

Fair Hearings

What is a Fair Hearing?

A fair hearing is a chance to challenge a decision made by the Department of Social Services (DSS). At a fair hearing, you are allowed to tell your side of the story. A worker from DSS can also tell their side of the story. An Administrative Law Judge listens to both sides and decides who is right. You will receive a written decision in the mail telling you if you won or lost your hearing.

When can I request a hearing?

There are many situations in which you may request a fair hearing. Below are some common examples:

- When DSS makes a change in your benefits. This could mean that DSS closed your case, reduced the amount of benefits you receive, or changed the way your benefits are distributed;
- When DSS denies or does not respond to your request for benefits (SNAP, cash assistance, HEAP, Medicaid, a restaurant allowance, a security deposit, moving, storage, Temporary Housing Assistance, etc.);
- When DSS says that you can work, but you disagree with this decision;
- When you believe that DSS is giving you the wrong amount of benefits;
- When DSS discontinues a benefit;
- When DSS says that you owe them money.

Are there any time limits to request a fair hearing?

You must request a hearing within the set time limits. For Cash Assistance and Medicaid issues, you have 60 days from the date of the notice to request a hearing. For SNAP you have 90 days. The notice you receive in the mail should have a page with the deadlines.

Can I keep receiving benefits while I wait for my fair hearing decision?

Yes, in certain cases. This is called “aid-continuing.” Aid continuing is available when DSS wants to discontinue a benefit you already have. For example, you can request aid continuing if DSS sends you a notice saying that they intend to change or stop your benefits. Aid Continuing has a shorter time limit. You must request the hearing before the date that DSS changes or stops your benefits. This is called the effective date and must be included in your notice.

Losing a hearing when you had aid continuing may result in an overpayment, meaning you must pay ECDSS back for the amount of aid continuing.

How do I request a fair hearing?

You can request a fair hearing online, by mail, fax, or telephone.

- You may print out a fair hearing request form or complete the online version at: <https://otda.ny.gov/hearings/request/#online>.
- If you print the form, you can send it by fax to (518)-473-6735 or by mail to:

New York State Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O. Box 1930
Albany, NY 12201-1930
- You may also fill out the fair hearing request at the bottom of the fair hearing page included in your notice from the Department of Social Services and send that.
- You can call the toll-free phone number to request a hearing. That number is 1 (800) 342-3334. Be sure to tell the person you speak to if you want aid-continuing or if the situation is an emergency.

What should I expect after I request a hearing?

You will receive two notices in the mail from OTDA:

- The first notice is a Fair Hearing Acknowledgement. That notice includes important information like the date of your request, the issue for the hearing, the fair hearing number, and whether or you will receive aid-continuing.
- The second notice is the scheduling notice. This notice will list the date, time, and location of your fair hearing. If you cannot attend the hearing at the scheduled date and time, call OTDA and ask them to reschedule your hearing. This is called an adjournment. If the notice says your hearing will be by phone (most do), you have the right to ask for a video or in person hearing. You can call the same number you used to request the hearing or include that in your original hearing request. You can also tell the judge when they call. They will reschedule your hearing so you can appear in person or by video.

What should I do to prepare for my fair hearing?

You may call Neighborhood Legal Services at (716) 847-0650 if you are an Erie or Niagara County resident or 585-343-5450 if you are in Genesee, Wyoming or Orleans County, to see if we can take your case and possibly represent you at your fair hearing. This will depend upon the facts of each case and the availability of advocates at the time of your hearing. It is best to call NLS as soon as you request a hearing in order to give us adequate time to review your case and prepare for the hearing.

You do not need an attorney or legal representative to go forward with the hearing. You should request the Fair Hearing Evidence Packet from the Department of Social Services and review it. The Evidence Packet will contain all the evidence that DSS plans on bringing to the hearing. DSS is

required to give you copies of any documents you ask for relating to your case, including the Evidence Packet.

You should also gather your own evidence to support your side of the story. This may include doctor's letters, receipts, court papers, rent receipts, notices from DSS, statements from family, friends, or neighbors, and anything else that might support your claims. Write down everything that you did to correct the problem and keep records of each person whom you spoke to about the problem.

Write down a plan of what you want to say to the judge at the hearing. Make sure to focus on why your position is correct and why DSS' position is wrong. Plan the order of what you will say. You can get instructions to submit your evidence at <https://otda.ny.gov/hearings/telephonic-hearings.asp>. You may also ask the DSS worker questions to point out inconsistencies in their story.

You can get additional information about representing yourself at a hearing here: <https://fairhearinghelpny.org/>.

What should I do if I have any other questions about the fair hearing process?

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