

461-025-0310
Hearing Requests

Effective 12-01-24

- (1) A *claimant* (see OAR [461-025-0305](#)) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:
 - (a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance or medical assistance within 45 days of the application.
 - (b) The Department has not acted timely on an application as follows:
 - (A) An application for SNAP program benefits --- within 30 days of the filing date.
 - (B) An application for a JOBS support service payment--- within the time frames established in OAR [461-115-0190](#)(3).
 - (c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a *grant of public assistance*, a *grant of aid*, a support service payment authorized in the JOBS program by OAR [461-190-0211](#), medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, *grant of public assistance* and *grant of aid* mean the grant of cash assistance calculated according to the claimant's need.
 - (d) The Department has sent a *decision notice* (see OAR [461-001-0000](#)) that the *claimant* is liable for an *overpayment* (see OAR [461-195-0501](#)).
 - (e) The Department modifies a *grant of public assistance* or a *grant of aid*; or the *claimant* claims that the Department previously underissued public assistance, medical assistance, or SNAP

program benefits and the Department denies, or denies in part, that claim.

- (f) The household disputes its current level of SNAP program benefits.
- (g) The *filing group* (see OAR [461-110-0370](#)) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.
- (h) The *claimant* asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.
- (i) A child care provider is disputing an allegation of an overpayment of child care provided under Chapter 461 or “a finding of suspended” established under Chapter 461.
- (j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR [461-135-0475](#)) or other support service payment in the JOBS program (see subsection (c) of this section).
- (k) In the TA-DVS program, when OAR [461-135-1235](#) provides a right to a hearing.
- (l) A service re-assessment of a *claimant* conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of nursing facility services or *home and community-based care* (see OAR [461-001-0030](#)).
- (m) The claimant's benefits are changed to vendor, protective, or two-party payments.
- (n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.
- (o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR [461-115-0190](#).

- (p) The right to a hearing is otherwise provided by statute or rule.
- (q) To resolve a grievance under 45 CFR 261.70 against an employer. A hearing request under this subsection must be in writing with the claimant's name, address, and daytime phone number (if available). The hearing request must be received by the Department within 45 days of the alleged violation or within 30 days after completion of an employer grievance process.
- (r) In the Summer EBT (SEBT) program:
 - (A) The *Summer EBT agency* (see OAR [461-196-0020](#)) acts to deny an SEBT application.
 - (B) The claimant disputes a *Summer EBT agency* verification requirement.
 - (C) Any adverse action taken against the *filing group* (see OAR [461-196-0020](#)) by the *Summer EBT agency*.
- (2) A *claimant* is not entitled to a hearing on the question of the contents of a *case plan* (defined in OAR [461-190-0151](#)) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the *claimant* is entitled to use the Department's re-engagement process (see OAR [461-190-0231](#)). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan is resolved through re-engagement if there is no right to a hearing under OAR [461-135-1235](#).
- (3) A request for hearing is complete:
 - (a) In public assistance, SNAP, and SEBT programs, when the Department's Administrative Hearing Request form (form DHS 443) is --
 - (A) Completed;
 - (B) Signed by the *claimant*, the claimant's attorney, or the claimant's *authorized representative* (see OAR [461-115-0090](#)); and

- (C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the postmark) does not apply to hearing requests contesting a *decision notice* (see OAR [461-001-0000](#)). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.
- (b) In the SNAP program, when the Department receives an oral or written statement from the *claimant*, the claimant's attorney, or the claimant's *authorized representative* that the *claimant* wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.
- (c) In the case of a provider of child care, when a written request for hearing from the provider about an action or decision taken under Chapter 461 is received by the Department.
- (d) For medical assistance, when a hearing request is made in a manner permitted under OAR [410-200-0145](#) or this section.
- (e) In the SEBT program, when the Department receives an oral or written statement from the *claimant*, the claimant's attorney, or the claimant's *authorized representative* that the *claimant* wishes to appeal a decision affecting the claimant's SEBT program benefits to a higher authority.
- (4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.
- (5) In the event the *claimant* has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the *claimant* has the right to a contested case hearing.

- (6) For medical assistance, to be timely, a hearing request must be received by the Department or the OHP Customer Service in the time frame set out in OAR [410-200-0015](#) and [410-200-0145](#). In other programs, to be timely, a completed hearing request must be received by the Department not later than:
- (a) Except as provided in subsection (b) of this section, the 45th day following the date of the *decision notice* (see OAR [461-001-0000](#)) in public assistance programs.
 - (b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR [461-130-0330](#)) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR [461-135-0085](#)).
 - (c) The 90th day following the date of the *decision notice* in the SNAP program, except:
 - (A) A *filing group* may submit a hearing request at any time within a *certification period* (see OAR [461-001-0000](#)) to dispute its current level of benefits.
 - (B) A *filing group* may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.
 - (d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.
 - (e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.
 - (f) For the SEBT program, the *filing group* must submit an appeal by the 90th day after the end of the *summer operational period* (see OAR [461-196-0020](#) and [461-196-0060](#)).

- (7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a *decision notice* became a final order:
- (a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice --
 - (A) If the Department finds that the *claimant* and claimant's representative did not receive the *decision notice* and did not have actual knowledge of the notice; or
 - (B) If the Department finds that the *claimant* did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), *good cause* (see OAR [461-025-0305](#)), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.
 - (b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the *claimant* is entitled to a hearing on the merits if there is a dispute between the *claimant* and the Department about either of the following paragraphs.
 - (A) The *claimant* or claimant's representative received the *decision notice* or had actual knowledge of the *decision notice*. At the hearing, the Department must show that the *claimant* or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the *claimant* or claimant's representative, as provided to the Department.
 - (B) The *claimant* qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.

- (c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:
 - (A) The undisputed facts show that the *claimant* does not qualify for a hearing under this section; and
 - (B) The *decision notice* was served personally or by registered or certified mail.
- (8) In computing the time periods provided by this rule, see OAR [461-025-0300](#)(1).
- (9) In the REF and REFM programs, a *claimant* is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR [461-135-0900](#) has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.
- (10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:
 - (a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.
 - (b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the *claimant* a *decision notice* or a contested case notice.
 - (c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.
 - (d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

- (e) The Department may dismiss a request for hearing as untimely if the *claimant* does not qualify for a hearing under this section.
- (11) If the Department receives a hearing request more than 120 days after a *decision notice* (other than an overpayment notice) became a final order by default --
- (a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.
 - (b) The Department may dismiss a request for hearing as untimely if the *claimant* does not qualify for a hearing under subsection (a) of this section.
- (12) Notwithstanding sections (7), (10), and (11) of this rule, for medical assistance, the time frame is the same as the one in OAR [410-200-0146](#) instead of 120 days.

Statutory/Other Authority: ORS [329A.500](#), [411.060](#), [411.095](#), [411.103](#), [411.404](#), [411.408](#), [411.816](#), [411.892](#), [412.014](#), [412.049](#)

Statutes/Other Implemented: ORS [329A.500](#), [411.060](#), [411.095](#), [411.103](#), [411.404](#), [411.408](#), [411.816](#), [411.892](#), [412.009](#), [412.014](#), [412.049](#), [412.069](#), [412.072](#)

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