

## Arc Guide to Department of Human Services Appeals

Appeals are sometimes called State Agency Hearings. They are available for a variety of programs and services. [Minnesota Statute 256.045](#) documents Administrative and Judicial Review of Human Service Matters. Appeals are a way for you to challenge changes in eligibility or services that may affect you.

If you disagree with a decision, file an appeal within 30 days for:

- Medical Assistance
- Financial assistance
- Social services
- Food stamps

### Basis For Appeals

- Denial or delay of your application
- Suspension, reduction, termination of your programs or services

A human service judge holds a hearing with you and the county. The judge recommends an action. This is reviewed by the chief human services judge who makes a final decision.

The judge may make a decision without a hearing if there was a change in federal or state law mandating the change.

You may file a new application for the program or service at any time. This is especially important when there are changes in your life.

### Appeal Procedures

A Notice of Action includes the right to appeal the decisions made in MnCHOICES assessments or service plan changes. Failure by the county to follow a required timeline for notification can be part of an appeal.

Timelines for providing the Notice of Action

- 30 to 60 days, before changes are implemented in your level of care
- At least 10 days before other changes are implemented

You may appeal the results of your MnCHOICES assessment. The county sends you The Notice of Action (Assessments and Reassessments) [DHS-2828A](#). This lists the services you are eligible and reason you are not eligible. (You must use Internet Explorer for all DHS forms.)

## Service Plan Changes

The county case manager makes or writes a service plan based on the MnCHOICES assessment, as listed in Form [DHS 2828B](#). The form includes information on appealing any service plan changes or reductions.

Timelines for providing DHS-2828B:

- At least 10 days before a denial, termination or reduction of your services
- At least 10 days before a change in your Alternative Care (AC) fees

## Service Providers

When a service provider, like a group home, decides they will not serve an individual anymore, they must give notice to the person. Those decisions can be appealed. There are specific requirements for licensed residential homes to follow, before stopping services. Failure to follow those procedures can be part of an appeal to overturn the service termination. See [Minnesota Statutes 245D.10, Subd. 3a](#).

## How to Appeal

You can use the Department of Human Services form [#DHS-0033](#) to request a hearing.

You must submit a request for a hearing within 30 days after receiving written notice of the action you wish to appeal.

If you show good cause for missing the 30 day deadline, you may appeal up to 90 days after receiving notice. Good cause includes unusual circumstances that prevented you from filing the appeal. It does not include forgetting to respond.

If you want benefits to continue during the appeal, you must appeal within 10 days of receiving notice from the county.

If services are stopped or reduced, consider whether you want to continue or stop services until the appeal decision is made. If you lose the appeal, you may have to pay for services you received during the appeal. You may contact an advocate at The Arc Minnesota to discuss this before making a decision.

## Preparing For a Hearing

You will receive your case file of the eligibility or service plan decision within five days of your hearing. You can request this earlier if you choose. The county or state agency must give you this file. You may ask the judge for help in getting the case file, if necessary. Use these documents to prepare a statement of why the decision is

wrong. The case file includes all documents the county or state has related to the decision.

Past Human Services appeal results may provide information on similar situations and decisions. The [Minnesota DHS webpage](#) lists decisions on hearings.

In your appeal, describe:

- The issue
- Background information and facts
- Relevant laws and rules
- The action/outcome desired
- The impact of the action you are appealing, and how it will affect your health, safety, and welfare

Gather all relevant individual assessments and plans. This may include:

- Community Support Plan, [DHS-4166](#)
- Coordinated Services and Support Plan, [DHS-6791B](#)
- Risk Management Plan
- Health and Safety Plan, screening and assessment documents (MnCHOICES)
- Supporting documentation from other professionals working with the individual
- You have the right to contact witnesses and ask them to attend the hearing if they have evidence for the appeal. A witness could be someone who provides care to you and knows your needs. The Appeals Division can subpoena them, if necessary. You must discuss this with the judge before the hearing.

### **Pre-Hearing Information**

- Hearings may be in-person or via telephone or videoconference. The Arc Minnesota recommends in-person hearings when possible.
- You can represent yourself or someone else can. This can be an advocate or attorney.
- The judge will notify all interested parties of the location, date, and time of the hearing at least five days before the hearing. A few weeks' notice is typical.
- You should prepare copies of documents for the judge and the opposing party (usually the county). The opposing party must present evidence to you and the judge. All evidence and documents must be presented at least three days before the hearing.

### **At the Hearing**

The judge will conduct the hearing. This is audio-recorded. They will state the names of all people in attendance. Participants will take an oath to tell the truth. The decision-making agency will usually present first. They will explain the reasons for their decision, and relevant laws and policies.

## Tips

- Listen carefully
- Take notes
- Prepare questions to ask

The applicant will present documentation and explain why the decision was wrong. Both parties can question each other and witnesses. The judge will also ask questions.

Usually, records close when the hearing ends and you cannot present more information.

## After the Hearing

The judge usually makes a decision within 90 days of the appeal date.

The agency cannot submit evidence after the hearing unless both the agency and the petitioner agree. In this situation, the petitioner can respond to information presented to the judge. Neither side can discuss the case on their own with the judge after the hearing.

The judge will recommend an order to the Commissioner of Human Services. The judge may decide to affirm, reverse, or change the agency's action. Decisions are based on all relevant evidence presented at the hearing.

The Commissioner of Human Services may accept or refuse the order of the judge. They will issue the decision to you and the opposing party. In case of refusal, there are more procedures and actions available.

If you disagree with the decision, you may ask for a reconsideration within 30 calendar days, or appeal to the district court.

## Resources

[Department of Human Services Appeals Process Appeals hearings and reconsiderations](#)

**For more information or advocacy services, contact The Arc Minnesota at 833.450.1494 or visit [www.arcminnesota.org](http://www.arcminnesota.org).** (Please note: *This document is not legal advice. No information should replace the advice of an attorney.*)

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