



## Arc Guide to a Department of Human Services Decision Appeal

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State agency hearings (often called appeals) are available for a variety of programs and services. Minnesota Statute 256.045 documents Administrative and Judicial review of Human Service Matters.

### General information

- Any person applying for, receiving or having received Medical Assistance, financial assistance, social services, or food stamps, may request a state agency hearing. If an application for assistance is denied, not acted upon with reasonable promptness, or if assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, a state agency hearing may also be requested.
- A Human Services referee, or Administrative Law Judge (ALJ), conducts the hearing and recommends orders (action). The ALJ is under the supervision of the Minnesota Department of Human Services.
- The county or state agency's decision may be affirmed without a hearing if there was a change in federal or state law mandating the change in the service/issue.
- The applicant/recipient may file a new application for the program/service they are requesting at any time. This is especially important when there are changes in the individual's life that affect the situation.

### Requesting a human services hearing

The Department of Human Services form #DHS-0033 may be used to request a hearing. The form is available on the Department of Human Services website at <http://bit.ly/YkuAT9>.

A request for a hearing must be submitted within 30 days after receiving written notice of the state or county action you wish to appeal. If you want benefits to continue pending appeal, you must appeal within 10 days of receiving notice from the county.

If benefits have been cut or stopped, choose carefully whether you want to continue or stop benefits until the appeal decision is made. You may want to contact an advocate at The Arc Greater Twin Cities to discuss this before making a decision.

### Preparing for a hearing

- It may be beneficial to search past Human Services appeal decisions as they may provide information on situations and decisions similar to your own. Hearing decisions are available at the Minnesota Department of Human Services webpage under Fair Hearing Decision Database. <http://bit.ly/SvnUzO>
- The applicant/recipient should prepare a packet of information that describes the issue, background information and facts, relevant laws and rules, as well as the action/outcome desired. Address the impact of the action being appealed and how it will affect the health, safety and welfare of the person. All relevant individual

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assessments and plans should be gathered. This may include the Individual Service Plan (IS), Risk Management Plan, Health and Safety Plan, screening and assessment documents. Supporting documentation from other professionals (therapists, teachers, doctors) working with the individual may also be beneficial.

- Review and examine any assessments or other documents used to make the decision. Review the document of denial. Use these documents to assist in your preparation of a statement of why the decision is wrong.

### Pre-hearing information

- Hearings may be conducted by telephone unless the applicant/recipient objects. The Arc Greater Twin Cities recommends that hearings be in-person whenever possible.
- The applicant/recipient can represent themselves or they be represented by someone else.
- At least 5 days prior to the hearing, the ALJ will notify all interested parties of the location, date and time of the hearing. Typically, a few weeks notice is given.
- Copies of documents should be prepared for the ALJ and the opposing party.
- Usually, at least 3 days prior to the hearing, the agency that made the appealed decision must present evidence to the recipient/applicant.

### At the hearing

- The ALJ will conduct the hearing which is audio-recorded.
- Names of all people in attendance are stated and participants are required to take an oath to tell the truth.
- The decision-making agency will usually present first. They will explain their facts, explain their reasons for the decision, and explain the laws and policies used to make the decision.
  - Listen carefully
  - Take notes
  - Prepare questions to ask
- The applicant/recipient then has opportunity to present their packet of information.
- Both parties can question each other and cross-examine witnesses. The ALJ will also ask questions.
- In most situations, the record is closed at the end of the hearing and additional information is not allowed to be submitted.

### After the hearing

- The ALJ should make a decision within 90 days of the appeal date.
- The agency may not submit evidence after the hearing except by agreement of both parties (the agency and the petitioner appealing the decision). In this situation, the

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petitioner also has opportunity to respond to the information after it is presented to the ALJ.

- The ALJ will recommend an order to the Commissioner of Human Services. The ALJ may decide to affirm, reverse, or modify the agency's action. The decision must be based on all relevant evidence presented at the hearing.
- The Commissioner of Human Services may accept or refuse the order of the ALJ and issue the decision to the county agency and the applicant/recipient. In case of refusal, there are additional procedures and actions that can be taken.
- If you disagree with the ALJ decision you may ask for reconsideration or you may appeal to district court.

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