



SNAP 1506-1 CASE MANAGEMENT

Requesting a Fair Hearing/Continuation of Benefits

Supersedes: FS 1506-1 (04/01/09)

Reference: 7 CFR 273.15; ARM 37.5.304; .307; .313; .316; .318; .322; .325; .328; .331; .334; .503; .505.

Overview: A fair hearing is granted to any applicant who requests a hearing because their application is denied or is not acted upon with reasonable promptness and to any client who is aggrieved by any adverse action taken by the Department. The hearing request must be submitted, within 90 days of the Department's action notice. A hearing request is defined as a clear expression by the applicant/client (claimant), or their authorized representative acting for them, that they want the opportunity to present their case to a higher authority. The freedom to make such a request will not be limited or interfered with in any way. The Department may assist the claimant to submit and process the request.

The individual's fair hearing rights, how to request a hearing and/or continuation of benefits pending the hearing decision and repayment, if the decision is in favor of the Department are stated on the reverse side of the notice informing the individual of the Department's action.

If a verbal SNAP fair hearing request is received, field staff should immediately email the fair hearing request to the Office of Fair Hearings (HHSOFH@mt.gov). The request must include the client's name, mailing address, phone number and adverse action reason (e.g., SNAP closure). The verbal SNAP hearing request must be documented in case notes and indicate the hearing request was sent to the Office of Fair Hearings.

If a written request is received over the desk for SNAP, TANF and/or Health Coverage: date stamp the document, scan the document(s) to DMS under tab labeled Fraud/Integrity and sub tab labeled Fair Hearing; and send the original document to the Office of Fair Hearings within **one business day**.

The Supplemental Nutrition Assistance Program (SNAP) household may request a fair hearing related to 'restoration of lost benefits' for benefits which were lost more than 90 days but less than one year prior to the hearing request **or** to dispute its current level of benefits at **any time** within the certification period.

EXPEDITED:

Expedited hearings may be granted to households who request a hearing, but plan to leave Montana before a decision can be made under regular time frames (SNAP 1506-3).

HEARING REQUEST DENIAL/DISMISSAL:

1. A hearing may be denied or dismissed when:
 - a. The individual or their representative withdraws the hearing request in writing or verbally;
 - b. The individual (or representative) fails to appear at the hearing without good cause;
NOTE: The Hearing Officer may reschedule the hearing if the claimant shows good cause for failure to appear. A hearing cannot be dismissed when a claimant does not appear for an Administrative Review.
 - c. The Department receives the request **more than 90 days** after the date the notice was mailed;
 - d. Either federal or state law requires automatic benefit changes (unless the issue is incorrect benefit adjustments); or,
 - e. The Hearing Officer does not have jurisdiction over the subject matter or the appeal procedure.
 - f. A hearing request is determined abandoned because the claimant failed to appear or request reschedule, a notice of dismissal or denial (in which the claimant is offered the opportunity to explain his/her failure to appear), is sent to the claimant by the Hearing Officer.

HEARING POSTPONEMENT:

The household may request and is entitled to receive a postponement of a scheduled hearing. The postponement cannot exceed 30 days unless both parties agree. The Hearings Officer's decision may be extended for as many days as the hearing is postponed. For example, if the household postpones the hearing for 10 days, the household must be notified of the hearing decision within 70 days from the date of the hearing request.

ADMINISTRATIVE REVIEW:

An administrative review is offered to households that contest a denial of expedited services. Households are advised that use of an administrative review is optional and that it will in no way delay or replace the fair hearing process. The administrative review is conducted by the Department representative and includes the household and/or its representative. An administrative review may lead to an informal dispute resolution. However, a fair hearing must still be held unless the household makes a written or oral withdrawal of its hearing request.

An administrative review for households contesting a denial of expedited services is scheduled **within two working days**, unless the household requests that it be scheduled later.

CONTINUATION OF BENEFITS:

A hearing request filed within the period between the notice of action date and the action effective date may result in continuation (reinstatement) of benefits until a final hearing decision is rendered. Benefits are continued until the hearing decision unless:

1. The claimant specifically requests that continued benefits not be paid pending the hearing decision; **NOTE:** For the Supplemental Nutrition Assistance Program (SNAP) and Medicaid, when a hearing request does not positively indicate the household has waived continuation of benefits; continue benefits on the eligibility determination authorized immediately prior to the adverse action notice, if the hearing request was received no later than the date on which the adverse action took effect.
2. The claimant does not turn in the request by the date the adverse action took effect. **NOTE:** If the notice of adverse action period ends on a weekend or holiday and a request for a fair hearing and continuation of benefits is received the day following the weekend or holiday, the State agency will consider the request timely.

The Department's Representative must clearly and thoroughly explain the claimant's responsibility to repay benefits received during the hearing process if the adverse action is upheld. Continued benefits are authorized when all financial and non-financial requirements are met, except for the issue in dispute, until a hearing decision is rendered. This includes an appeal to the Board of Public Assistance (1506-4).

Changes reported during the benefit continuation period are acted on per the household's reporting requirements. (See 'Reduction of Continued Benefits' below). If the decision is in the Department's favor, recovery of benefits issued during the continuation period must be initiated, if appropriate, and/or the adverse action imposed.

The household is not entitled to continued benefits if the hearing request is because benefits are denied at the time of recertification.

REDUCTION OF CONTINUED BENEFITS:

Once benefits are continued or reinstated, do not reduce or terminate benefits prior to the official hearing decision unless:

1. Eligibility ends for failing to meet any other eligibility requirements or time-limits are reached;
 - a. ABAWD time limits have expired.
 - b. The certification period expires and the household fails to complete the certification process for ongoing benefits.
2. A change affecting the client's eligibility or basis of issuance occurs while the hearing decision is pending and the household unit fails to request a hearing after the subsequent notice of adverse action;
3. The Hearing Officer makes a preliminary determination (in writing and at the hearing) the sole issue is one of State or Federal law or policy and no issue of improper benefit calculation, misapplication, or misinterpretation of State or Federal law or policy exists; or,

4. A mass change affecting the client's eligibility or benefit level occurs while the hearing decision is pending. (See SNAP 1501-2, 'Mass Change').

MASS CHANGE CONTINUATION:

A mass change occurs when changes in either State or Federal law require automatic benefit adjustments for classes of recipients. When benefits are reduced or terminated due to a mass change, continue benefits at the prior amount only if the issue being contested is that:

1. Eligibility or benefits were improperly computed; or,
2. Federal law or regulation was misapplied or misinterpreted.

NOTE: A Supplemental Nutrition Assistance Program (SNAP) fair hearing cannot be dismissed solely because an issue is related to a mass change.

Effective Date: April 01, 2017