

E. Hearings

1. What hearings are

A hearing is a formal proceeding about client benefits when the client has filed a hearing request and disputed a decision made by branch staff. The hearings process provides a “second look” to ensure that the benefit or overpayment decisions are correct. Hearings are also held to resolve other issues (see [item 2](#) below). Administrative Law judges from the Office of Administrative Hearings (OAH) preside over each hearing, and the department’s position in the hearing is explained by the department representative, usually a Compliance Specialist (Hearing Rep). The hearing is conducted in accordance with state statutes (ORS [183.413](#) and following) and the administrative rules for hearings of the department and OAH. The department’s rules are at OAR [461-025-0300](#) and following. The OAH rules are at OAR [137-003-0501](#) and following.

2. Clients have a right to hearings

Clients are given the right to a hearing by the U. S. Constitution, federal law, state statute and the department’s administrative rules (see OAR [461-025-0310](#) for a list of nearly all situations in which a person has a right to a hearing). Most but not all hearings are requested after a client has received a notice that benefits will be denied, reduced, or closed. A person also has a right to a hearing when the department claims an overpayment, when it denies a listing requested by a child care provider, and when the department claims the client committed an intentional program violation.

3. Resolving disputes

Many cases can be resolved informally, prior to the hearing, when branch staff explain the situation to the client and review the policy that was used to make the decision in question. Hearing Reps often use informal conferences to resolve cases. When a case is resolved informally following a hearing request, specific steps must be taken (see [item 4](#) below.)

4. How the branch staff become involved

Hearing Reps represent the department in most hearings, but branch staff will be responsible for some. For instance, Expedited hearings are usually handled by designated District staff (HSS4/CRC), see Expedited hearings below. All staff need to be alert to a client’s need for translated material, for documents in alternative format, and for an interpreter (see [Multiple Program Worker Guide #11](#) in this manual). The Office of Administrative Hearings obtains interpreters for hearings. The department staff

continue to work as appropriate with a client who has requested a hearing, following applicable rules including those on client confidentiality.

Before the hearing: Branch staff may become involved when a client wants to request a hearing. The *Administrative Hearing Request* [MSC 443](#) form is used to request a hearing. For SNAP and Medical programs, hearings may be requested orally or in writing, without the use of a specific form.

Staff should assist a client in completing a hearing request as necessary, for instance by providing the client the correct form, accepting a written request, or responding to an oral request as appropriate. For SNAP and Medical programs, where clients may request a hearing orally, staff must complete the [MSC 443](#) for that client.

- When a client makes an oral request for a SNAP or Medical hearing, staff should fill out the form completely, with the exception of the client signature. Enter the date of the oral request in the boxes for both the “date of initial request” and the “date 443 received by DHS or OHA.” Forward the completed form to Central Office, as described below, and send a courtesy copy to the client. Do not delay SNAP or Medical hearing requests by sending the client a form to sign and return. A signed request is not required for SNAP and Medical programs;
- When a client makes an oral request for a hearing in a program other than SNAP or Medical, mail or give the client a blank [MSC 443](#) form. Do not establish the Date of Request until a completed and signed [MSC 443](#) is received by a DHS or OHA office. When mailing the blank Form [MSC 443](#), it is helpful if branch staff first complete the top line with the exception of the “date received” box (complete the “date of notice,” “program,” “cost center/branch #,” “case number” and “worker id” boxes);
- When a client makes an oral request for a hearing for SNAP or Medical, along with one or more other programs, fill out a completed [MSC 443](#) for SNAP or Medical and process as described in this section. Send the client both a courtesy copy of the completed [MSC 443](#) and a blank form to fill out for other programs. When mailing the blank Form [MSC 443](#), it is helpful if branch staff first complete the top line with the exception of the “date received” box (complete the “date of notice,” “program,” “cost center/branch #,” “case number” and “worker id” boxes).

Upon receipt of the completed [MSC 443](#), review for Expedited criteria and Continuing Benefits (formerly known as Aid Paid Pending) requests, as follows (narrate all action in TRACS):

Expedited:

Review the back of the [MSC 443](#) form to determine if the request meets Expedited criteria. If Expedited criteria is met, the hearing must be scheduled right away, and then held within five days. The designated district point person (usually a CRC or HSS4) will be responsible to schedule and conduct the Expedited hearing. Check with your Program Manager to find out who your designated district point person is.

Continuing Benefits (COB):

A lead worker or point person should review and determine eligibility according to OAR [461-025-0311](#). When eligible, benefits should be issued without unnecessary delay to the client. A lead worker or case worker may determine eligibility, issue benefits and appropriate notices as needed.

- The request for continuing benefits is usually indicated by marking the box about two thirds of the way down the [MSC 443](#) form, and reads “Do you want your benefits to stay the same (not be reduced or stopped) while you wait for the hearing?” However, requests are not required to be made in writing, nor are they required to be indicated on the [MSC 443](#) to be valid. Staff must respond to a request for continuing benefits whether verbal or in writing;
- When approved, issue benefits as soon as possible, and send a *Request for Continuing Benefits* form ([DHS 1114](#)). When denied, send a *Denial of Continuing Benefits Pending Hearing Decision* form ([DHS 5303](#)) form (or NOTM form GS05303). The claimant has the right to request a hearing if denied, which must be processed as an Expedited Hearing. (See back of form [DHS 5303](#) or [MSC 443](#));
- The branch may contact their local Hearing Representative for assistance in this process.

All completed [MSC 443](#) forms must be submitted upon receipt (same day/next day) as follows (narrate action in TRACS):

- For Self-Sufficiency hearing requests – by email to [CAF Hearings](#) or by fax to 503-373-7492, along with the *CAF-SSP Hearing Request Cover Sheet* ([DHS 443C](#)). This is required even for those resolved at the local level, or for those being handled as Expedited. Please be sure to indicate this accordingly on the [DHS 443C](#) form;

- For Medical *program* only – to [5503 Hearings](#) (Expedited and COB review not needed);
- For Medical *service or procedure* – to [DMAP Hearings](#) (Expedited and COB review not needed).

While some requests can be quickly resolved without a hearing, the department must comply with required processes and document its compliance. Even when resolved at local level an authorized Hearing Rep (or designated district point person for Expedited) must issue a dismissal order. When the department becomes aware that a client has legal representation for the hearing, the department must involve the legal representative for the duration of the process. This includes sending the legal representative copies of decision notices and amended decision notices sent to the client.

Branch staff may be asked to testify at the hearing, provide assistance in assembling information needed for the hearing, and take care of some aspects of the prehearing process, such as making a room available for an informal prehearing conference and directing the client and client representative to this room.

During the hearing: Most hearings are conducted by telephone and handled by a Hearing Representative. The client may contact the department and request to use the office for the telephone hearing. Branch staff may assist by making a room available for the hearing and directing the client, the client's representative and witnesses to the hearing room. The participants may need a speaker phone with conferencing capability or a personal computer during the hearing.

After the hearing: Many clients have an ongoing relationship with the agency during and after a hearing, and the department continues to serve them while some issues are being resolved through the hearing process. The final order issued after a hearing is sent to the department representative and to the branch so that appropriate action can be taken. If it is not clear to branch staff what action to take, the Hearing Representative can assist.

5. Client's right to expedited hearings

Clients have the right to expedited hearings in several situations. See OAR [461-025-0315](#) regarding these situations. The department is required to offer an expedited hearing when:

- (A) The claimant's request for EA or TA-DVS is denied or the claimant disputes the form or amount of an EA or TA-DVS payment.

- (B) The claimant's request for continuation of benefits pending a hearing on the reduction, suspension or termination of public assistance is denied.
- (C) The claimant's request for expedited SNAP service is denied, or the claimant is aggrieved by an action of the department that affects the expedited participation of the household in the SNAP program.
- (D) The claimant is denied a support services payment in the JOBS program or a payment for basic living expenses in the Pre-TANF Program (see OAR [461-135-0475](#)).
- (E) DHS closes or reduces an ongoing JOBS support service payment.
- (F) DHS failed to issue a JOBS support service payment within specified timeframes.

A client may have the right to an expedited medical hearing when the client believes his or her medical or dental problem cannot wait for the normal review process. This type of hearing is handled by DMAP. See OAR [410-141-0265](#) regarding expedited medical hearings.

6. Retention of regular and expedited hearing files

- (A) Initial retention in a readily accessible location

Any staff responsible for a regular or an Expedited hearing must retain at a readily accessible location all hearing-related records and written communications for at least 90 days after the case closes.

NOTE



The earliest a case is considered closed for purposes of retention is the date of the final order or dismissal order issued by the department or by the Office of Administrative Hearings; but if there is a request for reconsideration or rehearing or an appeal, hold onto the file for at least 90 days after those matters close.

- (B) Long-term retention requirements

*When the Office of Administrative Hearings has issued the final order in a case, the OAH file is the official hearing file. Any staff responsible for a regular or an expedited hearing must add the hearing request, any amended decision notices, the contested case notice, [DHS Form 1114](#), *Approving Continuing Benefits* (if issued), and the OAH final order to EDMS (records may be sent electronically by email to '[EDMS Help](#)') or send hard copies to Archives as directed below.*

When the department has issued the final or dismissal order in a case, the DHS file is the official hearing file. Any staff responsible for a regular or an expedited hearing must arrange for long-term retention of the hearing file. The hearing file should contain copies of the hearing request, any amended decision notices, any contested case notice and the signed department order, all documents sent between any two of the following: the department, the claimant or claimant's representative, the Office of Administrative Hearings. The retention of these records must be for a minimum of six years. Records may be sent electronically by email to 'EDMS Help.' Or you may send hard copies to Archives as directed below. Be sure to identify records as hearing files, requiring six-year retention, and be sure to narrate action taken.

(C) Other procedures and requirements for long-term retention

Archives Policy, DHS Archives

(http://www.dhs.state.or.us/policy/admin/forms/050_005.htm)

DHS Archives Procedure: Sending Records for Storage

(http://www.dhs.state.or.us/policy/admin/forms/050_005_01.htm)

DHS Addendum 1, Archives Storage Process Flow Chart

(http://www.dhs.state.or.us/policy/admin/forms/050_005_01_add1.htm)

DHS Addendum 2, Archive Box Label ([DHS 6625](#)) Instructions

(http://www.dhs.state.or.us/policy/admin/forms/050_005_01_add2.htm)

Form: [DHS 276](#), Shipping Log for Closed Case Records

(https://aix-xweb1p.state.or.us/es_xweb/DHSforms/Served/de0276.doc)

Form: [DHS 6625](#), Archive Storage Label

(https://aix-xweb1p.state.or.us/es_xweb/DHSforms/Served/de6625.pdf)

DHS Archives Procedure: Requesting Records from Storage

(http://www.dhs.state.or.us/policy/admin/forms/050_005_02.htm)

DHS Records Archive Document Request Form

(https://aix-xweb1p.state.or.us/es_xweb/DHSforms/Served/de6628.pdf)

DHS Archives Procedure: Destruction of Records in Storage

(http://www.dhs.state.or.us/policy/admin/forms/050_005_03.htm)

Additional guidance for authorized Hearing Representatives (Hearing Representatives and district-designated staff who handle Expedited hearings) is available on the Hearings website at: [Hearing Representatives](#).