

## **ALL ABOUT FAIR HEARINGS**

### **WHAT IS A FAIR HEARING?**

A fair hearing provides the opportunity for you to have your case reviewed by a higher authority whenever you disagree with action taken that reduces, suspends, denies or ends your benefits. A fair hearing can be requested for any Division program.

### **WHO CAN REQUEST A FAIR HEARING?**

You, any household member, your authorized representative, or a responsible person acting on your behalf may request a fair hearing. In many cases the Division must give you at least **10** days advance written notice for an action to reduce, to suspend, to deny, or to end your benefits. In many cases the agency does not give **10** days advance written notice because only “adequate” notice is required, not “timely” notice. This notice must include the reasons for the proposed actions and explain your right to a fair hearing and the situations under which benefits may be continued when a fair hearing is requested.

### **HOW MUCH TIME DO YOU HAVE TO MAKE A REQUEST FOR A FAIR HEARING?**

You may request a Food Stamp fair hearing up to **90** day from the effective date of the proposed action. For all other programs, you may request a fair hearing up to **30** days from the date of the notice of action.

### **HOW DO YOU REQUEST A FAIR HEARING?**

You, any household member, your authorized representative, or a responsible person acting on your behalf may make a request for a fair hearing in person, on the telephone, or in writing. Written requests may be hand-delivered or mailed to any Division of Public Assistance office.

### **WHEN CAN THE DIVISION REFUSE TO HOLD A FAIR HEARING OR DISMISS A SCHEDULED FAIR HEARING?**

The division can refuse to hold a fair hearing or to dismiss a scheduled fair hearing when:

- 1) The request is received after the time allowed for requesting a fair hearing has expired; or
- 2) The request is withdrawn in writing by you or your representative; or
- 3) You or your representative fail, without a good reason, to appear at the fair hearing; or
- 4) The sole issue of the request is one of federal or state law which requires and automatic benefit reduction for classes of recipients; or
- 5) The issue you are presenting is not one over which the agency has jurisdiction.

### **WHAT HAPPENS AFTER THE DIVISION RECEIVES YOUR REQUEST FOR A FAIR HEARING?**

After the request of a fair hearing is received, the Division office will send you a written notice of the place and time of the fair hearing and the name and phone number to notify if you or your representative cannot attend the fair hearing. This notice will be sent to you at least **10** days before the fair hearing so that you have time to prepare.

### **CAN YOU POSTPONE THE SCHEDULED FAIR HEARING?**

You have the right to request and receive **one** postponement of the scheduled fair hearing, not to exceed **30** days.

### **WHAT DOES THE FAIR HEARING OFFICER DO?**

The Fair Hearing officer is responsible for conducting the fair hearing and notifying you of the decision in writing. The written letter of the decision must include the decision, the reason for that decision, and the laws or regulations supporting the decision. In addition, the letter includes a statement about your rights and how to appeal the decision.

## **HOW LONG MUST YOU WAIT FOR A DECISION ON YOUR FAIR HEARING?**

The Division must hold the fair hearing, notify you of the decision, allow you **15** days to appeal the decision to the Division Director and notify you of the appeal decision:

- 1) Within **60** days from the date the Division receives a Food Stamp Program fair hearing request; or
- 2) Within **90** days from the date the Division receives a fair hearing request for any other public assistance programs.

If the hearing is decided in your favor, the Division has another 10 days to make a required change in your benefits.

The deadlines for the hearing decision will be extended for the same number of days as the fair hearing was postponed, or otherwise delayed at your request.

## **WHAT ARE YOUR RIGHTS BEFORE AND DURING THE FAIR HEARING?**

You have the right to all the following before and during the fair hearing:

- 1) Review your case file.
- 2) Obtain a copy of all documents and records that will be used at the fair hearing. This includes appropriate program manual sections relied on by Division employees to take the action with which you disagree. This applies only to case materials which are related to your timely request for a fair hearing.
- 3) Present the case yourself or be represented by an attorney, paralegal, friend, relative or any other person who may be helpful in presenting your case.
- 4) Bring witnesses and submit evidence to establish pertinent facts and circumstances.
- 5) Establish facts and arguments having to do with the issue without undue interference.
- 6) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.

## **WHAT IS A PRE-HEARING CONFERENCE?**

The pre-hearing conference is a voluntary meeting between you or your representative and a representative of the Division to discuss your concerns about the action taken on your case. Sometimes this discussion will help you understand the reasons for the action or reveal any agency mistakes and may make the fair hearing unnecessary. The pre-hearing conference cannot replace or cancel the scheduled fair hearing. However, if your concerns are resolved at the conference, you may decide to withdraw the request for a fair hearing.

## **IS THERE ANY PLACE WHICH PROVIDES FREE REPRESENTATION AT THE FAIR HEARING?**

You may be eligible for free legal representation from Alaska Legal Services Corporation which has offices throughout the state. Such representation is not required, but may be to your advantage. Your caseworker can give you the phone number and address of your local Alaska Legal Services office, or you may refer to your telephone book for the phone number and address.

## **HOW FORMAL IS THE FAIR HEARING?**

The fair hearing is NOT a trial. It will be conducted in an informal manner and will be attended by the Fair Hearing Officer, a representative for the Division, and by you or a member of your household and/or your representative. You do not have to be familiar with the rules of order. Every effort will be made to arrive at the facts in a way which makes you feel comfortable. The fair hearing will be scheduled in a place which is easily accessible to you and your representative. The fair hearing may be conducted by telephone.