

Nebraska Appleseed

Stand Up for Justice

Administrative Appeals FAQ

COMMUNITY ASSISTANCE LINE

Helping community members find solutions.

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402.438.8853 EXT 205



NEAPPLESEED.ORG/GETHELP

RESOURCES FOR LEGAL HELP



LEGAL AID OF NEBRASKA 877.250.2016



UNL CIVIL CLINIC 402.472.3271



THE CRIEHTON LEGAL CLINIC FOR
DOUGLAS COUNTY ONLY 402.280.3068

For additional questions, go to ne.freelegalanswers.org

The information provided in this brochure is not legal advice. All content is for general informational purposes only.



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DEC 2021



Administrative Appeal

An administrative appeal is a process a person can go through when they disagree with a decision made by the Nebraska Department of Health and Human Services (DHHS). An appeal is also sometimes called a fair hearing.

What kinds of decisions can I appeal?

You can appeal any action or inaction related to your case. A few examples are provided below, but there may be other decisions not listed here that can be appealed.

Note: Even if you are unsure if you can appeal something, you still have the right to make a request.

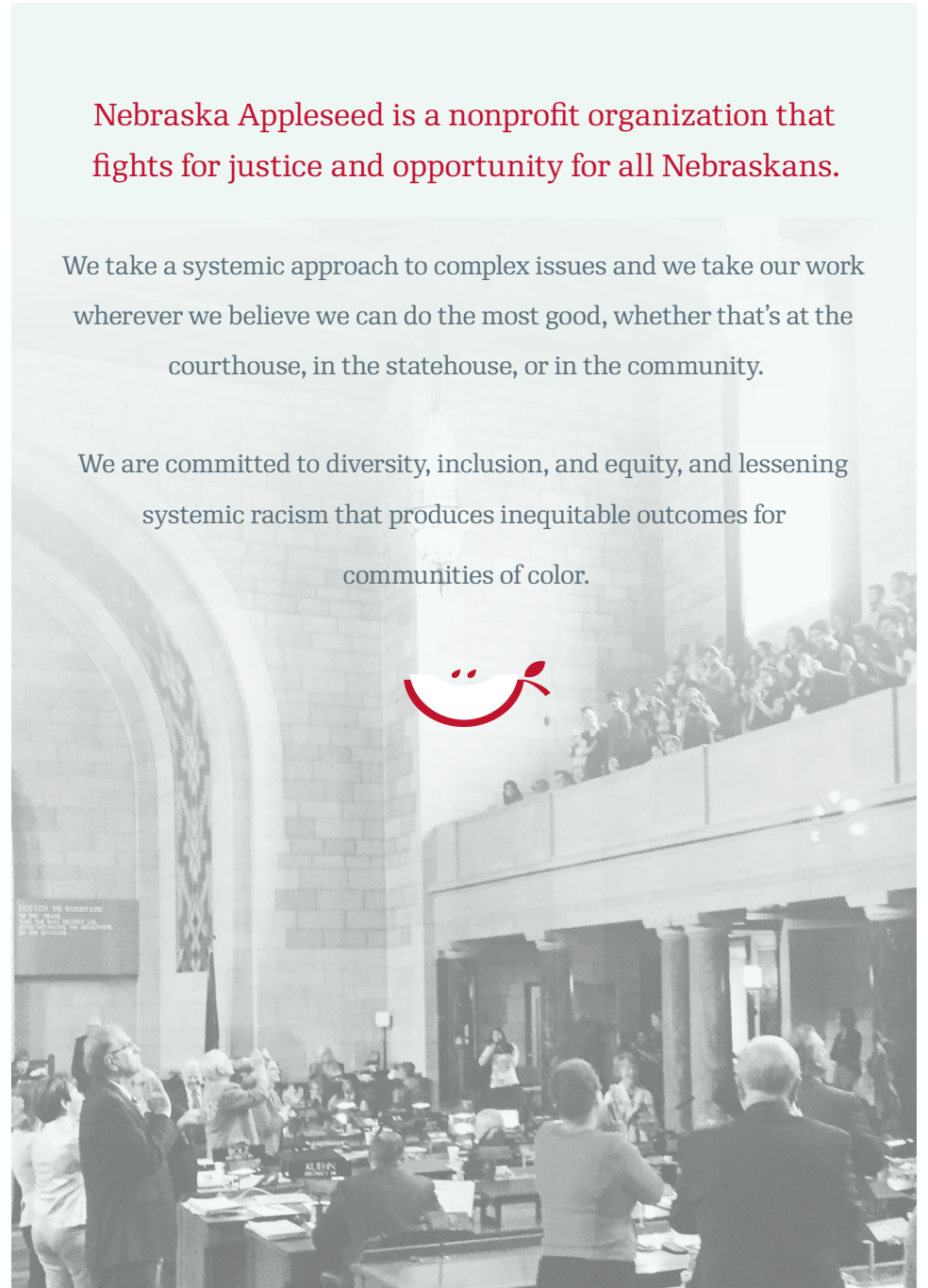
Examples of decisions you may appeal:

- If DHHS denies, reduces, suspends, or ends your benefits.
- If DHHS says you were overpaid benefits and must repay them.
- If you were sanctioned in the Employment First program.
- If DHHS does not give timely or adequate notice of a decision.
 - Adequate Notice means written notice with the decision DHHS made and the rules or policies DHHS used to make this decision.
 - Timely Notice means DHHS must send a notice at least 10 days before an action takes effect.

Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans.

We take a systemic approach to complex issues and we take our work wherever we believe we can do the most good, whether that's at the courthouse, in the statehouse, or in the community.

We are committed to diversity, inclusion, and equity, and lessening systemic racism that produces inequitable outcomes for communities of color.



A DHHS representative says I can't appeal or that I will lose my appeal. What are my options?

You always have the right to submit a request for a fair hearing. Only a hearing officer can decide if a person has won or lost after listening to both sides and reviewing all of the facts.

What is the timeframe for filing an appeal?

According to DHHS regulations, if you want to appeal a DHHS decision, you must do so within 90 days following the mail date on the notice from DHHS informing you of the decision. However, *if you appeal within the first 10 days*, or for Medicaid before the effective date on the notice, you may have the option of keeping your benefits during the appeal. If you are challenging DHHS' failure to act on the case, you must file an appeal within 90 days of the date you signed the application.

How do I begin the process?

To start the appeal process, you must ask DHHS for a fair hearing by:

1. Submitting the DHHS appeal form OR
2. Sending a letter or email to DHHS OR
3. Telling your caseworker or a DHHS representative that you would like to file an appeal

If I want to use the DHHS appeal form, how do I get it?

DHHS is required to send the Request for Fair Hearing form to anyone who asks for it. These forms are also available at the front desk of your local DHHS office or online.

Note: You are not required to use this form and can write your own letter.



The letter should include the following:

- Your name, address, and telephone number
- The decision you disagree with
- The date you were informed of the decision
- The reason(s) you disagree with this decision
- That you are sending a request for a fair hearing
- Whether you wish to keep or discontinue your benefits until a decision is made on your appeal

Remember: You may only be able to keep your benefits if you appeal within the timeframes.

To submit the appeal form or letter, you can:

- Drop it off at your local office (ask the worker to stamp the document with the date and give you a copy) OR
- Email it to DHHS.HearingOffice@nebraska.gov OR
- Mail it to DHHS Legal Services - Hearing Section P.O. Box 98914 Lincoln, NE 68509-8914

What will happen to my benefits while I am waiting?

If you submit a request for fair hearing within 10 days following the mail date on the notice of the decision you are appealing, or for Medicaid before the effective date on the notice, DHHS will assume that you want to continue to receive benefits while the appeal process is pending--unless you specifically tell DHHS otherwise. However, if you lose your appeal, you may be required to repay any benefits you received during the appeal process.

If you do not appeal within those timeframes, you may lose the option to continue your benefits during the appeal process. However, if you win your appeal, DHHS will re-start your benefits AND will give you any benefits you should have received while you waited for the appeal decision.

What happens next?

A person who requests a fair hearing will receive a letter with the time and place of their hearing. **It is important to attend the hearing at the scheduled time.** A person who does not show up for the hearing will lose their appeal.

What if the scheduled time does not work for me?

A person with good cause who asks to reschedule may be given a continuance (a rescheduled hearing). "Good cause" can include many things, such as not having time off at work or needing more time to prepare. You can make a request by calling or writing DHHS Legal Services using the contact information on the letter you received with the hearing date.

Do I need a lawyer to come to the hearing with me?

You can go through the appeal process with or without the help of an attorney, but it is a very good idea to speak with an attorney about the appeal if possible.

What happens at the appeal hearing?

At least one DHHS representative, you (the person who requested the appeal), and anyone else you want to attend will meet at the local DHHS office or join a conference call. The hearing officer will join the meeting by phone. You and the DHHS representative will take turns telling their sides of the story. The hearing officer will listen to both sides, but will not decide who won or lost at that time. The person who requested the appeal (and/or their attorney) will get a letter several weeks later with the decision.

Can I appeal the hearing officer's decision if I disagree?

You may appeal the hearing officer's decision, but this is a process that must take place in district court and can be difficult to complete without the help of an attorney. If you want to appeal further, you will only have 30 days from the date the hearing officer's decision is mailed to you or your attorney to appeal. If you want to appeal to the district court, you can contact the organizations listed at the end of this pamphlet to request assistance with this process.