

Hearings and Appeals

Your Right to Appeal under
Food Stamps (SNAP), TANF,
Refugee Cash Assistance and
Medicaid/Hoosier Healthwise



If you believe there is an excessive delay in the processing of your application for assistance, or an incorrect decision affecting your benefits has been made by the Division of Family Resources, you have the right to file an appeal. Your right to appeal is guaranteed under state and federal regulations.

What is an appeal?

An appeal is a request for a fair hearing before an impartial representative of the Family and Social Services Administration for the purpose of deciding whether the action proposed or taken by the Division of Family Resources is correct.

Your request for appeal must be in writing to the Division of Family Resources or to the Family and Social Services Administration, Hearings and Appeals Section, unless your appeal is about Food Stamps (SNAP). In that case, you can appeal by contacting the Division of Family Resources by telephone, in person, or in writing.

What is a fair hearing?

A fair hearing is an informal procedure conducted by an Administrative Law Judge (ALJ) of the Family and Social Services Administration. The ALJ listens to the Division's explanation of the action taken on your case and listens to your explanation of why you don't agree with what the Division of Family Resources has done. The ALJ will ask any questions necessary to get enough evidence to decide if your case was handled correctly, based on the applicable rules.

What are the time limits for filing an appeal?

The time limits for appealing are different depending on the program and the circumstances involved. Whenever the Division of Family Resources makes a decision on your application or proposes to stop or reduce the amount of your benefits, an official notice is sent to you, which explains the action. This notice will tell you about the action being taken on your benefits and will contain a mailing date of the notice and /or an effective date of the action taken on your benefits. If your application has been approved or denied, the time limit for appealing is measured from the date of the notice. If your benefits are being reduced or stopped, the time limit is measured

from the effective date of the action. The time limit is 90 days for Food Stamps (SNAP). For the other programs, the time limit is 33 days. The official notice about your benefits has important information about your appeal rights and how to request an appeal. Read it carefully.

What happens to your benefits if you appeal?

Your benefits will continue if your appeal is received by a certain deadline, which may be earlier than the time limit for the appeal. You should appeal as quickly as you can if you want continued benefits. You will need to check the effective date of the action on the notice to know your deadline. Please note that if you mail your appeal, the postmark will not be used to determine whether your appeal was received in time for continued benefits.

Medicaid and **Hoosier Healthwise** will continue without change if your appeal is received before the effective date of the action. If the last day of the month before the effective date falls on a weekend or a holiday, your appeal must be received by the next business day.

Food Stamps (SNAP), **TANF** and **Refugee Cash Assistance** will continue without change if your appeal is received within 13 days of the mailing date of the notice. If this deadline is on a weekend or holiday, your appeal must be received by the next business day after the deadline. However, Food Stamp (SNAP) benefits will not continue if your certification period has expired.

If the hearing decision is not in your favor you will be required to pay the extra benefits you received while waiting on the decision. If you do not want continued benefits during the appeal process, please state that clearly on your appeal request.

What are appealable actions?

Listed below are some examples of appealable issues.

- The amount of your TANF or Food Stamp (SNAP) benefit.
- The effective date of Medicaid coverage.
- The amount of your Medicaid spend-down or patient liability to be paid to a health care facility
- A delay by the Division of Family Resources in making an adjustment in the amount of your benefits.
- A decision that benefits have been paid in error and must be repaid.

Federal law sets forth other appealable issues if you are applying for or receiving Medicaid long-term care services (medical facility or home and community-based services) and your spouse is not receiving long-term care services. These issues are:

- Computation of the spousal share and the community spouse resource standard.
- Computation of the amount of resources to be transferred to the spouse living in the community.
- Determination of spousal income ownership.
- Computation of the income amount to be allowed for the community spouse from the income of the institutionalized spouse.

Can you file a new application if your benefits have been stopped or denied and you file an appeal?

Yes, if your benefits have been stopped or you did not appeal in time to have your benefits continued, you may always file a new application pending an appeal decision. The appeal protects any retroactive benefits you would be eligible to receive.

What happens after you file an appeal?

When the appeal request is received, the Family and Social Services Administration will schedule a fair hearing and you will be notified in writing of the date, time, and place of the hearing. The hearing will generally be held in the Division of Family Resources in the county where you live, or it may be done by telephone upon request.

Who can you discuss your case with before your hearing?

You may contact the Local Office of the Division of Family Resources, prior to the hearing date to review your case and discuss the issue you are appealing.

Many cases are scheduled for pre-hearing conferences. The best way to begin preparation for your administrative hearing is to participate in the pre-hearing conference. The Division of Family Resources will schedule this with you or you may ask for it yourself. At the conference you can explain why you are dissatisfied, and the Division will explain the reason the action was proposed or taken on your case. If the issues are resolved at the conference because the Division

agreed to correct an error, or you understand and agree with the reason the action was taken on your case, you may wish to withdraw your appeal. You may verbally withdraw your Food Stamp (SNAP) appeal. Medicaid and TANF appeal withdrawals must be submitted in writing. For your convenience, a Voluntary Withdrawal form can be provided for you to use.

If you are still dissatisfied after the conference the administrative fair hearing will be held on the date scheduled.

Who may represent you at the fair hearing?

You may represent yourself at the hearing or you may authorize someone else to represent you such as a lawyer, friend, relative, or any other person. If you want a lawyer but cannot afford one, Indiana Legal Services may be able to help. Their website is www.indianajustice.org. Their phone number is 1-800-869-0212.

If you choose to represent yourself at the hearing, you might find it helpful to write down your reasons for appealing so that you will remember to cover all of the points you wish to raise. It is important to read all the instructions provided carefully.

What happens at the fair hearing?

The ALJ will open the hearing and then give each party time to present his or her case. You or your representative will have the opportunity to:

1. Review all documents and records being used by the Division of Family Resources at the hearing.
2. Bring witnesses to testify before the ALJ.
3. Present argument without undue interference to establish all relevant facts regarding the validity of the action.
4. Question or contest any testimony or evidence given by the Division of Family Resources or any other witness.
5. Present any evidence that would support your case against the action taken regarding your benefits.

The Division of Family Resources will be given the opportunity to present the facts explaining the action that was proposed or taken and to present the applicable federal and state laws and regulations that support the action.

How soon will you know the hearing decision?

The Family and Social Services Administration will notify you in writing of the decision on your case within 90 days of the date your appeal request was received, or within 60 days for Food Stamps (SNAP). The decision will describe the relevant facts and explain what the rules are and how they apply to your case. The Division of Family Resources will also receive a copy of the decision and must comply with it. Any necessary adjustments to your benefits will be made.

What if you are not satisfied with the fair hearing decision?

If you are dissatisfied with the hearing decision, you have the right to request a review by the Family and Social Services Administration. This review is called an Agency Review and the request must be submitted in writing to the Family and Social Services Administration, Hearings and Appeals Section, within 13 days of the hearing decision. The written hearing decision will explain how to file for Agency Review.

If that review is not in your favor you may wish to consult with an attorney concerning the next steps to take in filing for judicial review in the appropriate court.

What is an Intentional Program Violation?

An Intentional Program Violation is making a false or misleading statement, or deliberately misrepresenting, concealing, or withholding facts from the Division of Family Resources for the purpose of maintaining eligibility for Food Stamps (SNAP) and/or TANF, increasing benefits, or preventing a reduction in benefits. It is any act that constitutes a violation of federal or state laws or regulations relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp benefits or Hoosier Works cards. For TANF, in order for a situation to be considered an Intentional Program Violation, it must have occurred on or after May 1, 1995.

What is an Administrative Disqualification Hearing?

If the Division of Family Resources believes there is proof that you have committed an Intentional Program Violation, an administrative hearing is requested. An ALJ of the Family and Social Services Administration conducts the hearing and determines whether you should be disqualified from assistance for a certain period of time.

You will be notified by mail 30 days in advance of the date, time, and location of the hearing. Included in this notification will be a list of the evidence that the local Division of Family Resources intends to present. At that time you will also receive a waiver form. The waiver allows you to choose to accept disqualification from the Food Stamp (SNAP) or TANF program without a hearing. Waiving your right to a hearing is a voluntary choice for you.

You have the same rights in an Administrative Disqualification Hearing that an individual has in a fair hearing as explained previously in this pamphlet. Additionally, you have the right not to answer any questions asked of you.

If you cannot come to the hearing you can postpone it for up to 30 days if you inform the Division of Family Resources at least 10 days ahead of time. If you don't come to the hearing and don't request a postponement, the hearing will be held without you.

What happens after the Administrative Disqualification Hearing?

After the hearing, you will receive a written decision within 90 days of the date you were notified of the scheduled hearing. The written decision will describe the facts found by the Administrative Law Judge to be relevant, the rules that apply, whether or not the respondent has been found guilty of an Intentional Program Violation, and the length of the disqualification period. The disqualification applies only to the person found guilty.

The decision will have a cover letter explaining that you can file for judicial review in the appropriate court of law if you don't agree with the hearing decision.

If you fail to appear, you have 10 days after the date of the hearing to present a good cause reason for not attending. If you receive an administrative disqualification Food Stamps decision

and you never received a notice to appear for the hearing, you have 30 days from the date of the decision to contact 317-232-4405 and request that the decision be set aside and the hearing be rescheduled. If you fail to appear for the rescheduled hearing the original decision will stand.

Hearings and Appeals (MS04)

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This brochure is only intended to provide a snapshot of the administrative appeals process. For more information on this process please see the Indiana Administrative Code and Federal Regulations.



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