



## TANF 1506-1 Requesting a Fair Hearing

**Supersedes:** TANF 1506-1 (1/1/07)

**Reference:** ARM 37.5.101, 103, 301, .304, .305, .307, .313, .316, .318, .322, .325, .328, .331, .334, .337, .503, .505; ARM 37.78.505; 42 CFR 431.200 through .246; 45 CFR 205.10

**Overview:** A fair hearing will be granted to any applicant/client who requests a hearing in the following circumstances:

1. Any benefit determination; or
2. Untimely case action.

The notice informing the household of the Department's action contains:

1. Fair hearing rights;
2. How to request a hearing;
3. How to request benefit continuation pending a hearing decision; and
4. Benefit repayment if the decision is in the Department's favor.

The hearing request must be submitted in writing within 90 days from the adverse action notice mailing date. The ability to make such a written request will not be limited or interfered in any way. Department staff will assist the process, if requested.

A written fair hearing request does not have to be signed by the requestor. State law grants any 'real party in interest' the right to request a fair hearing and/or appeal a hearing decision.

Upon request, specific materials necessary for a client to prepare for the administrative review and/or hearing will be made available, without charge.

### **CLIENT REPRESENTATION:**

The client may be represented by:

1. Him/herself; or
2. An authorized representative.

### **DEPARTMENT REPRESENTATION:**

The Department is represented by Quality Assurance Unit staff.

**HEARING REQUEST DENIAL or DISMISSAL:**

A hearing may be denied or dismissed when (not all inclusive):

1. The individual withdraws the hearing request. This withdrawal can be verbal or in writing. The withdrawal request may be made at any time for any reason.
  - a. The household may make a request for reinstatement directly to the Office of Fair Hearings, within ten (10) days from receiving the dismissal confirmation.
2. The individual fails to appear at the hearing without good cause.
  - a. The Hearings Officer may reschedule the hearing if the client shows good cause.
    - i. A hearing cannot be dismissed when a client does not appear for an Administrative Review.
  - b. A dismissal or denial notice must be sent to the client once the Hearings Officer determines the hearing abandoned.
3. The request is received by the Department more than 90 days from the date the notice was mailed.
  - a. A motion to dismiss is required even if a request is received untimely.
4. Either federal or state law requires automatic benefit changes (unless the issue is incorrect benefit adjustments).
5. The Hearings Officer does not have jurisdiction over the subject matter or the appeal procedure.

**HEARING SITE:**

A telephonic hearing is initiated by the Hearing Officer and includes, at a minimum, the client and Quality Assurance Unit staff member assigned to the case.

**GROUP HEARINGS:**

Conducting a single group hearing responding to a series of individual requests is acceptable and appropriate as long as:

1. Clients involved agree to participate in a group rather than as individuals;
2. Cases involve related issues of state and/or federal law, regulations or policies; and
  - a. The related issues must be the only ones to be heard.
3. Clients involved are each allotted time to present his/her case.

**HEARING POSTPONEMENT:**

Both the household and the Department are entitled to request and receive a hearing postponement. A postponement cannot exceed 30 days unless agreed upon by both parties.

**Effective Date:** January 01, 2018