

THE VOCATIONAL REHABILITATION PROGRAM APPEAL PROCESS

THE DEPARTMENT OF HUMAN SERVICES OFFICE OF REHABILITATION SERVICES

CONTACT INFORMATION FOR THE HEARINGS COORDINATOR

Bureau of Hearings	(800) 435-0774 (voice)	DHS.HSPApeals@illinois.gov
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APPEAL RIGHTS

An appeal is a no-cost way for you to ask for a review of an action taken by the Department of Human Services (“DHS”), Division of Rehabilitation Services (“DRS”) or the failure of the DRS to take action. If you participate in the Vocational Rehabilitation (“VR”) Program or were denied participation in VR, you have the right to appeal a determination made by the DRS and to request a hearing. Additionally, you have the right to participate in Mediation and an Informal Resolution Conference. This brochure will explain your rights for the appeal process.

You can still try to resolve the issues informally with the DRS office, even after you request an appeal hearing. If you cannot resolve the issues, your appeal will be heard by a randomly assigned Hearing Officer. If you are appealing more than one issue, the BOH may decide to consolidate your issues into a single hearing.

The hearing will happen within sixty (60) calendar days from the date the Hearings Coordinator at the Department of Human Services Bureau of Hearings (“BOH”) receives your request, unless you and the DRS office agree to an extension of time. The Hearings Coordinator will be your person to contact regarding the hearing. You should contact the Hearings Coordinator to:

- ✓ request a different hearing date,
- ✓ formally notify the BOH of who will represent you at the hearing,
- ✓ withdraw your appeal, or
- ✓ send documents for the Hearing Officer to review for the hearing.

CAN THE BOH HEAR MY CASE?

You **can** appeal if the DRS office:

- ✓ refuses to provide any service it is authorized to provide,
- ✓ changes any service the DRS currently provides to you,
- ✓ ends a service or closes your case without your agreement,
- ✓ determines that you are ineligible for services, or
- ✓ does not take action on your request.

You **cannot** appeal:

- ✓ changes in services or procedures that are beyond the discretion or control of the DRS office,
- ✓ changes in services or procedures required by law, regulation, or the state VR plan,
- ✓ issues challenging the legality of the DRS rules,
- ✓ issues that were already decided through the appeal process,
- ✓ actions taken by the DRS office which do not affect you,
- ✓ grievances filed under the Americans with Disabilities Act, or
- ✓ a requirement to have a Teletypewriter/Telephone Device for the Deaf as a condition of a contract.

YOUR APPEAL RIGHTS

The DRS will notify you of your rights:

- ✓ when you apply for services,
- ✓ if the DRS denies your application for services,
- ✓ after the initiation of or change in services,
- ✓ when the DRS ends one of your services, and
- ✓ when the DRS closes your case.

You can choose a representative who may exercise any rights on your behalf. You can choose anyone (a friend, a relative, or an attorney). You may only choose one person to represent you at a time. You need to notify the BOH who you are choosing **in writing**. Please do so at least three (3) business days in advance of a hearing. If you do not notify the BOH in advance that you have a representative, then you risk delaying your hearing. Please send mail or an e-mail to the Hearings Coordinator with the name, address, telephone number, and e-mail address of your representative and a written consent to the release of confidential information to your representative (This can be done with form IL 444-2998 located at the DRS office or on the DHS website). You can dismiss your representative, but you must do so in writing or during the hearing.



The Client Assistance Program (“CAP”) is available to assist you at no cost. CAP can provide information, help you prepare for the hearing, and may represent you at the hearing. CAP can be reached at 1-800-641-3929 (voice/TTY) or at DHS.CAP@illinois.gov (e-mail).

You may request a foreign language interpreter, a sign language interpreter, or a reader to attend the hearing. Please make your request at least ten (10) days before the hearing. If you are visually impaired, you may either request a reader to read materials provided by the DRS office in preparation for the hearing or request that the materials are provided in Braille, large print, or on an audio recording. Please make your request within five (5) business days after you receive the notice of the date the hearing will take place.

All of the scheduled meetings regarding the appeal will be made at a reasonable time, date, and place.

You can review your case file, medical records, and other related documents before and during the hearing. You have a right to:

- ✓ an explanation of the appeal process,
- ✓ withdraw your appeal at any time,
- ✓ a timely, impartial, and confidential hearing, and
- ✓ question the DRS employees involved in the appealed action during the hearing.

Your services will continue until a final decision is made **unless**:

- ✓ the services were obtained through your misrepresentation, fraud, collusion, or criminal conduct,
- ✓ the service has been planned but not begun, or
- ✓ the customer, or the customer's parent, family member, guardian, advocate, or duly authorized representative requests that the service end.

Your services **will not continue** past the ending date on your Individualized Plan for Employment unless you and your Counselor agree to it. The extension will last until the Decision is mailed.

Your hearing will not be continued for the purpose of continuing services. A service that is the subject of an appeal will not continue if:

- ✓ you caused or requested the change,
- ✓ a service provider other than the DRS caused the change on its own,
- ✓ the service was planned for or authorized, but has not yet started, or
- ✓ there is medical or psychological information in your case record that serves as a reason to withhold a service.

The BOH will record the hearing electronically. This will be the official recording of the hearing. The BOH will provide one copy of the recording to you at no cost if you request it. If you cannot access an electronic recording, you can request the BOH to create a transcript of the hearing in an accessible format and provide you a copy at no cost.

If you, a family member, guardian, advocate, or authorized representative believe the assigned Hearing Officer is biased against you, a family member, guardian, advocate, or authorized representative, or has a conflict of interest, you may make a written request (by mail or e-mail) to the Hearings Coordinator at least five (5) business days prior to the hearing for assignment of another Hearing Officer. You must include a dated and signed letter that explains why the Hearing Officer is biased or how a conflict of interest exists. The Hearings Coordinator will then decide whether to grant your request.

YOUR RESPONSIBILITIES

You should communicate to the Hearings Coordinator, the Hearing Officer, and the DRS office **in writing** during the pre-hearing stage of your appeal. This makes a clear timeline of the events.

If you are unable to attend a hearing, you must request a new hearing date from the Hearings Coordinator **in writing** by mail or e-mail at least three (3) business days before the hearing date **and** send a copy of your request to the DRS office. Rescheduling the hearing will delay resolution of your

appeal. If the Hearings Coordinator does not notify you that your request has been granted, you are expected to appear on the hearing date.

If you do not come to the hearing or refuse to proceed, your appeal will be dismissed unless you show that the reason for your absence was the result of:

- ✓ a death in the family,
- ✓ a personal injury or illness that prohibited you from attending the hearing,
- ✓ a sudden and unexpected emergency, or
- ✓ other circumstances beyond your control that prevented you from attending the hearing.

Although you disagree with the decision of the DRS office, please cooperate with the DRS office and the Hearing Officer during the appeal process.

If you choose to present evidence in addition to the case file to support your case, you must share that information with the DRS office and the Hearings Coordinator at least three (3) business days prior to the hearing. The Hearings Coordinator will give the information to the assigned Hearing Officer.

THE INFORMAL RESOLUTION CONFERENCE

You will only have a few hours to convince a Hearing Officer to find in your favor. However, your DRS counselor has a relationship with you and has personal knowledge of your case, which sometimes has gone on for years. For that reason, you may decide to participate in an Informal Resolution Conference (“Conference”) at the DRS office rather than have the Hearing Officer make a recommendation based on the evidence presented at a hearing.



The Conference is an informal review of the case with the goal of resolving the issues without a formal hearing. It **will not** delay the overall resolution of your appeal.

You may request a Conference at any time, from when you filed your appeal until the Decision is issued. You can request a Conference by contacting your DRS office. Your representative can also attend the Conference.

The Conference will be led by a DRS supervisor. The supervisor is there to:

- ✓ explain the purpose of the Conference,
- ✓ assist in determining and clarifying the issues,
- ✓ ensure a fair and complete presentation and discussion of relevant information, and
- ✓ discuss possible agreement on a course of action.

If no agreement is reached, the DRS supervisor will explain what happens next in the appeal process. At the conclusion of the Conference, the DRS supervisor will write up any agreements you make into a document and ask you to sign it. If all of the issues have been worked out, please send a withdrawal notice to the Hearings Coordinator. If some issues are still unresolved, the DRS supervisor will list them on the document.

MEDIATION

You have the option to participate in a no-cost mediation. Mediation is a meeting led by a neutral third party to open or improve communication in order to help you and the DRS office reach an agreement.

Mediation is confidential and will not be used as evidence in a hearing. The Mediator will be a randomly assigned hearing officer trained in mediation. You are free to end the mediation at any time.

If you want to mediate your case, please call or write to the Hearings Coordinator and request mediation. Requesting mediation will not delay your hearing or the Decision. You and the DRS office can submit evidence to the mediator for purposes of the mediation.

If you resolve your issues and reach an agreement with the DRS office through mediation, the DRS office will put your agreement into writing. Both you and the DRS office will sign the agreement. If all of your issues have been resolved, you will need to withdraw your appeal. This can be done by sending mail or an e-mail to the Hearings Coordinator.

THE HEARING

The hearing may last the entire morning or afternoon, depending on the amount of information you and the DRS witnesses provide during the hearing. If you need a break during the hearing, make sure you let the Hearing Officer know so that the hearing can formally pause. The hearing will be recorded electronically, so the time of the breaks needs to be stated on the recording. The hearing is confidential and not open to the general public unless you want the hearing open to the general public.

The Hearing Officer will conduct the hearing by telephone. You must appear at the DRS office. If you cannot appear at the DRS office because of your disability, the hearing can occur in your home or you can request to participate by telephone. Make your request to the Hearings Coordinator by mail or e-mail **at least three (3) days** prior to the hearing. If you are allowed to participate by phone, please use a landline telephone. If you use a cellular telephone, make sure your battery is charged so that you can participate in the entire hearing.

The hearing will consist of opening statements, witness testimony, admitting documents into evidence, and closing statements. The Hearing Officer will control the conduct of the hearing to prevent irrelevant or immaterial discussion, decide motions and other matters over the course of the hearing, and ask questions to the witnesses or request additional information from you or the DRS office. Additionally, the Hearing Officer may require you or the DRS office to present further evidence like documents, books, paper, and accounts that are relevant to the appeal.

LEGAL INFORMATION

During the hearing, **you** have the burden to prove by the preponderance of the evidence that the action or inaction by the DRS office:

- ✓ did not follow the approved State plan,
- ✓ did not follow federal law (29 USC § 722), or
- ✓ did not follow Illinois law (89 Ill. Adm. Code 510).

Preponderance of the evidence means the evidence is 51% in your favor. In other words, it is **your responsibility** to tip the scales in your favor.



You and the DRS office may call anyone to testify as a witness and ask the witness questions. There may be some facts that you **and** the DRS office agree to. In that case, you and the DRS office can agree to those facts for the purpose of the hearing. This is called a stipulation of facts. It means that you and the DRS office agree that, if called to testify, a specific witness (this could be you, a DRS employee, or anyone else) would state the facts you agreed to.



The Hearing Officer can hear more information and receive more kinds of documents than a judge in a courtroom. The Hearing Officer will not consider any evidence that has not been made available to you. **The Hearing Officer knows nothing about your case except what is presented through documents and testimony during the appeal process.**

The DRS employees directly involved in your case will testify and you can ask them questions. However, if a person involved in your case is no longer employed by the DRS office and declines to attend the hearing, the DRS office will have the employee most knowledgeable about your case attend.

The Hearing Officer will make factual findings and write a Decision based on the evidence presented at the hearing and the laws that apply. The Hearing Officer could:

- ✓ recommend a finding for you,
- ✓ recommend a finding for the DRS office,
- ✓ accept a withdrawal of your appeal,
- ✓ accept a settlement agreement between you and the DRS, or
- ✓ recommend some other appropriate relief.

The Decision will be issued within 30 calendar days after the hearing and put into effect within 20 calendar days after the DRS office receives the Decision.

If you do not agree with the Decision, you can ask for a review of the Decision in state court or in federal court. If you seek this type of review, the DRS office will still put into effect the Decision **before** the court completes its review.