

What is a fair hearing?

A fair hearing is an appeal process within the Montana Department of Public Health and Human Services (DPHHS). DPHHS runs public benefits programs like food stamps (SNAP), cash assistance (TANF), Medicaid, and Low Income Energy Assistance (LIEAP). When DPHHS makes a decision about your public benefits that you disagree with, you can appeal that decision by requesting a fair hearing.

What happens during the fair hearing process?

DPHHS will set an informal meeting before the hearing. At the informal meeting you and DPHHS will try to come to an agreement. If you cannot come to an agreement with DPHHS, then you will go to the hearing.

The hearing is like court, but less formal. Most hearings are conducted by telephone at a reasonable time. You can request an in-person hearing if you have a problem with using a telephone. The judge at the hearing is called an administrative law judge. The judge will listen to both you and DPHHS. At the hearing you can share your side of the story. The administrative law judge will send you and DPHHS a written decision after the hearing.

How do I know whether I should request a fair hearing?

You should request a fair hearing when you think DPHHS did not follow the law or is wrong about the facts. Sometimes just requesting a fair hearing will resolve your problem and you will not have to go before

the administrative law judge. These are just some examples of issues that you can challenge at a fair hearing:

- DPHHS does not allow you to apply for benefits, whether you are eligible or not;
- DPHHS takes too long to make a decision after you apply for benefits (more than 30 days for food stamps, more than 45 days for Medicaid);
- DPHHS denies your application for benefits;
- DPHHS reduces or terminates your benefits;
- DPHHS demands that you pay back benefits;
- DPHHS says Medicaid does not have to pay for a medical procedure or service;
- DPHHS says you violated the rules of a program like SNAP or TANF;

How do I request a fair hearing?

You request a fair hearing by telling the Office of Fair Hearings that you want a fair hearing. You usually need to tell them in writing by sending them a letter or a form. The only time you can request a fair hearing over the phone or in person is for a food stamps issue.

A lot of times DPHHS will send you a fair hearing form when it sends you notice of its decision. You should follow the directions on the form and mail it to the address on the form. If you did not receive a fair hearing form, that's okay. You can write a letter explaining the issue and why you think DPHHS is wrong and mail it to the Office of

Fair Hearings at P.O. Box 202953, Helena, MT 59620.

In your request for a fair hearing, you can ask that you still get benefits until after the hearing by writing "I want my benefits to continue" on your request for a hearing. Be careful. You should think hard before doing this because if you lose the hearing, you will have to repay those benefits.

There is a deadline to send in a request for a fair hearing. In most cases, you have 90 days from the date DPHHS told you about the decision to submit your request for a hearing. You should double-check your fair hearing request form DPHHS sent you when it made its decision. The form should tell you what the deadline is. It is always a good idea to request a hearing as soon as possible.

If you have questions or are unsure about how to request a fair hearing, ask your caseworker or call the Public Assistance Customer Service Help Line at 1-888-706-1535 or the Office of Fair Hearings at (406) 444-2470.

What are my rights at a fair hearing?

- You have the right to be represented by a lawyer or paralegal. Sometimes you can have a relative, a friend, or other spokesperson present at your hearing.
- You can subpoena witnesses for your hearing (make them come to testify).
- You have the right to testify on your behalf and present documents to the administrative law judge. (Sometimes the

judge may not consider your documents, though.)

- You have right to ask questions of anyone DPHHS brings to the hearing to testify.
- You have the right to an interpreter and can ask for one when you send your request for a hearing.

You have the right to see your case file and to copy anything in it. Be sure to make copies of all your papers before going to the hearing. Do not leave important papers at the Office of Public Assistance or the hearing site without making copies for yourself. It is also a good idea to write the name of any worker who takes your papers. Keep a record of who you talked to, including the time and dates.

IMPORTANT

The information written above does not apply to the WIC program. There are different rules and procedures for challenging a decision in the WIC program.

If you want to request a fair hearing in the WIC program, call (406) 444-5533 to make a request. You can also mail a written request for a fair hearing to the WIC Program Coordinator at 1400 Broadway, Cogswell Bldg., Helena, MT 59620. In most WIC cases, you have 60 days to make your request.

SSI, SSDI, and Medicare also have different rules because they are not run by DPHHS. You should contact your local Social Security Administration office for information on appealing SSI and SSDI decisions.

How do I get more help?

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at mtlsa.org;
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

What help can I find at MLSA?

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

www.MontanaLawHelp.org

Need legal information or forms? Visit www.MontanaLawHelp.org.

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

www.MTLSA.org

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

Montana Legal Services Association

Public Benefits Fair Hearings:

How to Protect Your Rights



Providing, protecting, and enhancing access to justice.

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