

New York HEAP Application: FAIR HEARINGS

The following language is included in the NYS Home Energy Assistance Program Application (LDSS-3421).

FAIR HEARINGS

You have certain rights when filing your HEAP application. You have the right to be told if your application is approved or denied within thirty (30) business days of the date that the HEAP certifier receives your completed and signed application.

The processing time for applications will not begin until program opening even though you may have received an application prior to the program opening date as a part of our outreach effort. You have the right to request a conference and/or a fair hearing if it has been more than thirty (30) business days since the HEAP certifier received your signed and completed application (or it has been more than thirty (30) business days since program opening if the certifier received your application prior to program opening) and you have not been told of the eligibility decision.

If you would like a conference, you should ask for one as soon as possible. At the conference, if it is discovered that a wrong decision was made, or if because of information you provide, the decision has changed our original decision, corrective action will be taken.

If you would like a conference, please contact your Local Department of Social Services. This is only for requesting a conference. It is not how you ask for a fair hearing. If you ask for or have a conference, you are still entitled to a fair hearing.

The Office of Temporary and Disability Assistance (OTDA) policy issuances and manuals are posted on the OTDA website at otda.ny.gov/legal. These issuances and manuals are available to you or your representative to determine whether a fair hearing should be requested or to prepare for a fair hearing. In addition, upon request to your local social services district, specific OTDA policy issuances and manuals will also be available to assist you or your representative.

If you live anywhere in New York State, you may request a Fair Hearing by telephone, fax, online, or by writing to the address below:

Telephone: Statewide toll-free request number is 800-342-3334. Please have the notice, if any, with you when you call.

Fax: your Fair Hearing request to: 518-473-6735

Online: Complete online request form at <http://www.otda.ny.gov/oah/>

In writing: For notices, fill in the supplied space and send a copy of the notice, or write to:

NYS Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O. Box 1930
Albany, NY 12201-1930

If you request a fair hearing, NYS will send you a notice of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, friend, or other person, or to represent yourself. At the hearing, your attorney or other representative will have the opportunity to present written and oral evidence, as well as the opportunity to question any persons who appear at the hearing. Also, you have the right to bring witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid society or other legal advocate group. You may locate the nearest Legal Aid society or advocate group by checking the yellow pages under "lawyers".



You have the right to review your case record. Upon your request, you have the right to free copies of documents that your local Department of Social Services presents into evidence at the fair hearing. Also, upon request, you have the right to free copies of other documents from your case record that you need for your fair hearing. To request such documents or to find out how you may review your case record, contact your Local Department of Social Services.

If you need someone who speaks Spanish, contact the NYS OTDA Hotline at 1-800-342-3009.

What you Should Know About Your Rights and Responsibilities When Applying For or Receiving Benefits

The following language is included in Book 1 *What you Should Know About Your Rights and Responsibilities When Applying For or Receiving Benefits (LDSS-4148A)*:

5. CONFERENCES and FAIR HEARINGS

If you think any decision about your case is wrong, or you do not understand any decision, talk to your worker right away. If you still disagree or do not understand, you have the right to a Conference and a Fair Hearing.

CONFERENCE

A Conference is when you meet with someone other than the person who made the decision about your case. At the Conference this person will review that decision. Sometimes a Conference is the fastest way to solve any problems you may have. We encourage you to ask for one even if you have requested a Fair Hearing. However, Conferences are voluntary, and you can request a Fair Hearing even if you do not request a Conference. To ask for a Conference, call or write your local department of social services.

A CONFERENCE IS NOT A FAIR HEARING. If you are told that your case is being closed, or that the money or other help you are getting will be less, and the problem is not settled through a Conference, you must ask for a Fair Hearing to keep the money or other help you are getting from being stopped or reduced.

NOTE: A request for a Conference is not a request for a Fair Hearing. If you want a Fair Hearing, you must request one.

FAIR HEARING

A Fair Hearing is a chance for you to tell an Administrative Law Judge from the New York State Office of Temporary and Disability Assistance why you think the decision about your case was wrong. The State will then issue a written decision which will state whether the local department of social services decision was right or wrong. The written decision may order the local department of social services to correct your case.

Some Reasons Why You Might Ask For A Fair Hearing

- You agreed to withdraw your application, but you feel you were given incorrect or incomplete information about your eligibility for the covered program or service.
- Your Application for Temporary Assistance, Medical Assistance, Food Stamp Benefits, Services, Child Care or Home Energy Assistance Program (HEAP) is denied, and you do not agree with this decision.
- You applied for Temporary Assistance, Food Stamp Benefits, Services or HEAP and more than 30 days have passed. You have not been told yet if your Application has been approved or denied. For some adults applying for Temporary Assistance, the decision may take up to 45 days.
- You believe that your Temporary Assistance, Medical Assistance, Services, Child Care or HEAP are inadequate.
- You applied for Medical Assistance and have not received a notice telling you if your Application has been approved or denied.
 - If you are pregnant or applying for a young child, you should get a notice within 30 days.
 - If you are applying as a disabled person, your eligibility determination may take 90 days.
 - Everyone else is notified within 45 days.
- You are told that you are able to work or to participate in an employment activity (employable), and you do not agree with this.
- You think the amount of your Temporary Assistance or Food Stamp Benefits or Child Care Benefits is wrong.



- You are getting Medical Assistance or Child Care benefits, but you have to pay part of the cost. You think your share is too much.
- Medical Assistance is paying for a service and you have been told that your service is being reduced or discontinued. You do not agree with this.
- You have applied for a Medical Assistance waiver program and have been denied. You do not agree with this.
- You have been told that, due to your abuse of Medical Assistance, you must get your medical care from one main provider (Recipient Restriction Program). You do not agree with this decision. (See "Your Responsibilities," Section 14, "Responsibilities Regarding The Use Of Medical Assistance Providers".)
- You are getting Temporary Assistance, Medical Assistance, Food Stamp Benefits, Services or Child Care and you have been told that your case is being closed. You do not agree with this decision.
- You asked for removed cash Electronic Benefit Transfer (EBT) benefits to be reissued to you, and they were not reissued.
- You asked for an adjustment (correction) of your Food Stamp Benefit EBT account and your request was denied.
- Your Food Stamp Benefit EBT account was reduced to correct an EBT system error, and you do not agree with this action.
- Your local department of social services uses part of your Temporary Assistance to pay directly for your bills such as heat, rent, utilities (restricted payments). You do not agree with this.
- You ask for more assistance or services for a special need and you are told you cannot get it. You do not agree with this.
- You are getting Temporary Assistance or Food Stamp Benefits, Services, or Child Care benefits each month and you are told that you will be getting less. You do not agree with this.
- You are told you received an overpayment for child care services, Temporary Assistance or Food Stamp Benefits and you are told you will have to pay the overpayment. You do not agree that there is an overpayment, or you do not agree with the amount of the overpayment.

At a Fair Hearing you will have a chance to explain why you think the decision is wrong.

TIME LIMITS TO ASK FOR A FAIR HEARING

If you want to ask for a Fair Hearing for Temporary Assistance, Medical Assistance, Food Stamp Benefits, Services or Child Care, call right away because there are time limits. If you wait too long, you may not be able to get a Fair Hearing.

NOTE: If your situation is very serious, the New York State Office of Temporary and Disability Assistance will set up a Fair Hearing for you as soon as possible. When you call or write for a Fair Hearing, be sure to explain that your situation is very serious.

If you do get a notice about your case and you want to ask for a Fair Hearing, the notice will tell you how much time you have to ask for the Fair Hearing. Be sure to read all of the notice carefully.

If your notice tells you that your Temporary Assistance, Medical Assistance, Services or Child Care has been denied, will be stopped or will be reduced, you may ask for a Fair Hearing within 60 days from the date of the notice.

If your notice tells you that your Food Stamp Benefits have been denied, will be stopped or will be reduced, you may ask for a Fair Hearing within 90 days from the date of the notice. You may ask for a Fair Hearing if you think you are not getting enough Food Stamp Benefits at anytime within the certification period.

If you do not get a notice about your case, and your money or other help is denied, stopped or reduced you can also ask for a Fair Hearing.

HOW TO ASK FOR A FAIR HEARING

If you do get a notice about your case and you want to ask for a Fair Hearing, the notice will tell you how. Be sure to read all of the notice carefully.

If you get a notice telling you that your money or other help will be stopped or reduced, and you ask for a Fair Hearing before the effective date on your notice, your money or other help will, in most instances, stay the same ("aid continuing") until the Fair Hearing decision is made. If the notice was not sent before the effective date, and you ask for a Fair Hearing within 10 days of the postmark date of the notice, you also have the right to have your money or other help stay the same ("aid continuing") until the Fair Hearing decision is made.

However, if you do get "aid continuing" and you lose the Fair Hearing, you will have to pay back any Temporary Assistance, Food Stamp Benefits, Medical Assistance and/or Child Care benefits that you received as "aid continuing" while waiting for the Fair Hearing decision.

If you do not want the money or other help you have been getting to stay the same until the Fair Hearing decision is made, you must tell this to the New York State Office of Temporary and Disability Assistance when you call or write for a Fair Hearing.

If you do not get a notice about your case, and your money or other help is stopped or reduced, you can still ask for a Fair Hearing. At the same time that you ask for a Fair Hearing, you can ask that your money or other help be restored ("aid continuing").

However, if you do get "aid continuing" and you lose the Fair Hearing, you will have to pay back any Temporary Assistance, Food Stamp Benefits, Medical Assistance and/or Child Care benefits that you received as "aid continuing" while waiting for the Fair Hearing decision.



HEAP Notice of Eligibility Decision

Applicants are also informed of their right to a fair hearing in the HEAP Notice of Eligibility Decision (LDSS 3494A/3494B). The following language is included on this notice:

CONFERENCE AND FAIR HEARING SECTION – DO YOU THINK WE ARE WRONG?

If you think our decision was wrong, you can ask for a review of our decision. If we made a mistake, we will correct it. You can do both 1 and 2:

1. Ask for a meeting (conference) with one of our supervisors;
2. Ask for a State fair hearing with a State hearing officer.

The Office of Temporary and Disability Assistance (OTDA) policy issuances and manuals are posted on the OTDA website at otda.ny.gov/legal. These issuances and manuals are available to you or your representative to determine whether a fair hearing should be requested or to prepare for a fair hearing. In addition, upon request to your local social services district, specific OTDA policy issuances and manuals will also be available to assist you or your representative.

1. CONFERENCE (informal meeting with us) – If you think our decision was wrong, or if you do not understand our decision, please call us to set up a meeting. To do this, call the conference phone number on the front of this notice or write to us at the address on the front of this notice. Sometimes this is the fastest way to solve any problem you may have. We encourage you to do this even when you have asked for a fair hearing.

2. STATE FAIR HEARING – You have 60 days from the date of this notice to ask for a fair hearing.

HOW TO ASK FOR A FAIR HEARING

You can request a fair hearing by mail, by phone, by fax or online.

Mail: Send a copy of this completed notice to:
New York State Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O. Box 1930
Albany, New York 12201

Please keep a copy for yourself.

☐ I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

Signature of Client _____ Date: _____

Phone: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL.)

To request a Fair Hearing, by telephone, you can call toll-free:
1-800-342-3334

Fax: Fax a copy of the front and reverse of this notice to: (518) 473-6735 or

Online: Complete an online request form at: <http://otda.ny.gov/oah/>

If you cannot reach the New York State Office of Temporary and Disability Assistance by phone, by fax or online, please write to ask for a fair hearing before the deadline.

WHAT TO EXPECT AT A FAIR HEARING

The State will send you a notice that tells you when and where the fair hearing will be held.

At the hearing, you will have a chance to explain why you think our decision is wrong. You can bring a lawyer, a relative, a friend or someone else to help you do this. If you cannot come yourself, you can send someone to represent you. If you are sending someone who is not a lawyer to the hearing instead of you, you must give this person a letter to show the hearing officer that you want this person to represent you at the hearing.

At the hearing, you and your lawyer or other representative will have a chance to explain why we are wrong and a chance to give the hearing officer written papers that explain why we are wrong.

To help you explain at the hearing why you think we are wrong, you should bring any witnesses who can help you. You should also bring any papers you have, such as: pay stubs, leases, receipts, bills, doctor's statements.

At the hearing, you and your lawyer or other representative can ask questions of witnesses which we bring or which you bring to help your case.

LEGAL ASSISTANCE

If you think you need a lawyer to help you with this problem, you may be able to get a lawyer at no cost to you by contacting your local Legal Aid Society or other legal advocate group. For the names of other lawyers, check your Yellow Pages under "Lawyers".

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS

To help get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file that we will give to the hearing officer at the fair hearing. Also, if you call or write to us, we will provide you with free copies of other documents from your file that you think you may need to prepare for your fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access phone number on the front of this notice or write to us at the address on the front of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

INFORMATION

If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the phone numbers on the front of this notice or write to us at the address on the front of this notice.

For more information regarding the NYS Fair Hearing process and applicant/recipients' rights and NYS Fair Hearing Policy please see the NYS Administrative Hearings website at <http://otda.ny.gov/hearings/>.