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## 1701 Eligibility Hearings

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### Policy

A customer is entitled to ask for a fair hearing when an adverse action is taken on the customer's Medical Assistance (MA) application or benefits. This request must be made within 35 days of the date the letter is sent (see [MA1702](#)). The customer may also ask for a fair hearing when a decision is not made about the customer's MA application within the required timeframe (see [MA1301B – Timeframes](#)).

In general, an adverse action is any action to:

- Deny, suspend or stop MA;
- Increase the customer's share of cost or premium amount; or
- Reduce services or benefits.

NOTE This includes actions to approve emergency services only instead of full MA coverage, and changes from full MA coverage to emergency services only.

### Exceptions:

Customers are not entitled to a hearing when the adverse action is due to a change in Federal or State law. Actions that do not affect the customer's services, benefits or costs are not entitled to a hearing. The customer may file a grievance for such actions (see [MA1710](#)).

There are two state agencies in Arizona that determine eligibility for AHCCCS Medical Assistance (MA) programs; AHCCCS and the Department of Economic Security (DES). Generally the agency that makes the eligibility decision processes any hearing request on that decision. However, both agencies work together to coordinate the fair hearing process when a person asks for a hearing and decisions were made by both agencies. Representatives from both agencies may need to attend the fair hearing depending on the program decision being appealed.

For examples, see [Cross-Agency Appeals](#).

The different MA programs are generally determined by a specific agency, but most can be determined by either agency.

**NOTE** People who are eligible for SSI-Cash, Title IV-E Foster Care or Adoption Subsidy are also automatically eligible for MA. A separate MA determination is not done.

See the following table for more details on which agency determines each MA program:

If the program is...	Then eligibility is determined by...
<ul style="list-style-type: none"> <li>● SSI-MAO</li> <li>● Medicare Savings Program</li> <li>● KidsCare</li> </ul>	Mainly AHCCCS, but could be either agency
<ul style="list-style-type: none"> <li>● Adult</li> <li>● Caretaker Relative (including Transitional Medical Assistance and Continuous Coverage)</li> <li>● Pregnant Woman</li> <li>● Child</li> <li>● Young Adult Transitional Insurance</li> </ul>	Mainly DES, but could be either agency
<ul style="list-style-type: none"> <li>● ALTCS</li> <li>● Freedom to Work</li> <li>● Breast and Cervical Cancer Treatment Program</li> </ul>	AHCCCS only

## Definitions

Term	Definition
Department of Economic Security (DES)	The Arizona State agency that determines eligibility for Nutrition Assistance, Cash Assistance, and certain Medical Assistance programs on AHCCCS' behalf.
Fair Hearing	A fair and impartial review of an adverse action or delayed determination that is appealed.

Fair Hearing Coordinator	Agency staff member that coordinates the hearing process and represents the agency at the fair hearing.
Office of Administrative Hearing (OAH)	The OAH handles coordinating the hearings on behalf of AHCCCS Administration.
Office of Appeals (OOA)	The OOA handles coordinating the hearings on behalf of the Department of Economic Security (DES).

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## Agency Responsibilities

The agencies' general responsibilities include:

- Taking requests for fair hearings;
- Contacting the customer if a request for a hearing is made by someone other than a customer or representative;
- Sending any necessary authorization and notification forms to the customer;
- Determining whether a hearing may be granted;
- Coordinating the pre-hearing discussion (see [MA1703](#));
- Scheduling the hearing and notifying the customer; and
- Preparing a hearing packet.

The Office of Administrative Hearings (OAH) or Office of Appeals (OOA) is responsible for the following:

- Setting the hearing date and notifying the customer and the agency Fair Hearing Coordinator;
- Appointing an Administrative Law Judge (ALJ) to conduct the hearing; and
- Providing an interpreter and reasonable accommodations, upon request.

The Administrative Law Judge (ALJ) is responsible for the following:

- Presiding over the eligibility hearing;
  - Basing a decision solely on evidence presented at hearing; and
  - Issuing a written decision.
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## Customer Rights

The customer has the right to:

- Review and get a copy of any part of the case file needed to present the case that is not protected by law from being released;
- Review all documents the State agency will use at the hearing;
- Bring legal counsel, a relative, friend, other spokesperson or witness to the hearing;

**NOTE** Except for legal counsel, anyone representing the customer or serving as a spokesperson or witness for the customer cannot be a paid representative or anyone else being paid to attend the hearing.

- Present all related facts and circumstances;
- Present an argument without unnecessary interference;
- Question or contradict any testimony or evidence. This includes an opportunity to confront or cross-examine witnesses;
- Ask the agency to furnish an interpreter; and
- Ask the agency to make an accommodation for special needs.

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## Programs and Legal Authorities

This requirement applies to the following programs:

Programs	Legal Authorities
All programs	42 USC 1396a(3)  42 CFR 431, Subpart E  ARS-41-Article 10  9 AAC 34, Article 1

