

Know Your Rights: Fair Hearing Guide

updated 6/10/2025

When to Request a Fair Hearing

To challenge the reduction, discontinuation, restriction, suspension or denial of any public benefit, such as:

- Failure to send a notice or error in the notice
- Removal of a person from a budget, or the Department of Social Security (DSS) failing to add a person to the budget
- Case closing for failure to recertify
- Sanction (given a penalty)
- Inappropriate charge of overpayment or recoupment
- Incorrect budgeting of income

How to Request a Fair Hearing

- Online: <https://otda.ny.gov/hearings/request/>
- Mail:



New York State Office of Temporary and Disability Assistance,
P.O. Box 1930
Albany, NY 12201-1930

- Fax: (518) 473-6735
- Phone: 1 (800) 342-3334

Timeline to Request

- Must be requested within 60 days of notice of agency action on a Public Assistance or Medicaid challenge.
- Must be requested within 90 days for Food Stamp Challenges
- If individual wants aid to continue: within 10 days of the notice or before the effective date of the notice

Regulations: 18 NYCRR § 358-3.5(b); 18 NYCRR § 385.2(d); SSL § 22(4)(b)

When Can Expedited Fair Hearings Be Requested

- When Rent is owed and one faces eviction
- For Expedited (emergency) food stamps
- For Utility grant to prevent shut off
- For Emergency housing issues

The request to expedite (speed up) the hearing must be made at the time the hearing request is submitted so that it can be scheduled quickly

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Appellant Rights: Receiving Notices

- Applicants must receive adequate notice of a denial of benefits
- Recipients must receive timely and adequate notice when the Department of Social Services (DSS) intends to change an existing grant

Appellant Rights at the Hearing

- Be heard in a meaningful manner and state their position orally (give testimony)
- Review the evidence the DSS submits at the hearing and may ask for copies of the evidence (the Administrative Law Judge [ALJ] will allow copies to be made afterward)
- Bring necessary witnesses and question the other side's witnesses (including the Agency's representative)
- Be represented by counsel or a representative, or proceed unrepresented
- Make opening or closing statements.
- Make objections to the relevance of evidence, hearsay (witness repeats what someone else said), personal knowledge, or to procedures.
- Have an impartial decision maker (the ALJ) make a conclusion resting solely on the evidence brought forth at the hearing.

Fair Hearing Decisions

- Fair Hearing Decisions 18 NYCRR § 358-6.1
- Decision must be based exclusively on the fair hearing record, or in case of decision without hearing, on documents submitted by Appellant and DSS
- Decision is final and binding on DSS
- Office of Administrative Hearings (OAH) will mail a copy of the Decision after the Fair Hearing to Appellant and the Appellant's representative
- Redacted fair hearing decisions are available here: <https://otda.ny.gov/hearings/search/>



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