



County Department Guide

OAC hears cases in many areas of law involving state government. This guide pertains particularly to cases involving public benefits such as Food Stamps, Colorado Works, and Medicaid. The information provided here contains general information about how to represent your County and also how to assist your client in a hearing. OAC provides this information to help you prepare for your hearing, but it is not a substitute for having an attorney. Not all cases are the same and your case may be different. It is **not** proper to talk to the judge or OAC staff about the facts of your case or to ask them for legal advice.

Your case will be heard and decided by an administrative law judge at the Office of Administrative Courts (OAC). OAC is an independent agency within the executive branch of government and is not associated with any government agency that may be involved in your case.

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1. Overview. In Colorado, the State has delegated to the County level the administration of public benefits. The State Department of Human Services oversees the administration of benefits dealing with cash assistance and food stamps. The State Department of Health Care Policy and Financing oversees the administration of benefits involving Medicaid. These State Departments have delegated the authority to conduct evidentiary hearings to the Office of Administrative Courts.

2. Responsibility to Assist Appellants. It is the responsibility of the County Department to assist the benefit recipient (Appellant) with the filing of their appeal.

This assistance may include preparing a written statement for the Appellant's signature or translating the appeal from the Appellant's native language into English. If the Appellant requires the assistance of a translator for the hearing, it is the responsibility of the County to provide this assistance.

3. Review of Appeals. To initiate an appeal, a benefit recipient need do no more than provide a written statement to the OAC that they wish to have a hearing. We request but can not require that the following information be provided:

- a. Full Name
- b. Address
- c. Telephone Number
- d. Benefit in dispute
- e. County or State Agency that made the decision
- f. A brief description of the reason for the appeal
- g. The Appellant's signature

The only reasons that an appeal will not be opened upon receipt is if there is insufficient information available to open the case (i.e. no indication what the benefit in dispute might be), or in circumstances where an appeal is filed by a third party on the Appellant's behalf, but there is no indication that this third party has legal authority to act on the Appellant's behalf. Clerks do not investigate the claims in the appeal or any information or statements made. The OAC does not have **any** access to the CBMS system.

4. Requesting a change of Appellee and Filing Motions. Based on the information provided, the OAC will then open a case and set the matter for hearing. Once the case has been noticed, the Clerks have no authority to modify the parties or the venue for the hearing without a Judge's order. If the information provided is incorrect, it is up to the County to notify the Court through a motion. For example, if your county is shown as an Appellee on a case and you have information indicating the correct party should be the State Department of Health Care Policy and Financing, you will need to file a motion for a change of Appellee with the Court.

A motion is a request made to the Court. Your motion should be in writing and include the case number, the nature of the request and a statement that you have conferred with the opposing party. This Motion, in addition to being filed with the Court must also be served to all parties to the matter. It is also very helpful that you include your direct line so we can let you know what the Judge decides. If the Motion is in dispute (i.e. the appellant disagrees) then the Motion will be held for a response. If the Motion is not in dispute it can be given directly to the Judge to rule on. If there is

no indication as to whether the Appellant agrees or not, the Court will assume they do not. In some circumstances, the Judge will defer a ruling on the Motion until the actual hearing.

Please note that faxes over 10 pages will not be accepted unless order by a Judge. Additionally, the OAC currently does not accept filings via e-mail unless ordered by a Judge.

- 5. Orders of Continuing Benefits.** If requested by the Appellant, the OAC will issue an Order for Continuing Benefits. This Order reiterates the pertinent rules and directs the county to determine if the Appellant qualifies to have their benefits continue. This Order is not a finding by the ALJ that the Appellant does indeed qualify. The rules are:

For all benefits administered by the State Department of Human Services (except Food Stamps).

All benefits shall be continued pending the outcome of the state level fair hearing and final agency decision if the request for a state level fair hearing is made prior to the effective date of the proposed action being appealed or the ten day period for appealing a county dispute resolution decision. Continued benefits shall be authorized unless the Appellant states in writing that continued benefits are being waived. 9 Colo. Code Regs. 2503-8 § 3.830.24.E.

For Food Stamps benefits.

If a household requests a fair hearing anytime prior to the effective date of the Notice of Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Households which were not given a ten-day advance notice period, plus one additional day for mailing time, prior to the effective date of the Notice of Adverse Action shall be given ten days after the date the notice is mailed to appeal and receive continued benefits unless the household specifically waives continuation of benefits. If the letter (form) requesting a fair hearing does not positively indicate that the household has waived continuation of benefits, the food stamp office shall assume that continuation of benefits is desired and the benefits shall

be issued accordingly. 10 Colo. Code Regs. 2506-1 § B-4410.2..

In no circumstances should benefits be continued past the end of the certification period. 10 Colo. Code Regs. 2506-1 § B-4240.

For Medical Assistance benefits (Medicaid) administered by the State Department of Health Care Policy and Financing.

Where the recipient requests a hearing before the date of action, the recipient's services may not be terminated or reduced until a final agency decision is rendered after the hearing unless:

1. It is determined at the hearing that the sole issue is one of federal or state law or policy; and
2. The recipient is promptly informed that services are to be terminated or reduced pending the hearing decision.

10 Colo. Code Regs. 2505-10 § 8.057.5.A.

In the event that this Order does not resolve the issue of continuing benefits or interim relief in this case, this issue may be raised by either party at the hearing in this matter.

If there is a dispute as to whether the Appellant's benefit should continue pending the hearing, this issue will be taken up at the time of the hearing.

6. Hearing Cancellations and Dismissals. If you need to reschedule a hearing, you will need to file a Motion to Continue. If approved by the presiding Judge, your hearing will be vacated, reset for another date/time and a notice of hearing will be re-issued. Until approved by the Judge, the hearing as previously noticed, will be assumed to be going.

If you feel that the matter should be dismissed as a matter of law, you may file a Motion to Dismiss. The Motion process described above should be followed. Again, unless and until the Motion is granted by the Judge, the hearing is deemed to be proceeding as scheduled.

If your client is requesting the hearing be rescheduled or their appeal withdrawn, you can assist them in preparing a written Motion or you can suggest that they call the Clerks at the OAC at 303-866-5626.

7. Hearing Packets. As previously stated, the OAC has no access to the CBMS system. The Court receives all of its information on the case from what is provided by the parties. It is therefore critical that you send in your evidentiary packet to the Court as soon as possible, but no later than 5 days prior to the hearing. Any documents submitted to the Court must also be provided to the Appellant.

8. What to expect at the hearing. The hearing is your opportunity to present your case for the judge to review. Be prepared to submit documentary evidence and to present witness who can speak to the events in question. As the Appellee, it is your responsibility to show that the actions taken by the County were in accordance to the applicable rules and/or statutes.

9. Initial Decisions and Filing of Exceptions. For cases involving benefits, the OAC has Initial Decision authority. What that means is that we will conduct a hearing and the judge will prepare a written decision containing his or her findings. This decision will then be sent to the Office of Appeals for the State Department we heard the case for.