



## Public Benefits Appeals to District Court

### Who can file a public benefits appeal with the District Court?

This fact sheet is **ONLY** for people who had a hearing about public benefits with Department of Human Services (DHS) and who got the decision or order. Appeals to District Court are complicated. Get help from a lawyer or your self-help center if you can.

It is **NOT** for social security, unemployment, or background study disqualification cases.

If your case is about a finding of maltreatment from the State of Minnesota, see our fact sheet [What Is Maltreatment and How Can It Affect My Job?](#)

### What can I do if I don't agree with the decision from DHS?

If you had a hearing with DHS and got a decision or order that you don't agree with, there are things you can do. You can ask the appeals office to review or reconsider that decision. This is called reconsideration. See our fact sheet [Welfare Appeals to DHS](#) for more information about asking for reconsideration.

**IMPORTANT:** You don't have to go through reconsideration if you want to appeal in District Court right away. But you can't do both at the same time. **DO NOT** file an appeal in District Court if you asked for reconsideration. You have to wait until that process is over.



If you already went through the reconsideration process and still disagree OR if you want to skip the reconsideration step, you can appeal in District Court.

**Note:** The District Court is the court in your county.

### Should I appeal?

If you disagree with the decision after the hearing and after reconsideration, if you went through reconsideration, you can appeal to District Court. **BUT NOTE:** most cases that lose a DHS hearing are **not** good cases for appeal. A District Court appeal does not give you a second opinion. It does not let you start over with a new hearing.

The District Court only looks for mistakes that are serious and that changed the outcome of the case. If the DHS appeal was done fairly and within the laws that apply, the District Court will not change the decision.

### Only ask for an appeal if:



- you have a legal argument. Like you can show that the decision DHS made did not follow the law.
- OR
- you have new evidence. BUT there must be a good reason you didn't have the evidence the first time.

For this reason, **try to talk to a lawyer before filing an appeal to District Court.** Talking to a lawyer might help you decide if you have a good case for an appeal or not. A lawyer can also help you decide which issues to appeal.

Your local Legal Aid office may be able to give you advice or a referral. To [find your local Legal Aid office](#), go to [www.LawHelpMN.org](http://www.LawHelpMN.org), and click on "Providers and Clinics."

### What is a good case for appeal?

**Legal Argument:** to win an appeal in District Court you have to show that the order from DHS was improper because it used the wrong laws or there was no evidence behind the facts that were found to have happened. The fact that you don't agree with the testimony or evidence the other side presented is not enough.

**New Evidence:** if you have new evidence AND a good reason why you didn't have it for the first hearing it can help you win your case. Like if you didn't know there were documents that would help your case the first time around but now you have them.

Here are some examples of good cases to appeal:

- The law changed so certain income doesn't count against your MFIP, but the judge applied the old law.
- The county says the father of your child is living with you. the judge agrees because you don't have another address for the father. After the hearing you find out the father was arrested. You get the police report, and it lists another address for him.

### What is a bad case for appeal?

There are cases where the law is clear even though it seems unfair to you. These are **not** good cases to appeal.

Here is an example of a bad case to appeal:

- The law says you have to appeal in 30 days. You appeal in 40 days. The judge said you do not have a good reason for being late.

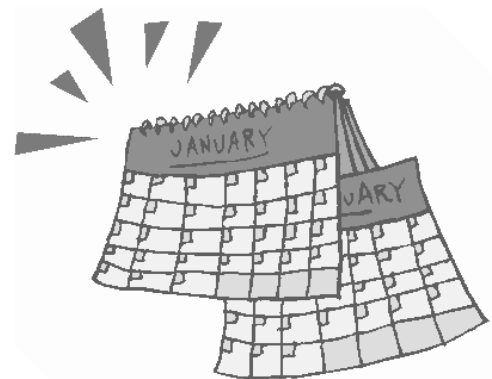
- District courts almost never change the decision if there is a dispute about facts. You may think that the county’s witness lied, but if the judge believes the witness instead of you it is not a good case to appeal. It would only be good to appeal if you later got very strong proof of the matter that you didn’t have at the time of the hearing.

**It is a good idea to talk to a lawyer. A public benefits lawyer can give you advice about if you have a good case or not.**

### **How long do I have to appeal? – The Appeal Deadline**

If the final order from the Commissioner of DHS comes by mail, you have **33 days** from the date on the order. This is the same if it is the final order from your first hearing or the order from a reconsideration.

If you were served **in person** with the final order, then you have **30 days** from the date on the order to appeal.



### **What else do I need to think about before filing an appeal?**

Remember that the District Court can only do some things in an appeal. It will not hold a new hearing for you just to present your evidence all over again. The District Court might be willing to look at new evidence. **BUT only** if this evidence was not available at the DHS hearing for some good reason. The Court usually just looks to see if the hearing officer applied the law correctly in your case.

If you can’t find a lawyer, you still have to follow all the court rules. You can ask for help at the Self-Help desk in your county court. Make sure you let them know you are appealing a DHS decision. There are special rules. **Don’t forget there’s a deadline!** Ask for help as soon as possible!

### **Steps for an Appeal to District Court:**

#### **1. Fill out the “Notice of Appeal” form**

Use the form attached or write your own “notice of Appeal” letter asking for an appeal. If you write a letter, make sure you include this information:

- Which county agency denied your request
- When your hearing was (month, day and year)
- The date of the order denying your request
- Whether or not you asked for reconsideration

- If you did ask for reconsideration, the date of that order
- That you disagree with the order
- Why you think the order should be changed. Write what you think DHS got wrong or explain what your new evidence is and why you didn't have it the first time.
- Include a "Demand for Transcript". Use the wording on the attached form. It's really important for your case to get the transcript and other papers from your hearing! The transcript is free for your appeal **unless** you are appealing a maltreatment case.
- If you want to have a hearing
- Type or print your name and full address and include your phone number and/or e-mail address.
- Fill in the date and sign



## 2. Attach

- a copy of the Department of Human Services order
- a copy of the Reconsideration order if you have one
- a copy of new evidence if you have any

Make copies of this full set of papers. Make a copy for DHS, a copy for each party to the case listed on your order and a copy for yourself.

- Take your paperwork to your district court's self-help center before filing so they can go over it with you and make sure it's ok. To [find your district court](http://www.mncourts.gov) go to [www.mncourts.gov](http://www.mncourts.gov) and click on "Find Courts" then enter or click on your county.

## 3. Give notice to ("serve") all the other parties (called Service of Process)

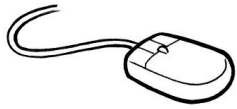
"Serve" means you have to mail or give copies of the appeal papers to the other people or agencies involved in the case. **All the agencies listed on your final order** from DHS have to be served with all of the same papers that you file with the court.

- Service can be by
  - mail – use regular 1<sup>st</sup> class mail
  - OR
  - hand delivered - if you do not want to pay to mail them to any or all of the parties

#### 4. An “Affidavit of Service” form has to be filled out and filed

This form tells the Court the exact date the papers were mailed, or hand delivered.

You need to prove to the District Court that the papers were served. The “Affidavit of Service” is how you prove this. To [get the form](#) go to [www.mncourts.gov](http://www.mncourts.gov)



- Click on “Get Forms” from the top menu
- Click on “Service of Process” from the list
- Click on “Affidavit of Service – Combined”
- Download the form in either Word or pdf

The court needs to see that each party was served. You can do this with one affidavit of service listing everyone and their addresses. Or you can do a separate affidavit for each person or agency that is served.

The papers can be mailed or delivered by you or someone else, **BUT** the person who mails or delivers them has to sign the “Affidavit of Service.”

#### 5. File your appeal and proof of service in District Court

- File your original “Notice of Appeal”, each “Affidavit of Service,” and all the attached papers with the District Court. [Find the court address](#) at [www.mncourts.gov](http://www.mncourts.gov). Click on “Find Courts” then enter or click on your county.
- There is no filing fee **unless** you are appealing a finding of maltreatment

#### What happens next?

- You get copies of the papers you asked for (the hearing transcript, and other papers) from DHS. They come in the mail. It could take more than 30 days to get them.
- You get a letter from the District Court telling you which judge will decide your case, and your Case Number.
- **If you or any of the other agencies asked for a hearing**, it takes 30 days after you get the transcript from DHS to get a hearing date from the District Court. Call the Court Administrator if you have questions about scheduling.
- **If no one asked for a hearing**, the judge looks at your case and makes a decision within 90 days.
- If you have questions about what is going on with your case, call the clerk for the judge. Give them your case number when you call.



**NOTE:** Watch for mail from the District Court. Make sure you read it carefully! Keep the District Court up to date on your mailing address at all times. If you move, tell the District Court right away by sending a letter with your new address and your case number.

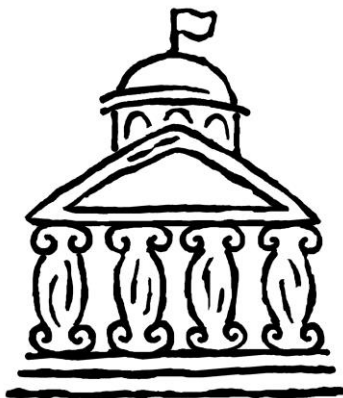
### **What if there is a hearing?**

If you or one of the agencies asks for a hearing, the District Court sends a letter telling you the hearing date. It is very important that you go. **If you do not go to the hearing, the judge may dismiss your appeal.**

At the hearing, you have the chance to explain to the judge why you think the order from DHS is wrong. It is a good idea to make notes before the hearing about what you want to say to the judge. Take the notes with you. Remember you only have a short amount of time to explain your position. Be brief and to the point.

### **What if I lose in District Court?**

After the hearing, the District Court mails you a copy of the judge's decision. If you don't agree with the decision, you can appeal to the Minnesota Court of Appeals. Talk to a lawyer about the process for this appeal. There is a deadline for filing an appeal, so talk to a lawyer right away!



***Fact Sheets are legal information NOT legal advice. See a lawyer for advice.***

*Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.*

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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
Appellant (*write your name here*)

CASE TYPE: OTHER CIVIL  
Appeal from Administrative Agency

Vs.

NOTICE OF APPEAL AND  
DEMAND FOR TRANSCRIPT AND  
REQUEST FOR HEARING

State of Minnesota, Department of Human Services  
AND (*write name of County where you were denied or were receiving assistance*) \_\_\_\_\_  
\_\_\_\_\_ County Social/Human Services Agency

OR (*name of Health Plan if it denied your services*)

Other: \_\_\_\_\_, the Respondents

1. I had a hearing before a Department of Human Services hearing officer on \_\_\_\_\_ (month, day, year).
2. After the hearing, an order was mailed to me. This written order is dated: \_\_\_\_\_. The Department of Human Services Docket number on the order is: \_\_\_\_\_.
3.  I did not submit a request for reconsideration (reconsideration is optional).

OR

- On \_\_\_\_\_ (date) I asked the Department of Human Services to reconsider its order. An order on my request for reconsideration was mailed to me. The reconsideration order is dated: \_\_\_\_\_. *See Minn. Stat. § 256.045, Subd. 5.*
4. I disagree with this order. I am appealing the order to District Court and there is no court filing fee. See Minn. Stat. § 256.045, Subd.7.





**DEMAND FOR TRANSCRIPT:** I am asking the Commissioner of Human Services to provide me, the District Court and all other parties with a transcript of any testimony from the hearing, and copies of any other papers or evidence from the hearing, without charge to me.

**REQUEST FOR HEARING:**

I am asking the court to schedule a hearing no sooner than 30 days *after* the court receives the transcript, so I can come to court and tell the judge why I disagree with the decision. I also ask the court to send the parties a notice of the time and date of the hearing.

OR

I am not asking for a hearing. I want the Court to make a decision based on the transcript, this Notice and the other evidence of record from the hearing.

**VERIFICATION AND ACKNOWLEDGEMENTS**

- a. I have read this document. To the best of my knowledge, information and belief the information contained in this document is well grounded in fact and is warranted by existing law.
- b. I have not been determined by any Court in Minnesota or in any other State to be a frivolous litigant and I am not the subject of an Order precluding me from serving or filing this document.
- c. I am not serving or filing this document for any improper purpose, such as to harass the other party or to cause delay or needless increase in the cost of litigation or to commit a fraud on the Court.

DATE:     /     /       
          month    day    year

\_\_\_\_\_   
Appellant's Signature (*sign your name here*)

Appellant's name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State: \_\_\_\_\_

Zip code: \_\_\_\_\_