administrative decision and reinstate my TANF benefits back to January 1, 2014.” “I ask the court to change the administrative decision and stop DSHS from collecting the overpayment.”

**You do not need to go into detail here.** You will have a chance to go into more detail (brief the issues) later.

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❖ You should type your petition. If you cannot, print neatly.

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## Do I need to give the court a copy of the administrative order I want it to review?

Yes. Attach a copy of it to the Petition. If that decision is an “Initial Order,” also attach your Final Order from the BOA.

## How and where do I file the Petition?

- Make three copies of your Petition for Review and attachments.
- File the original with the Superior Court Clerk. You may file in your own county or Thurston County.
- The Clerk will stamp it with a number. Put that number on the three copies, too. Most clerks also have a date stamp you can use on your copies to show when you filed them.

## **Is there a fee to file the petition?**

It depends. There is no charge for filing a petition involving a public assistance program under DSHS or HCA. [RCW 74.08.080\(3\)](#) (DSHS public assistance); [RCW 74.09.741 \(8\)](#) (HCA).

**Non-public assistance cases have a filing fee.** These may involve decisions by the Division of Child Support (DCS), eligibility through the Developmental Disabilities Administration (DDA), licensing issues, and appeal of Child Protective Services (CPS) or Adult Protective Services (APS) abuse findings. The fee can be from \$36 to \$280. It depends on the type of case and county.

## **My case has a filing fee. I cannot afford to pay it. What can I do?**

You can file a motion asking the court to waive (forgive) the filing fee. [Filing for Waiver of Your Filing Fee](#) has forms and instructions.

## **How do I serve the Petition?**

You must serve copies of your petition on DSHS or HCA (depending on what type of case it is), the Office of the Attorney General, and any other parties.

To serve DSHS, you must deliver a copy of the petition to the DSHS Board of Appeals (BOA). You can hand-deliver it or send it by mail that gives proof of receipt.

### **DSHS BOA's location is:**

Office Building 2, First Floor Information, 1115 Washington St. SE, Olympia, Washington 98504-5803. The phone numbers are (360) 664-6100 or toll free, 1-877-351-0002, or TTY (360) 664-6178. The fax number is 1-360-664-6187.

### **DSHS BOA's mailing address is:**

DSHS Board of Appeals  
PO Box 45803  
Olympia, WA 98504-5803.

To serve **HCA**, you must deliver a copy of the petition to the director of HCA and send a copy to the HCA Board of Appeals (BOA). You may hand deliver the petition or send it by mail that gives proof of receipt.

### **The HCA director's location is:**

Director  
Health Care Authority  
626 8th Avenue S.E.  
Olympia, WA 98501

**The HCA director's mailing address:**

Director  
Health Care Authority  
P.O. Box 45502  
Olympia, WA 98504-5502

**HCA BOA's location:**

626 8th Avenue S.E.  
Olympia, Washington

**HCA BOA's mailing address:**

P.O. Box 42700  
Olympia, WA 98504-2700  
The phone number is 1-844-728-5212. The fax is 360-507-9018.

To serve the **Office of the Attorney General** and any other parties, send a copy of the Petition for Review by regular mail. You can also serve the Office of the Attorney General by hand delivery to Office of the Attorney General, 7141 Cleanwater Dr. SW, Tumwater, WA 98504.

**The mailing address:**

Office of the Attorney General  
P.O. Box 40124  
Olympia WA 98504-0124

Keep the Post Office's proof that you mailed the envelope.

You must file and serve your Petition for Review of an Administrative Order within thirty days of the date on the final administrative order.

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❖ No matter how you serve, DSHS or HCA and the Attorney General must get the petition by the deadline.

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Keep the final copy of the Petition for yourself.

**How do I prove the Petition was served?**

Save the post office receipt(s) showing delivery. They are proof of any documents you serve by mail. For any hand-delivered documents, the person who served them must sign a "Declaration of Personal Service." That form is in this packet.

**What happens after I file the Petition?**

The Record - In about a month, you will get a copy of the documents and decisions from your administrative hearing and any BOA review. There should be info about how to get a copy of a written transcript (a typed-out version of the hearing, including any testimony). You should get the transcript if you think the facts in the decision are not correct. You may

not need the transcript if you agree with the facts as written. If you have a low income, you will not 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. After you get this, you must send this AAG a copy of any further papers you file with the court. This is your first chance to try to settle the case. Call the AAG. Talk about why you think the administrative decision is wrong. The AAG might contact you as well. The AAG cannot give you legal advice.

Setting (Scheduling) 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. Every county does this differently. Contact the Clerk's Office of the Superior Court where you filed your case. 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 two copies. **File the original with the Court Clerk. Send a copy to the AAG (and any other parties). Keep a copy for yourself.**

### **Should I try to settle the case with the AAG before trial?**

You can contact the AAG to try to settle your case before or after setting it for trial. If you get a settlement and are 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.

### **What if we could not agree to settle the case before trial?**

Your case will go to trial, unless you decide to dismiss it.

### **How do I handle my case at trial?**

You must go to court on the scheduled date and tell the judge why you think you should get the relief you asked for. The last point in "What should the Petition say," above, has examples. You must prove DSHS or HCA was wrong.

If you can, review the laws that apply to your case, especially [RCW 34.05.570 \(1\)](#) and (3). Tell the judge why the law and/or rules support your claim.

**You cannot bring witnesses or introduce 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 have given the judge why you should win.

### **What if I need legal help?**

- Apply online with [CLEAR\\*Online](#) - <https://nwjustice.org/get-legal-help>  
or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington’s toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County**: Call 1-888-201-1014 weekdays, 9:15 a.m. - 12:15 p.m.
- **King County**: Call 211 for info and referral to an appropriate legal services provider weekdays 8:00 am – 6:00 pm. You can also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County at [www.resourcehouse.com/win211/](http://www.resourcehouse.com/win211/).
- **Persons 60 and Over**: Seniors age 60 or over can call CLEAR\*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. Seniors in King County may call 2-1-1.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF \_\_\_\_\_

_____,	No. _____
Petitioner	PETITION FOR REVIEW
vs.	<input type="checkbox"/> NO FILING FEE REQUIRED (RCW 74.08.080(3)(a))
_____,	<input type="checkbox"/> FILING FEE REQUIRED
Respondent	_____

1. The Petitioner, \_\_\_\_\_ [*Petitioner's name*], whose mailing address is \_\_\_\_\_, petitions for review pursuant to RCW 34.05.510 et seq. and RCW 74.08.080, of an administrative agency decision.

2. The decision is from \_\_\_\_\_ [*agency's name*]. Their address is: \_\_\_\_\_.

3. At issue is the administrative hearing decision of the \_\_\_\_\_ [*agency*], docket number \_\_\_\_\_, issued on \_\_\_\_\_, 20\_\_\_\_. A copy of the decision is attached to this Petition.

4. The parties in the hearing were Petitioner herein and the \_\_\_\_\_ [*agency*].

1           5.       Petitioner has timely filed this Petition for Review with the proper court.  
2 Petitioner has exhausted administrative remedies and is aggrieved by the final decision of the  
3 agency.

4           6.       Petitioner is entitled to relief pursuant to RCW 34.05.570(3) because \_\_\_\_\_  
5 \_\_\_\_\_ and based on one or more of  
6 these:

- 7           (a) the order, or the statute or rule on which the order is based, is in violation of  
8 constitutional provisions on its face or as applied;
- 9           (b) the order is outside the statutory authority or jurisdiction of the agency     conferred  
10 by any provision of law;
- 11           (c) the agency has engaged in unlawful procedure or decision making process, or has  
12 failed to follow a prescribed procedure;
- 13           (d) the agency has erroneously interpreted or applied the law;
- 14           (e) the order is not supported by evidence that is substantial when viewed in light of the  
15 whole record before the court;
- 16           (f) the agency has not decided all issues requiring resolution by the agency;
- 17           (g) a motion to disqualify the administrative law judge was made and was properly  
18 denied or, if no motion was made, facts are shown to support the granting of such a  
19 motion that were not known and were not reasonably discoverable by the challenging  
20 party at the appropriate time for making such a motion;
- 21           (h) the order is inconsistent with a rule of the agency unless the agency explains the  
22 inconsistency by stating facts and reasons to demonstrate a rational basis for  
inconsistency;
- (i) the order is arbitrary or capricious.

7. **WHEREFORE**, Petitioner asks the Court for judgment:

A. Changing the administrative hearing decision and granting other relief as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

B. Awarding costs to Petitioner;

C. Awarding any further relief this Court deems proper.

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DATED: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_,

Petitioner

vs.

STATE OF WASHINGTON,  
DEPARTMENT OF SOCIAL & HEALTH  
SERVICES,

Respondent

No. \_\_\_\_\_

DECLARATION OF PERSONAL  
SERVICE

(No Mandatory Form Developed)

On \_\_\_\_\_ [date] in \_\_\_\_\_ County, Washington, I

served the Petition for Review of Administrative Order in the above-entitled action on

Respondent at the following location(s) [*write office name(s) and address(es) below*]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

by handing to and leaving with said Respondent a true and correct copy of said document.

I certify under penalty of perjury under the laws of the State of Washington that the

foregoing statements are true and correct to the best of my knowledge.

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Dated: \_\_\_\_\_

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City/State: \_\_\_\_\_

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Signature

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Print or Type Name

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