Preparation

You must attend the hearing. Before the hearing, plan what you want to present. Note questions you want to ask, arguments you want to make and key points you may want to refute. Keep in mind witnesses need sufficient advance notice of their need to appear.

If the hearing is by telephone, you must submit a copy of your exhibits to the ALJ and the DSS representative at least five days before the hearing. This way, the exhibits are available to all during the hearing. Save a copy for yourself so you have your exhibits during the hearing.

Witness testimony must concern facts about which he or she has personal knowledge. The ALJ will consider only the evidence produced for the record during the hearing, so it is vital you present all information you want considered.

During the hearing

Hearings are kept as informal as possible, but are conducted in a manner consistent with the rights of the parties and with respect and dignity to all persons involved.

The ALJ will open the hearing by explaining how the hearing will be conducted and the parties' rights.

- Listen carefully.
- Be prepared to explain your position fully and truthfully.
- Bring a pen and paper for notes.
- Avoid repetition.
- Ask short, to-the-point questions.
- State legal objections and the ALJ will make a ruling.

Note: This brochure is not intended as a substitute for legal representation.

An impartial hearing official

The ALJ makes a decision based only on the evidence presented at the hearing. He or she ensures all parties have a fair opportunity to be heard and that the record is complete.

The ALJ will not participate in a discussion with you or anyone else about the facts or merits of your case outside of a scheduled hearing.

For more information on hearing procedures:

- South Dakota Codified Law (SDCL) Chapter 1-26
- Administrative Rules of South Dakota (ARSD) Chapter 67:17

Contact Information

Office of Administrative Hearings
700 Governors Drive
Pierre, SD 57501-2291
Phone: 605.773.6851
Fax: 605.773.6873
Online: dss.sd.gov

South Dakota Department of Social Services

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Administrative Hearings

How to Exercise Your Rights

South Dakota Department of Social Services

What is a hearing?

If you feel the Department of Social Services (DSS) has made a mistake in your case, you may be entitled to a hearing. During this legal proceeding, an impartial administrative law judge (ALJ) conducts a hearing to become informed about the facts of your case. The ALJ has not had any prior involvement in your case. The ALJ will view the evidence presented at the hearing and issue a written decision. An appeal of that decision may be made to circuit court under the requirements of South Dakota Codified Law (SDCL) Chapter 1-26. An appeal may then be made to the South Dakota Supreme Court.

How to request a hearing

You must request a hearing in writing to the DSS Office of Administrative Hearings. However, a Supplemental Nutrition Assistance Program (SNAP) or Medical Assistance hearing request may be made verbally to the department, and may be made electronically such as email or FAX. You should request a hearing as soon as possible after an adverse action occurs.

The deadline to request a hearing is stated in the department's Notice of Action.

Read the Notice of Hearing

You will receive advance written notice of the hearing. Read the entire notice. It contains important information about the time and place of the hearing and informs you of your rights.

A speedy hearing

In most cases, the ALJ must issue a final decision within 90 days after your hearing request (60 days in SNAP cases). You may request a postponement by contacting the Office of Administrative Hearings at least 10 days before the hearing. Any delay caused by your postponement extends the deadline for a final decision in your case.



Access

All interested parties have a right to participate. Hearings are conducted by telephone, videoconference or in person. If any party or witness is physically disabled; has a speech, hearing or vision impairment; or speaks a language other than English, notify the Office of Administrative Hearings so arrangements may be made. If the hearing is set by telephone, you may request an in-person hearing.

You do not have to go alone

A relative, friend or other authorized person may appear with and assist you at the hearing. You have a right to the assistance of legal counsel at your own expense. Do not wait until the day of the hearing to seek legal advice. In some cases, free legal assistance may be available from legal aid providers. The ALJ does not have authority to appoint or select an attorney for you or to order any party to pay another's legal or other costs.

Your rights

You have the right to:

- Reasonable advance notice.
- See evidence before the hearing. At your request, the agency representative will provide you a free copy of documents or other exhibits it will offer as evidence during the hearing.
- Be present when all evidence is taken.
- Participate fully. You will be allowed to testify, bring witnesses, present exhibits and ask questions or cross-examine witnesses.
- Be assisted by a friend, relative or your lawyer.
- A decision made by an impartial official based solely on the evidence presented.