

Representing Yourself at an Administrative Hearing

Should I read this?

If you disagree with any verbal or written decision by the Department of Social and Health Services (DSHS), you can appeal that decision by asking for an administrative hearing. [WAC 388-02-0085](#).

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- ❖ **Examples:** DSHS denies your application, reduces or stops cash benefits, Basic Food (formerly Food Stamps), or medical assistance, says they are sanctioning you, or claims you have an overpayment.
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This explains

- when to ask for a hearing
- how to ask for a hearing
- how to get ready for your hearing
- what happens at hearing and afterward

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](#). To ask for one, talk to the Administrative Coordinator at your local DSHS office, or call the Office of Administrative Hearings (OAH) at (360) 664-8717 or 1-800-583-8271. Tell them you need an interpreter. You have the right to notices about your hearing in your primary language. [WAC 388-02-0130](#). If 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 the deadline for asking for an administrative hearing?

DSHS must give you a written notice if it plans to deny, lower, or stop your benefits, sanction (punish) you, or decide it overpaid you benefits. [WAC 388-458-0002](#). The notice must say both of these:

- What action DSHS is taking.
- What rule/s it is relying on.

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- ❖ You can ask for an administrative hearing anytime within 90 days of the date of the notice.
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If you get benefits and you ask for a hearing within ten days of the date on the notice OR before the effective date of the proposed action, DSHS must keep your benefits going until an ALJ has decided your case. If DSHS stops your benefits without giving you written notice, ask for an administrative hearing to ask for continued benefits.

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- ❖ **Exception to this:** DSHS can stop your Basic Food benefits even though you have asked for a hearing, if your Basic Food certification period has ended. [WAC 388-458-0040\(5\)\(c\)](#).
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If DSHS is stopping or lowering your benefits, any continued benefits you get may become an overpayment -- a debt you owe DSHS -- if you lose your hearing. [WAC 388-458-0040\(6\)](#). You will not have to repay more than 60 days' worth of continued benefits. [WAC 388-410-0001\(1\)\(b\)](#). [How to Fight an Overpayment of](#)

[Cash or Medical Assistance](#) and [Fighting a Food Assistance Overpayment](#) explain how DSHS collects overpayments.

How do I ask for an administrative hearing?

In writing: Write the Office of Administrative Hearings (OAH), P.O. Box 42488, Olympia, WA 98504. [WAC 388-02-0100](#).

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- ❖ If it is an emergency, call them at (360) 664-8717 or 1-800-583-8271 to ask them to hold the hearing as soon as possible (an “expedited” hearing).
 - ❖ You have the right to ask for an **interpreter**, at no cost.
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Verbal Request: You can call OAH or tell the DSHS Administrative Hearing Coordinator or other DSHS staff that you want an administrative hearing. DSHS may have you follow up with a written request.

After you ask for a hearing, OAH will send you a "Notice of Hearing" saying the hearing time, date, and place. If the notice says that the hearing will be by phone but you want an in-person hearing, 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. You have the right to have the hearing at your local DSHS Community Services Office.

What is a pre-hearing meeting? [WAC 388-02-0175 – 388-02-185](#).

You can make an appointment to meet with the DSHS Administrative Hearing Coordinator

(AHC). The AHC is usually not a lawyer. The AHC will represent DSHS at your hearing.

Ask the AHC

- To explain why DSHS is denying, lowering, or stopping your benefits or taking any other action against you.
- To give you copies of all rules DSHS is using to support its action.
- To ask if DSHS will have witnesses at the hearing. If so, ask who, and what the AHC 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 be able to settle the case. If not, you still have the hearing. The AHC should not pressure you to withdraw your hearing request.

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- ❖ 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, eligibility reviews.
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How else do I prepare for the hearing?

Well before your hearing, DSHS 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 AHC. If you believe DSHS gave you the packet too late for you to review and understand, ask the ALJ to

reschedule the hearing or take other action to be fair to you because you did not get the packet in time to prepare.

Before your hearing, you should send the judge at the Office of Administrative Hearings and the AHC at DSHS identical copies of all documents, pictures, and other papers you will use at the hearing to show why you think DSHS is wrong. Most hearings are by phone. The judge and the FHC need to have gotten your documents in time for your hearing. You should send them in beforehand even if your hearing is in-person.

What is a pre-hearing conference? **WAC 388-02-195 - WAC 388-02-0205**

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

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- ❖ If there is a pre-hearing conference, you **MUST** attend.
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What do I bring to the hearing?

- A list of points 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 for support. 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.

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- ❖ Most people represent themselves at their hearing.
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What happens at the hearing? WAC 388-02-0375

The ALJ conducts the hearing. The ALJ works for the Office of Administrative Hearings (OAH).

Most hearings are phone hearings. In-person hearings will take place at the DSHS office.

These are less formal than court proceedings. The ALJ tape records it and takes notes.

At the start, the ALJ explains 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 DSHS submit
- sworn testimony

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- ❖ The ALJ will swear in everyone who will testify.
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Usually, the FHC talks next. They tell the ALJ why DSHS believes it is right, and explain DSHS' exhibits. When the FHC finishes, you can ask them about what they said. If the FHC has witnesses, you can question them when they finish testifying. The ALJ may have questions for the FHC and/or witnesses, to clarify the facts.

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 FHC and the ALJ may question you. Then any witnesses you have can testify. The FHC 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.

If your hearing is in person:

- Look at the ALJ while testifying.
- Do not roll your eyes or use other disrespectful or offensive gestures.

What happens after the hearing?

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. There is an important difference. See below.

Initial Order: [WAC 388-02-0217](#).

If you or DSHS disagree with the Initial Order, you can appeal to a Review Judge who works for DSHS' Board of Appeals (BOA). This appeal is a Petition for Review. Instructions on petitioning for review and the deadline come with the Initial Order.

This appeal is in writing only. You do not go before the Review Judge. The Review Judge considers only documents and testimony from

the hearing. **You cannot add anything.** If you send the BOA a written appeal, DSHS can respond in writing, and vice versa.

The Review Judge will send you and DSHS a Review Decision. If you disagree with it, you can file a Petition for Review of Administrative Decision to your county Superior Court OR Thurston County Superior Court. If your hearing was about public assistance, there is no fee to file in Superior Court. You must file a Petition of Administrative Decision **within 30 days** of the date of the Review Decision. If you cannot get a lawyer, use [How to Petition for Superior Court Review](#).

Final Order: [WAC 388-02-0217](#).

If your hearing notice has a "B" in the docket number, you get a Final Order. If you or DSHS disagree with the ALJ's Final Order, you cannot appeal to the BOA. You can ask the ALJ to **reconsider** their decision.

The ALJ's decision on Reconsideration is the final agency decision. DSHS cannot appeal it further. If you disagree with the Reconsideration decision, you appeal by filing a Petition for Review of Administrative Decision.

You can skip the Request for Reconsideration and appeal a Final Order to Superior Court with a Petition for Review of Administrative Decision. See [How to Petition for Superior Court Review](#).

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of February 2018.

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