



# 1506-1 Requesting a Fair Hearing/Continuation of Benefits

<b>Supersedes:</b>	TANF 1506-1 (01/01/06), FMA and MA 1506-1 (04/01/03), Bulletins: FMA- 35, MA B-60
<b>References:</b>	ARM 37.5.101; 103; 301; .304; .305; .307; .313; .316; .318; .322; .325; .328; .331; .334; .337; .503; .505; ARM 37.82.101; ARM 37.78.102; 42 CFR 431.200 through .246; 45 CFR 205.10;
<b>Overview:</b>	<p><u>GENERAL RULE</u>--A fair hearing will be granted to any applicant who requests a hearing because his/her application is denied or is not acted upon with reasonable promptness. Also, a hearing will be granted to any participant who is aggrieved by any action resulting in reduction, discontinuance, termination, overpayment, or a determination establishing conditions for the receipt of benefits.</p> <p>The hearing request must be submitted, in writing, within <b>90</b> days from the date of mailing of the adverse action notice.</p> <p><b>NOTE:</b> A written request for a fair hearing does not have to be signed by the requestor.</p> <p>A hearing request is defined as a clear expression by the applicant/ participant (claimant), or the authorized representative acting for him/her, that he/she wants the opportunity to present his/her case to a higher authority. The freedom to make such a written request will not be limited or interfered with in any way. The Department may assist the claimant to submit and process the request.</p> <p>State law grants any 'real party in interest' (e.g., medical providers) the right to request a fair hearing and/or appeal a hearing decision.</p> <p>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 system notice informing the individual of the Department's action.</p>
<b>EXPITED HEARING</b>	Expedited hearings may be granted to households who request hearings, but plan to leave Montana before decisions can be made under regular time frames.
<b>HEARING POSTPONEMENT</b>	The household or the Department may request and is entitled to receive a postponement of a scheduled hearing. The postponement cannot exceed 30 days unless agreed to by both parties.
<b>CONTINUATION OF BENEFITS</b>	<p>A hearing request filed within the period between the date the notice of adverse action was mailed and the effective date of the action may result in continuation (reinstatement) of benefits until a final hearing decision is rendered.</p> <p>The client has a right to claim good cause for not filing the request for continued benefits timely. (See TANF 1509-1; FMA 1509-1)</p> <p><b>NOTE:</b> If the notice of adverse action period ends on a weekend or holiday and a</p>

	<p>request for a fair hearing and continuation of benefits is received the day following the weekend or holiday, the State agency shall consider the request timely.</p> <p><b>Medicaid</b> Continued benefits will be automatic with all fair hearing requests unless the household specifically states they do not want Medicaid coverage while the hearing is pending.</p> <p><b>TANF</b> Continued benefits must be specifically requested in order to receive them.</p> <p>Benefits cannot be continued if the issue is one of State or Federal law or policy.</p> <p><b>NOTE:</b> Household receiving extended TANF benefits are not entitled to continued benefits during the fair hearing process as the <b>60 month</b> federal time limit is a matter of federal law.</p>
<b>MASS CHANGE CONTINUATION</b>	<p>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:</p> <ol style="list-style-type: none"> <li>1. Eligibility or benefits were improperly computed; or,</li> <li>2. Federal law or regulation was misapplied or misinterpreted.</li> </ol>
<b>DURATION OF CONTINUED BENEFITS</b>	<p>Continue benefits if all financial and nonfinancial requirements are met with the exception of the issue in dispute:</p> <ol style="list-style-type: none"> <li>1. until a hearing decision is rendered, OR</li> <li>2. until the claimant exhausts the available administrative remedies which includes the appeal to Board of Public Assistance, OR</li> <li>3. the time for appeal to the Board has passed without either the claimant or the Department appealing to the Board</li> </ol>
Date Revised	January 1, 2007