

Representing Yourself at a State Hearing: Tips to Succeed

Your Rights

You have the right to:

- ❖ A written Notice of Action *before* the county changes your benefits in any way.
- ❖ Ask for a hearing any time you think there is something wrong with your case, even if you didn't get a notice. This includes Welfare-to-Work.

How to get a state hearing

There are several ways you can ask for a fair hearing:

- ❖ Fill out the back of *any* notice of action. Say, briefly, why you want a hearing. (Example: "I think my CalFresh benefits are wrong.")
- ❖ Call toll-free at (800) 952-5253 to request a state hearing.
- ❖ Don't delay! Ask in writing if you cannot get through on the toll-free number.
- ❖ Ask for a hearing on any new notice with which you disagree, even if you are waiting for a hearing on an earlier problem.
- ❖ Fax your request to (916) 651-5210.
- ❖ Request your hearing online at <https://secure.dss.cahwnet.gov/shd/pubintake/cdss-request.aspx>

Be sure to list every program you are having problems with, and the questions and issues you want to talk about at the hearing.

Ask on time!

You only get to have a hearing if you ask on time. The notice will say how much time you have. For **state** fair hearings, there are **limited** "good cause" reasons to file late. Ask for your hearing, and seek legal advice about your late filing.

(Time to ask for hearings about General Assistance (GA) and about Child Care issues may be much shorter, so don't delay!)

Contact the County Appeals Officer

The Appeals officer can:

- ❖ Tell you the county's position.
- ❖ Tell you if the county can settle with you.
- ❖ Arrange for you to see your file.
- ❖ Give you a copy of the county's written statement of its position two days before the hearing.

Keep in mind that the Appeals Officer works for the county, not you.

Review your file

Look in your case file for the paperwork on your specific problem. The Appeals Officer can show you how the file is organized. Ask for print-outs of what you want copied. Is there a document missing? This may help you, if your argument is that you didn't get a notice or written instructions.

Settlement Issues

- ❖ **Conditional Withdrawals:** This is when the county agrees to take an action to fix your case. In exchange, you agree to give up your hearing.
- ❖ **Should I Settle?** If the county is giving you what you want, the answer is "Yes." If you're not sure if it's fair, see if someone at your local Legal Aid program can review the settlement terms. Not sure? The you should continue with your hearing.
- ❖ **Should I withdraw?** A "withdrawal" is when the county wants you to drop your hearing, without them doing anything for you. Even if the Appeals Officer doesn't agree with you, you have a right to have an administrative law judge (ALJ) decide your case. The Appeals Officer could be wrong. If you withdraw your hearing, you may lose your right to bring up your issues again.

Postponements

You can get a postponement of your hearing if:

- ❖ The county's position statement is not ready two business days before your hearing.
- ❖ For a good reason, such as if you are sick or your witness won't be able to come on that date.

To postpone your hearing, call toll-free at (800) 743-8525. They will need your “Hearing Number” listed on the letters from the state.

Prepare your statement

- ❖ Write a short summary of what you want to say.
- ❖ List the evidence you want to turn in. (And bring the documents to your hearing!)
- ❖ Arrange for witnesses to come to the hearing, or to sign a statement that you want as part of the evidence.
- ❖ **PRACTICE!** Go over everything you want to say at the hearing.

Hearing Tips

- ❖ **Make your hearing request simple.** Just say “I disagree with ...” and list the action the county is taking. (Example: “I disagree with the overpayment” or “I disagree with the cut in my benefits.”)
- ❖ **Keep your original notice.** Send in a copy of the notice, not the original.
- ❖ Unless you want your aid to stop, **do NOT check the box that says “To Have Your Benefits Cut Now.”**
- ❖ **Get aid paid pending the outcome of your hearing.** If you ask for a hearing *before* the action happens, your aid will stay the same until you get your hearing decision. (You should get the full aid amount within five working days of when the county gets your hearing request.) You can also get child care while you are waiting for your hearing but not other supportive services.
- ❖ If you get “aid paid pending,” but lose your state hearing, you may have an overpayment. **Talk to a legal advocate, to help decide if you want “aid paid pending.”**
- ❖ **Ask questions and get the rules.** Have the county show you the rules or documents they say support their position. Make sure you understand any settlement papers. You can ask for different wording of a settlement (called a “**conditional** withdrawal”), if you think the county has not explained their action well.
- ❖ **Do NOT sign a “Withdrawal.”** A withdrawal or dismissal of your hearing request means that you will not have a hearing. **It is not a settlement.** Get legal advice from your local Legal Aid program before you do this.
- ❖ **Missed your hearing?** You must call (800) 743-8525 within 10 days of the hearing and tell them why you had a good reason (called “good cause”) for missing the hearing.

Emergency hearings

If you need a hearing held faster because of an emergency, you can ask for an “expedited hearing.”

- ❖ Normally it takes 4–6 weeks to get a hearing; expedited hearings are held within 10 business days.
- ❖ You can get an expedited hearing for a denial of “Expedited CalFresh” benefits (what used to be called “food stamps”), CalWORKs “Immediate Need” benefits, “Homeless Assistance,” or any other urgent matter. (If you are getting aid until your hearing decision, it is not an urgent matter.)
- ❖ You may need to have the hearing done by telephone. You can have an in-person hearing on the regular schedule.
- ❖ You get your hearing decision **within five business days**.
- ❖ Call (800) 952-5253 and tell the operator you need an “expedited” hearing.

“Good cause” for filing your appeal late

For **state** hearings, you may be allowed to have a hearing, even though you asked for it more than 90 days after the date of the notice. You must have “good cause.” Good cause is a reason that is a really important and convincing reason. Your good reason needs to be something that was beyond your control. The state will look at the length of the delay and the efforts you made to ask for your hearing on time. You need to ask for good cause within 180 days of the date of the notice.

What will happen at your hearing?

A state administrative law judge holds the hearing. At the hearing ...

- ❖ You have the right to see the county’s written statement of its position. You must be able to get this 48 hours before the hearing. If the county doesn’t make it available, you can postpone the hearing.
- ❖ You can have a representative (a legal or community advocate, friend, etc.) help at your hearing.
- ❖ You can ask questions of the county or any witness.
- ❖ If you need help with English, you can get a free interpreter.

What If I lose?

If you lose a state fair hearing, you have one year from the date of the decision to file an appeal in Superior Court.

Administrative Complaints

If your problem involves civil rights or work conditions you can also file an administrative complaint. This starts an investigation. Call toll-free:

- ❖ Civil Rights: (866) 741-6241
- ❖ Work issues: (800) 884-1684

IF YOU NEED LEGAL HELP, CONTACT LEGAL SERVICES OF NORTHERN CALIFORNIA