

OKDHS Hearings



Requesting
A Fair Hearing,
Hearing Procedures,
and
Appeals from
Hearing Decisions



This pamphlet is a general summary of information about OKDHS fair hearings in certain programs and does not cover all of the issues that may come up in your case. The procedure that OKDHS follows in your case may not be exactly the way it is described in this pamphlet. Contact your local OKDHS office if you have any questions.

What is a fair hearing?

Anyone who applies for or receives services from the Oklahoma Department of Human Services has a right to request that the OKDHS Appeals Unit review an OKDHS action or delay in action. This is called a fair hearing.

The hearing is a process through which the Appeals Unit:

- obtains evidence regarding the protested action or delay in action;
- considers the evidence in relation to the Department's rules;
- reaches a decision; and
- makes sure the decision is carried out.

Fair hearings may be requested for:

- Children's Special Health Care Needs Program;
- Child Care Services;
- Services for the Developmentally Disabled;
- Food Stamps;
- Individual and Family Disaster Grant Program;
- Low Income Home Energy Assistance Program;
- Medical Assistance (Medicaid/SoonerCare);
- Social services under Title XX of the Social Security Act;
- State Supplemental Payments for Aged, Blind and Disabled;
- Temporary Assistance for Needy Families (TANF), including Emergency Assistance;

- Foster Home closure;
- Failure to return a child to a Foster Home following a confirmed finding of abuse;
- Denial of an application for Adoption Assistance; and
- The amount of Adoption Assistance.

Basis for requesting a hearing

You may request a fair hearing for any of these reasons:

- There has been an unusual delay in reaching a decision on your application or an OKDHS action while you are receiving assistance or services. The county office can tell you the length of time that is considered an unusual delay.
- Your application has been turned down or you believe you have been denied the right to apply.
- A benefit is less than you think it should be.
- A benefit is stopped or suspended.
- You are dissatisfied with the interpretation of the law or policy as applied to you.
- You are denied participation in a service program.
- You are dissatisfied about conditions of eligibility, including work or training requirements or acceptance of treatment.
- You receive written notification that you owe money to OKDHS for a given period of time for payments or services which you were not considered eligible to receive.

Your right to request a fair hearing

If you have a pending application, or an active case with OKDHS, you have a right to request a fair hearing:

- within 90 days after you have been notified of a decision with which you do not agree in the Food Stamp program;

- ❑ in all other programs, within 30 days after you have been notified of a decision with which you do not agree;
- ❑ when there has been unusual delay by OKDHS in reaching a decision on your application or case.

Your request should be made directly to the OKDHS office where you made your application or where you go to talk about your case as a recipient. You may have a relative, friend, or legal representative make the request for you. If you wish, the county office staff will help you prepare your request.

Requesting a Hearing

If you want to request a hearing, contact the OKDHS office that took the action, or failure to act, that you disagree with. You will be asked to fill out a form that says exactly what you disagree with. In all cases, except Food Stamps, you will not receive a hearing unless you put your hearing request in writing.

Hearing Procedures

A. Representation

In all hearings, you may represent yourself or be represented by a lawyer. In cases involving TANF, Medical Assistance (Medicaid/SoonerCare), Food Stamps, State Supplemental Payment, Child Care Assistance, or Emergency Assistance, you may be represented by anyone, including a lawyer, relative, or friend.

There are two possible sources of free legal advice and representation. Legal Aid Services of Oklahoma (LASO) represents people in civil cases and may be available to represent you at your hearing. To find out if LASO will represent you, call the LASO office that is responsible for the county that you live in. If you do not know which LASO office to call, your local OKDHS office can tell you.

The Oklahoma Disability Law Center (ODLC) handles cases involving disability issues. ODLC can be contacted in Tulsa at 918-743-6220 or 1-800-226-5883 and in Oklahoma City at (405) 525-7755 or 1-800-880-7755.

B. Before the Hearing

You will be sent a letter at least 10 days before the hearing that tells you when and where the hearing will be held, and the name of the hearing officer who will conduct the hearing. If the hearing is about disqualification from Food Stamps or TANF, you will be sent this letter at least 30 days before the hearing.

If you cannot attend the hearing on the date and time in the letter, contact the local OKDHS office as soon as possible. If you have a Food Stamp case, you are entitled to have your case rescheduled once without having to give a reason. In all other cases, you must have a good reason to reschedule the hearing.

Before the hearing, you and your representative are entitled to look at your file. If you want to do this, contact the OKDHS office that took the action, or failure to act. In Foster Home and Adoption Assistance cases, you might not have access to the entire file due to confidentiality requirements set by state law.

Before the hearing, OKDHS will deliver to you or your representative a copy of all of the information that OKDHS intends to use at the hearing, a written explanation of why the action that is the subject of the hearing was taken, and a copy of the OKDHS rules that support the action.

C. At the Hearing

1. Evidence

The hearing officer will consider any evidence that you want to submit that is relevant to the issue to be decided. However, first-hand testimony will always be given greater weight than second-hand information. An example of

second-hand information is written testimony from a person about what someone else told them. Another example is a written statement, even if the statement is notarized.

OKDHS does not have the power to subpoena witnesses to come to your hearing. If you want someone to testify on your behalf, it is your responsibility to make arrangements. However, the hearing officer can require OKDHS employees to come to the hearing if you send a letter to the hearing officer before the hearing that explains which employee you need at the hearing and what kind of information the employee has that will help your case.

2. Hearing Procedure

Before the hearing starts, the hearing officer will talk with both sides to make sure that everyone understands what the hearing is about. The hearing officer will also ask both sides to describe the evidence that will be presented.

When the hearing starts, OKDHS normally presents its side of the case first. OKDHS employees will testify and present documents that show why the action that is the subject of the hearing was taken. As each OKDHS witness finishes testifying, you will be given a chance to ask questions. This is **not** when you are supposed to tell your side of the story – only to ask questions.

When the OKDHS witnesses are finished testifying, it is your turn to present your case. You can testify yourself, present written documents or other evidence, and also have other people testify on your behalf. When you and each of your witnesses finishes testifying, the OKDHS representative will have a chance to ask questions.

When both sides have had a chance to present their case to the hearing officer, each side will have a chance to make a closing argument to summarize the case. This is not an opportunity to present new evidence, but to show how the evidence and rules support your side of the case.

D. The Hearing Decision

The decision in your case will be made by the Appeals Committee. The Appeals Committee is made up of the hearing officer and two OKDHS state office employees who were not involved in the action you are appealing.

If the hearing officer votes against you, he or she will send you a letter on behalf of the Appeals Committee, without the other members voting.

If the hearing officer thinks you should win the appeal, then your case is sent to the two other members of the Appeals Committee for a vote. The hearing officer then writes a decision letter for the Appeals Committee, which is based on a majority vote.

The Appeals Committee tries to get most cases decided within 30 days after the hearing. However, some cases take longer.

If the appeal is decided against you, you may ask the Director of OKDHS to review the hearing decision. The Appeals Committee letter will explain how to do this.

Food Stamp and TANF Administrative Disqualification Hearings

OKDHS will set up a hearing without your request when there is a reason to believe that a Food Stamp or TANF household member has intentionally given false information or withheld facts in order to receive benefits. A hearing will also be set up when there is reason to believe that a Food Stamp household member has sold or traded benefits.

In such cases, the household member will be notified at least 30 days in advance of the hearing and will be given an option of signing a waiver or attending the hearing. If the household member does not attend the hearing or cannot be found, the hearing will be conducted anyway.

A person has the right to ask for a delay to prepare for the hearing, a right to refuse

to answer questions, and other rights, as explained in this pamphlet.

In a Food Stamp case, if the allegations are found to be true, the person disqualified will not be eligible to receive Food Stamps for one year for the first violation, two years for the second violation and permanently for the third violation. In a TANF case, if the allegations are found to be true there is a 25 percent reduction in payment for 12 months for the first violation, 24 months for the second violation and permanently for the third violation.

For more information, contact any office of the Oklahoma Department of Human Services or go to www.okdhs.org.

The Oklahoma Department of Human Services makes no distinction on the ground of age, sex, handicap, religious creed, political beliefs, race, color, or national origin in providing to individuals any service, financial aid, or other benefits under the agency programs, in accordance with the Civil Rights Act of 1964 and the Rehabilitation of Act of 1973.

This publication does not contain specific information on eligibility or hearings. Contact the OKDHS office in the county where you live to find out specific information related to your case.