

# **SELF ADVOCACY**

## **How To Get Through the Maze of Welfare**



**Legal Aid Services of Oregon and Oregon Law Center**

**Public Benefits Hotline – 1-800-520-5292**

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**[www.oregonlawhelp.org](http://www.oregonlawhelp.org)**

# TABLE OF CONTENTS

## 1. INTRODUCTION

### 2. GETTING ORGANIZED – p. 3-5

- a. Get Important Names, Telephone Numbers and addresses
- b. Keep a Written Log
- c. Get Receipts
- d. Ask For It In Writing
- e. Send Confirming Letters
- f. Take Another Adult With You
- g. Get Information From Organizations

### 3. ACCESS TO INFORMATION – p. 5-6

- a. Ask Questions - See Your File
- b. Read Papers From Welfare

### 4. CHAIN OF COMMAND – p. 6

### 5. COMPLAINTS – p. 7-9

- a. When Should I File a Complaint?
- b. How do I File a Complaint?
- c. What Rights Does Filing a Complaint Give Me?
- d. The Governor’s Advocacy Office
- e. Tips on Meeting with DHS
- f. Is there a Difference Between Filing a Complaint and Asking for a Hearing?
- g. When Should I Ask for a Hearing Instead of Filing a Complaint?

### 6. HEARINGS – p. 9-11

- a. When Should I Request A Hearing?
- b. How Do I Request A Hearing?
- c. How Long Do I Have To Request A Hearing?
- d. Will I Receive Benefits While Waiting For The Hearing?
- e. What If I Lose The Hearing?
- f. Should I Call Legal Aid Now That I Have Requested A Hearing?

- g. Now You Have the Basic Tools That You Need To Advocate For Yourself With Welfare

## 1. INTRODUCTION: USING YOUR POWER WHILE DEALING WITH WELFARE

This pamphlet gives tips about the things you can start doing now to have more control in your dealings with the Department of Human Services. Most people feel a certain amount of frustration when dealing with any large agency. This is especially true when agencies control your income and medical care.

Self-advocacy is a way to gain more control for your self. It takes practice. Sometimes it also takes support. Call the **Public Benefits Hotline (1-800-520-5292)** or your local Legal Aid office for possible advice or representation. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

## 2. GETTING ORGANIZED

### a. GET IMPORTANT NAMES, TELEPHONE NUMBERS AND ADDRESSES

*First thing, ask your worker for the name, telephone number, and mailing address of the worker’s supervisor, the operations manager, and District Manager. Do it now, even if you are not having problems with welfare.*

Why? Because you will need to be able to contact managers if you can’t reach an agreement with your worker about a problem. Also, asking your worker for this information tells the worker that you are willing to stand up for your rights.

If you know the supervisor or manager by name, you are much less likely to get “screened out” by the receptionist than if you just ask for your worker’s supervisor without referring to her by name.

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Remember, getting this information early means that you won't have to get it from your worker if a conflict arises.

**NAMES AND TELEPHONE NUMBERS**

**DHS Worker:**

\_\_\_\_\_  
**Worker's Operations Manager:**

\_\_\_\_\_  
**JOBS Counselor:**

\_\_\_\_\_  
**Counselor's Operations Manager:**

\_\_\_\_\_  
**Food Stamp Worker:**

\_\_\_\_\_  
**Worker's Operations Manager:**

\_\_\_\_\_  
**District Manager:**

\_\_\_\_\_  
**Public Benefits Hotline: 1-800-520-5292**

\_\_\_\_\_  
**Other:**

\_\_\_\_\_  
**Other:**

**b. KEEP A WRITTEN LOG**

*Starting today, keep a written log of all your contacts with anyone at the welfare office. Write down the date and time, who you spoke to and what was said. Write down the date and content of any papers you sent or handed in, or any papers they gave you.*

Why? Because a written record is helpful if there is a disagreement about past events. It is not a good idea to rely on your memory alone. A written record is not absolute proof, but it may be more believable to a supervisor or Administrative Law Judge (ALJ) than your memory alone. In your written record, it is important to record the name of the person you spoke to, the time and date you spoke, and what was said. This will make it easier for a

supervisor or ALJ to get to the bottom of the problem.

Copies of papers, letters, notices, envelopes, etc., are important for three reasons. First, they are evidence of your claims. Second, if your worker loses papers that are needed to issue your check or food stamps; you have another copy to give to the worker. Third, if you have to prove when you received a notice, the postmark on the envelope will be part of the proof you need.

*Remember, if all of this information is kept in one place and organized it will be easier to find when you need it.*

**c. GET RECEIPTS**

*Whenever possible, take the papers that your worker needs to the office, rather than mail them. Get a signed, dated receipt. Keep the receipts in your notebook. If you can't get a receipt, take a second set of the papers with you and get welfare to date stamp it. Keep this set of papers as proof that they received the originals.*

Why? Because papers can get lost in the mail. Sometimes they are even lost after they get to the welfare office. If you have a receipt, you can prove that you turned them in. Sometimes you will be unable to take papers into the welfare office. When you do mail papers, be sure to make a note of what you mailed and the date you mailed it. You may want to make a follow-up call to make sure it was received.

**d. ASK FOR IT IN WRITING**

*If your worker agrees to do something, it is a good idea to ask for a written explanation of the agreement.*

Why? You'll have proof that the agreement was made if the worker changes his or her mind, or if you get a new worker. Although it may be awkward to get your caseworker to put the agreement in writing, it is essential to document important agreements.

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e. SEND CONFIRMING LETTERS

If you give your worker information over the telephone or your worker agrees to do something but does not give it to you in writing, send him or her a dated, signed letter that states the information you gave or your understanding of what he or she agreed to do. Be sure to end your letter by asking the worker to answer by a certain date. (Ten to fourteen days is a reasonable amount of time.) In short, tell the worker to write back by that date if he or she wishes to change or clarify the understanding stated in the letter.

Why? If at some future date you and your worker disagree about the original agreement, your copy of the confirming letter will be proof that you both agreed. This also gives your worker a chance to clear up any misunderstandings right away.

f. TAKE ANOTHER ADULT WITH YOU

*If you have experienced difficulties in the past with your worker, you may want to take another adult with you. Ask that person to listen carefully and watch what goes on.*

g. GET INFORMATION FROM ORGANIZATIONS

*Find out which groups and organizations can help you in dealing with problems with welfare. Keep a list of these groups and their telephone numbers so you can contact them when you need them. Call the Public Benefits Hotline (1-800-520-5292) for suggestions for your list.*

Why? There are a lot of resources that can help you solve your problems with welfare. There is no reason to do it alone. Support is essential to self-advocacy. Learn and get help from people and groups with resources and experience in dealing with welfare.

**3. ACCESS TO INFORMATION**

a. ASK QUESTIONS - SEE YOUR FILE

*Ask questions about anything you don't understand or agree with. Ask what law(s) the answers are based on. Ask to see copies of the laws. Don't stop until you get the information you want.*

Why? Because everything your worker does in your case must be governed by laws or policies. You need to know if the decisions and actions taken in your case are correct so that you know whether to complain to a supervisor or request a hearing.

State laws provide you with certain rights regarding how your case is handled. You have the right to understand what is happening with your case.

OAR 461-105-0010

You have the right to read and review the information in your file.

OAR 461-105-0060

You have the right to review the same written policy the division uses regarding your case.

OAR 461-105-0010 – 0150

*Sometimes answering your tough questions helps a worker to see that he or she has made a mistake in your case or that his or her decision or action is clearly against the law.*

When you read the law for yourself, you may interpret it differently from your worker. Sometimes you can challenge the worker's interpretation of the law.

Asking questions is the best way to get the information you need to make an informed decision.

b. READ PAPERS FROM DHS

*Read ALL papers you get from DHS, front and back. If there is something that you don't understand, ask questions. Don't sign anything you don't understand. You may be told that your*

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*benefits will be cut off if you don't sign something. If this happens, call the Public Benefits Hotline (1-800-520-5292) for advice or ask for a hearing. When you get copies of rules from DHS, read them. Ask for help if you don't understand.*

Why? DHS is required by law to give you written notice of most of the actions they take that affect your benefits.

OAR 461-175-0010; 461-175-0200

That notice does you no good if you don't read and understand it. If you don't read notices from welfare you may miss the chance to challenge an action by DHS that affects your

benefits. Sometimes this can mean you get stuck with DHS' decision even if it's wrong. If you don't stand up for your rights you may lose them. If you don't know your rights it's hard to stand up for them. So reading papers from DHS is a way to understand and stand up for your rights.

#### **4. CHAIN OF COMMAND**

The "chain of command" refers to the ladder of bosses at the Department of Human Resources. The workers and receptionists are on the first rung, while supervisors and branch operations managers are the next. The assistant district manager is the next rung and then comes the district manager. If you already know the name of your worker's supervisor and the telephone number of the district office, record that information on page 3 of this booklet. If you don't have that information, this would be the time to get it. Call your welfare office and ask for the information.

*Use the chain of command when you are unable to get through to your worker or when you disagree with a decision your worker has made.*

Why? It can reduce your frustration and give you a sense of power when you can get to the

people or information you need. If you need to talk with your worker and your calls are not returned, supervisors and managers can make the worker call you back. Also, if your worker has made a decision that is wrong according to the law, supervisors and managers can overrule that decision and direct the worker to take a different action.

#### **5. COMPLAINTS**

When you have been mistreated, filing a complaint is a way to *protest* that treatment and *demand action* from DHS supervisors. Even if you are not demanding a specific action, filing a complaint can be worthwhile because it lets your worker know that you know how to stand up for your rights and brings problems to the attention of those in charge.

##### **a. WHEN SHOULD I FILE A COMPLAINT?**

Oregon law (ORS 411.977) requires Department of Human Services (DHS) employees to treat clients "in a courteous, fair and dignified manner." You have a right to file a complaint whenever you have not been treated in this manner. Therefore, you should consider filing a complaint whenever *any* DHS employee offends your dignity in any way. For example, you should file a complaint if your worker:

- *calls you names or speaks rudely to you;*
- *gives you the "run around;"*
- *asks you to provide information not required by law;*
- *fails to return your calls;*
- *does not take the time to answer your questions;*
- *doesn't tell you about programs or benefits that could help you;*
- *intrudes on your private affairs;*
- *behaves dishonestly.*

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You must file your complaint within sixty (60) of the event you are complaining about. It is best to file the complaint as soon as possible after the incident occurred.

If your benefits have been reduced or cut off, you should also ask for a hearing. There is more about this at the end of this flyer.

b. HOW DO I FILE A COMPLAINT?

Go to the reception area of your welfare office and get a **“Client Complaint or Report of Discrimination Form” (DHS 0170)**. If you cannot find any complaint forms, ask the receptionist to give you one. Fill out the form and give it to the receptionist. *Ask for a date-stamped copy as a receipt.*

Note that DHS uses the word “grievance” and “complaint” interchangeably; they are the same thing. *But, don’t be confused by the “Client Comment Form” (DHS 0171), which does not give you the same rights as the complaint form.*

You can also find the “Client Complaint or Report of Discrimination Form” on the internet. Go to <http://www.oregon.gov/DHS/index.shtml>. Click on “Forms” in the left-side menu, which take you to the page: “Find a DHS form.” Then enter 0170 as the form number and click “Search.”

DHS staff must explain the complaint review process to you and help you put your complaint in writing if you need help.

OAR 407-005-0105(4);  
OAR 407-005-0110(1)

a. WHAT RIGHTS DOES FILING A COMPLAINT GIVE ME?

***The supervisor must review your complaint and contact you within five working days from the time you hand in the complaint.***

OAR 407-005-0115(4)(a)

Sometimes supervisors fail to respond within the five day time limit. If this happens to you, call the Governor’s Advocacy Office at 1-800-442-5238.

**There are four available levels of review for DHS grievances:**

- First level manager (usually your case worker’s supervisor)
- Second level manager (usually the manager of the local DHS office)
- Third level manager (Service Delivery Area or Regional Program Manager)
- Governor’s Advocacy Office

**At each stage of review:**

- The office must contact you within five working days of that office’s receipt of your complaint
- Each office should offer you the opportunity to meet by phone or in person
- The office has 10 days to investigate your complaint. If they need an extension, they must notify you of the amount of time needed.

OAR 407-005-0115(4)(b)

- DHS must notify you of a proposed solution to your complaint.
- If you are not satisfied with the solution DHS proposes, **SAY SO, and request an appeal within 5 days of being notified of the proposed solution.** The office must immediately forward your complaint to the next stage of review.

OAR 407-005-0115(4)(b)(C)

- If you are satisfied with the solution DHS proposes, you may **request a written statement** that summarizes your complaint, accepts or denies your allegations, and states how the problem was resolved.

b. THE GOVERNOR’S ADVOCACY OFFICE

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At any stage, you may choose to skip a level of levels of review and take your complaint straight to the Governor’s Advocacy Office (GAO).

You can complain directly to the GAO if you would rather not file your complaint with your branch office.

If you are not satisfied with how your complaint is being investigated and responded to (for example, you haven’t received a prompt response or the supervisor hasn’t solved the problem), you should contact the GAO right away.

**Governor’s Advocacy Office: 1-800-442-5238**

**c. TIPS ON MEETING WITH DHS**

It is best to take someone with you when you meet with the managers, and to calmly and clearly explain the problem. Make some notes before the meeting and use them instead of relying on your memory alone. *If you have any proof of your claims, such as papers or names of witnesses, be sure to give that proof to the supervisor.* If you’ve been keeping a log of your dealings with DHS, this is the time to use it.

When you do not understand something, ask for an explanation. *You also have the right to see the laws and rules the agency relies on.* If you think they may be wrong, tell them you wish to get a second opinion. Call the Public Benefits Hotline (1-800-520-5292) or your local Legal Aid office. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

If the manager agrees that you are right, ask what actions will be taken and how soon the problem will be corrected. Request that the manager put that statement *in writing*.

**d. IS THERE A DIFFERENCE BETWEEN FILING A COMPLAINT AND ASKING FOR A HEARING?**

**Yes!** There is a big difference. You should request a hearing whenever you disagree with your worker’s decision to deny, reduce or end your benefits. A hearing is something like a trial at which the Administrative Law Judge (ALJ) from Oregon’s Office of Administrative Hearings makes a decision after hearing both sides of the story. It often takes several weeks to get a hearing, and more delay until the “final order” is mailed by the ALJ.

If you ask for a hearing within 10 days of the date the notice was mailed to you, you can usually keep your benefits coming in the same amount until you get the hearing decision or “final order” in the mail. *Asking for a hearing will protect your benefits in case filing a complaint doesn’t work.*

**e. WHEN SHOULD I ASK FOR A HEARING INSTEAD OF FILING A COMPLAINT?**

You should ask for a hearing whenever your benefits are being reduced, denied or cut off. You should file a complaint when you feel you have been mistreated. If benefits have been denied, reduced or cut off AND you have been mistreated, then you may ask for a hearing AND file a complaint.

If you mistakenly file a complaint when a hearing request should have been filed, DHS has 2 working days to let you know that you need to file a hearing request.

OAR 407-005-0115(2)

**6. HEARINGS**

A hearing is a meeting run by an ALJ (Administrative Law Judge) to review a decision made by a branch office. *You have the right to request a hearing any time your benefits have been reduced, denied, suspended, or terminated.*

The law requires the welfare office to accept your hearing request. It is important to

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remember that the hearing is to resolve a matter of law and fact. If there is not a legal issue or factual dispute, the ALJ will dismiss your request for a hearing.

a. WHEN SHOULD I REQUEST A HEARING?

You should request a hearing when:

- You receive a denial notice that you don't understand or agree with after you apply for benefits such as TANF cash assistance, food stamps (Supplemental Nutrition Assistance Program, "SNAP"), medical benefits, emergency help (including domestic violence assistance or expedited food stamps) or a JOBS support service payment or Pre-TANF Program payment
- You receive a reduction or termination in benefits that you don't understand or agree with
- You are being disqualified for not cooperating with the JOBS Program and you disagree
- You have a problem with your medical services that the provider and DHS will not correct and you disagree with their reasons for not correcting the problems
- Your worker will not authorize child care payments or medical transportation that you believe you are entitled to
- You have been allowed durable medical equipment and it is being removed

This is not a complete list. *When in doubt, request a hearing to protect your rights for a hearing.* If you resolve the issue or find out later you have no legal basis, you can withdraw your hearing request.

b. HOW DO I REQUEST A HEARING?

You can ask for a hearing by filling out **DHS Form 443 (Administrative Hearing Request)**, which you can get in the reception area of your

welfare office. If you cannot find the form, ask the receptionist to give you one.

The form is also available on the Internet. Go to [www.oregon.gov/DHS/admin/forms/index.shtml](http://www.oregon.gov/DHS/admin/forms/index.shtml). Click on "Find a DHS form." Then enter 443 as the form number and click "Search."

After you have filled out Form 443, make a copy for yourself and turn it in to your worker or the receptionist. *Get a receipt for it.*

You can represent yourself at the hearing. If you want to have an attorney represent you, call the Public Benefits Hotline (1-800-520-5292) or your local Legal Aid office. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

c. HOW LONG DO I HAVE TO REQUEST A HEARING?

You have **45 days** from the date of the notice to request a hearing on most TANF, child care, JOBS, and Oregon Health Plan matters. You have **90 days** to request a hearing based on a notice of disqualification (a reduction of your TANF grant due to alleged non-cooperation).

You have **90 days** from the date of the notice to request a hearing on food stamps (SNAP) issues.

d. WILL I RECEIVE BENEFITS WHILE WAITING FOR THE HEARING?

If you ask for a hearing within 10 days of the date the notice was mailed to you, you can usually keep your benefits coming in the same amount until you get the hearing decision or "final order" in the mail.

e. WHAT IF I LOSE THE HEARING?

If you lose the hearing, welfare will be able to take whatever action they had planned to take before you requested the hearing. Also, if you asked for a hearing within the time allowed and this kept your benefits coming, *you could be*

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*charged with an overpayment for any benefits you received during that period to which you were not entitled.*

f. SHOULD I CALL THE PUBLIC BENEFITS HOTLINE NOW THAT I HAVE REQUESTED A HEARING?

Yes. Let us know as soon as you request a hearing. We may be able to represent you at the hearing, but we first have to schedule you for an appointment to talk to one of our attorneys or paralegal staff. The attorney or paralegal will let you know soon after the appointment if he or she will represent you at your hearing.

g. NOW YOU HAVE THE BASIC TOOLS YOU NEED TO ADVOCATE FOR YOURSELF WITH WELFARE

Stay in touch with the Public Benefits Hotline. We want you to call and tell us how self-advocacy is working for you. Let us know if we left anything out of this guide or if you think of a tip on self-advocacy we missed.

Self-advocacy requires patience, practice and a little nerve. Sometimes, you may not be able to resolve a particular issue to your satisfaction. If this happens, don't get discouraged!

Even if the information provided here does not apply to your current situation, *keep this information because you may need it in the future. Remember, You Do Have Rights!*

If you need help: call the **Public Benefits Hotline (1-800-520-5292)** or your local Legal Aid office. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

6-10

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