Representing yourself at an administrative hearing

❖ You can find all the fact sheets we link to here at WashingtonLawHelp.org.

❖ In this guide, we refer to the state rules (abbreviated as WACs) each agency must follow regarding different parts of the hearing process.

Should I read this?

Yes. You should read this if you get, or have applied for, benefits through the Department of Social and Health Services (DSHS), or Medicaid (Apple Health) through the Health Care Authority (HCA), and you disagree with a verbal or written decision the agency has made about your benefits. We explain here how you can appeal that decision by asking for and going to an administrative hearing. WAC 388-02-0085 (DSHS); WAC 182-526-0085 (HCA).

❖ DSHS: You can use this if, for example, DSHS turns down (denies) your application for, reduces or stops your cash benefits or Food Stamps, says they are punishing (sanctioning) you for not following their rules, or claims you have an overpayment.

❖ HCA: You can use this if, for example, HCA turns down (denies) your application for, reduces, or stops your Apple Health.

What will I learn?

You will learn:

• When and to ask for a hearing.

• How to get ready for your hearing.

• What happens at the hearing and afterward.
In this fact sheet, we say “the agency” to refer to whichever of the two agencies whose decision you want to fight (you wish to appeal).

What if I need an interpreter?

If you have a hard time speaking or understanding English, or cannot communicate in spoken language, you have the right to a qualified and impartial interpreter at no cost. [WAC 388-02-0120 (DSHS); WAC 182-526-0120 (HCA)]. Family members and friends cannot be your interpreter at the hearing.

**DSHS cases:** 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 or 1-800-583-8271. Tell them you need an interpreter.

**HCA cases:** 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 in the language you speak at home. [WAC 388-02-0130 (DSHS); 182-526-0130 (HCA)].

- If at any time during the hearing you feel the interpreter is not doing a good job, you can ask the Administrative Law Judge (ALJ) for another one.

What is my deadline for asking for an administrative hearing?

**Both DSHS and HCA cases:** The agency must give you written notice if it plans to turn down (deny), lower, or stop (terminate) your benefits, sanction (punish) you, or decide it paid you too much (it overpaid you) benefits or gave you benefits the agency later determines you did not actually qualify for. [WAC 388-458-0002 (DSHS); WAC 182-518-0005 (HCA)]. The notice the agency gives you must say what action the agency is taking and what rule or rules it is relying on.

You can ask for an administrative hearing anytime within 90 days of the date of the agency’s notice. **Starting July 1, 2023,** if circumstances beyond your control, such as medical issues, housing instability, language barriers, or domestic violence, keep you from meeting that 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 as long as it hasn’t been longer than a year.
If you get benefits, and you ask for a hearing within 10 days of the date on the notice or before the date the agency says it will stop or lower your benefits, the agency must keep giving you benefits until an ALJ has decided your case. If the agency stops your benefits without giving you written notice, ask for an administrative hearing to ask for continued benefits.

❖ There are two exceptions to the continued benefits rule. 1. DSHS can stop your food stamps even though you have asked for a hearing if your certification period has ended. WAC 388-458-0040(5)(c). 2. If you get medically needy Medicaid, HCA can stop your coverage even though you have asked for a hearing, if your certification period has ended. WAC 182-504-0130.

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

**How do I ask for an administrative hearing?** - WAC 388-02-0100 (DSHS); 182-526-0095 (HCA)

There are different ways you can do this.

**In writing:** Write the Office of Administrative Hearings (OAH), P.O. Box 42488, Olympia, WA 98504.

If it is 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.

**Verbally:** You can call OAH or tell the agency representative that you want a hearing. The agency may have you follow up with a written request.

*You have the right to ask for an interpreter, at no cost.

**How will I find out my hearing date?**

After you ask for a hearing, OAH will mail you a "Notice of Hearing" saying the hearing time, date, and place.
I got a hearing notice. It says the hearing will happen by phone. Can I get an in-person hearing instead?

Call OAH as soon as you can at the number on the notice to ask for an in-person hearing. In-person is usually better.

**DSHS cases:** You have the right to have the hearing at your local DSHS Community Services Office (CSO). You can visit [dshs.wa.gov/office-locations](http://dshs.wa.gov/office-locations) to find the CSO nearest you.

**HCA cases:** You can ask for an in-person hearing. You will need to have a good reason for your request. See [WAC 182-526-0360](http://wac.wa.gov/182-526-0360) for some examples of good reasons.

**What is a pre-hearing meeting?** [WAC 388-02-0175 – 388-02-185](http://wac.wa.gov/388-02-0175) (DSHS); [WAC 182-526-175 – 195](http://wac.wa.gov/182-526-175) (HCA)

You can make an appointment to meet with an agency representative. This representative usually not a lawyer. They will represent the agency at your hearing.

Ask the agency representative:

- To explain why the agency is denying, changing, or stopping your benefits, or taking any other action against you.
- To give you copies of all rules the agency is using to support its action.
- To ask if the agency will have witnesses at the hearing. If so, ask who, and what the agency representative will ask them about.
- To view and get copies of relevant documents from your electronic case file.

This is a chance to understand the issues better from both sides and help you get ready for your hearing. You may even be able to settle the case. If you don’t settle, you will still have the hearing. The agency representative should not pressure you to cancel (withdraw) your hearing request.

- 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 Basic Food computations, WorkFirst notes and documents, applications, or eligibility reviews.
How else do I get ready for the hearing?

Well before your hearing, the agency should give you a packet of all documents they will use at the hearing. If you do not get the packet by a week before the hearing, call the agency representative. If you believe 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 did not get the packet in time to get ready.

Before your hearing, you should send the judge at OAH and the agency representative at the agency identical copies of all documents, pictures, and other papers you will use at the hearing to show why you think the agency is wrong. Most hearings are by phone. The judge and the agency representative need to have gotten your documents in time for your hearing. You should send them in beforehand even if your hearing is in-person. Ask OAH and the DSHS rep how they want you to send documents in. Always keep the original for yourself.

What is a pre-hearing conference?  

WAC 388-02-195 - WAC 388-02-0205 (DSHS); 182-526-0195 (HCA)

It is like a pre-hearing meeting, but it takes place on the record. This means that the ALJ is there and records it.

❖ If there is a pre-hearing conference, you **must** go to it.

What do I bring to the hearing?

- 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 do not have to testify.
- A friend, relative, or other person to represent you at the hearing. They do not 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.
What happens at the hearing? **WAC 388-02-0375** (DSHS); **182-526-0375** (HCA)

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

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

At the start of the hearing, the ALJ will explain that the ALJ does not work for DSHS, has never seen your file, and knows nothing about you or the case except what your hearing request said.

The ALJ explains that in deciding your case, they consider only:

- Documents you and the agency give (submit) to the ALJ.
- Sworn testimony.

The ALJ will swear in everyone who will testify.

Usually, the agency representative talks next. They 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 witnesses, you can question them when they finish testifying. The ALJ may ask the agency representative and/or witnesses questions to clarify what they have said.

Now you 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.

**How should I act at the hearing?**

How you act is important. The ALJ hears or sees you just this once.

Some tips:

- Be polite. Do not interrupt anyone.
- Be firm, but do not yell.
• Do not swear or use other offensive language.

• Look at the ALJ while you speak.

• Do not roll your eyes or use other disrespectful or offensive gestures.

• Dress neatly.

For more tips, read Tips for Phone and Video Hearings. The advice there works for in-person hearings, too.

**When will I find out what the judge’s decision is?**

The ALJ does **not** decide at the hearing. They mail you a written decision about a month after. It is either an Initial Order or a Final Order. The Order will say in its title which one it is.

There is an important difference between an Initial Order and a Final Order. See the next question, “I got an Initial Order. Can I appeal it if I disagree with it?”

**I got an Initial Order. Can I appeal it if I disagree with it?** [WAC 388-02-0217](https://laws.wa.gov/title388/chapter88-02) (DSHS); [182-526-0530](https://www.bitly.com/182-526-0530) (HCA)

Your review or appeal rights will be attached to the back of the Initial Order.

**I got a Final Order. Can I appeal it if I disagree with it?** [WAC 388-02-0217](https://laws.wa.gov/title388/chapter88-02) (DSHS); [182-526-0605](https://www.bitly.com/182-526-0605) (HCA)

Your review or appeal rights will be attached to the back of the Final Order. You can also read How to Petition for Superior Court Review to learn more.
Get Legal Help

- **Apply online** - [nwjustice.org/apply-online](http://nwjustice.org/apply-online)

- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 6:00 pm. They will refer you to a legal aid provider.

- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm or apply online at [nwjustice.org/apply-online](http://nwjustice.org/apply-online).

- **Facing Eviction**? Call 1-855-657-8387.

- **Facing Foreclosure**? Call 1-800-606-4819.

- **Seniors (age 60 and over)** with a legal issue outside of King County can also call CLEAR*Sr at 1-888-387-7111.

**Deaf, hard of hearing or speech impaired callers** can call any of these numbers using the relay service of your choice.

**Interpreters provided.**

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