

## HEARINGS

The Office of the Administrative Law Judge, or OALJ, is an administrative tribunal whose function is to hear contested cases pursuant to the Montana Administrative Procedure Act found under MCA Title 2, Chapter 4, Part 6 and to issue final decisions and orders in CSED actions. The OALJ is also authorized under ARM 37.62.901 through 965. CSED administrative hearings are conducted by an Administrative Law Judge, or ALJ. It is the ALJ's job to see that the administrative hearing is orderly, that a full record is created, and that the law is followed.

Each CSED action begins with an administrative notice, which is a legal document that informs you of an intended action by a governmental agency. Each CSED administrative notice generated to you will be accompanied by a hearing request form you may use to request a hearing. If you disagree with the proposed CSED action stated in the administrative notice, you must request a hearing in order to protect your legal rights. You are not required to request a hearing; if you agree with the CSED's proposed action, you may do nothing, and the CSED will take the action stated in the notice; this is called a "default."

In all CSED hearings, you have the right to be represented by an Attorney. You may also represent yourself. If you choose to be represented by an Attorney, it is your responsibility to make all arrangements with the Attorney. The ALJ will not appoint an Attorney to represent you. You will be required to pay your own Attorney fees.

You do not need to use the hearing request form provided with the notice. However, your hearing request must be made in writing. It must state your name, case number, mailing address and a telephone number where you can be reached for the hearing. Your request must contain your reason or reasons for requesting the hearing, the name, address and phone number of the attorney, and the dates and times when you and your attorney are not available for a hearing during the next 35 days.

Your hearing request must be received by the OALJ by mail or by fax within the time stated in the administrative notice. You may mail your hearing request to the OALJ, Arcade Building, Suite 2B, Box 202922, Helena, MT 59601, or you may fax your request to the OALJ at (406) 444-6565. If you fax your request, you must mail the original request immediately to the OALJ.

The OALJ may, in certain circumstances, deny your hearing request; if your hearing request is denied, you will receive an order signed by an ALJ explaining the reasons for the denial. In income withholding

cases, your hearing request will automatically be denied if it is received after the expiration of the 10-day period allowed for filing a hearing request or if you fail to state a "mistake of fact" in your hearing request.

If your hearing request is granted, you will receive a "Notice of Hearing" advising you of the date and time the hearing will be held. If the hearing is scheduled for a time when you cannot attend, you may request that the hearing be held at another time or date by filing a written request with the OALJ prior to the hearing date. If you request a delay in the scheduled hearing date, you give up your right to a speedy resolution of the action within state and federal time frames. The OALJ will notify you of the date and time of the hearing if your request to change the hearing date is granted.

If you wish to withdraw your hearing request, you must do so in writing; you may mail or fax the request directly to the OALJ. Be sure to fax copies to the CSED caseworker and any other party who is scheduled to participate in the hearing.

If you have any evidence or documentation, known as exhibits, that would help you prove your case, you must mail or fax your original exhibits to the OALJ and mail or fax a copy of the exhibits to the CSED investigator and any parties and witnesses who will be participating in the hearing. The CSED investigator will send to you a copy of any exhibits the CSED wants to have considered at the hearing. Submit a written certificate of mailing to the OALJ stating the names and addresses of the persons you sent copies of the exhibits to. If you send exhibits by fax, be sure to mail a copy of the document as soon as you have transmitted it. Hearing exhibits should be sent to the OALJ and all parties by the date listed on the Notice for Hearing. The ALJ is not required to admit late exhibits into the record. If you cannot submit an exhibit until the hearing, or just before a hearing, send it as soon as you can. Be prepared to explain during the hearing why you were late in submitting the exhibit.

Prior to hearing, you must also mail or fax a list of the names, addresses, and telephone numbers of any witnesses you will have testify during the hearing to the OALJ, the CSED investigator and any parties and witnesses who will be participating in the hearing.

The administrative hearing will be conducted by a telephone conference call; an ALJ will call you and any witnesses you may have at the telephone number you provide for the hearing. If you do not have access to a telephone, but wish to take advantage of the telephone hearing service, advise the OALJ. The CSED will make a telephone available to you at a convenient location at the time of the hearing. Please advise the OALJ if you are unable to use a telephone due to deafness or other disability. Please advise the OALJ if you do not speak English fluently. The OALJ may appoint an interpreter for the hearing.

The ALJ will also connect by telephone the CSED Investigator who initiated the notice to you along with any witnesses for the CSED. You, the CSED Investigator, and any witnesses will be placed under oath; you will be allowed an opportunity to present your case, including presenting any witnesses and exhibits you have to prove your case. You will be allowed to ask the CSED Investigator and witnesses questions regarding testimony.

The ALJ will decide your case based solely on the law, testimony and exhibits provided at the hearing; after the record is closed, you will not be permitted to submit additional information, without the ALJ's express permission. Therefore, it is important that you are prepared to present everything at the time of the hearing.

You may never speak directly with the ALJ about the substance of your case outside the hearing, unless the CSED and all other parties are able to participate in the discussion. If you need to give the OALJ information, such as the telephone number where you can be reached for hearing, please call the OALJ at 406-444-9370.

The ALJ will prepare a written decision and order after the hearing, a copy of which will be sent to you. If you are unhappy with the ALJ's decision, you may file a Petition for Judicial Review in District Court pursuant to the Montana Administrative Procedure Act, MCA title 2, chapter 4, part 7 and MCA 40-5-253. The petition must be filed no later than thirty days after the date of service of the decision and order. You may obtain more information about filing a judicial review petition from your case worker.