

STATE OF SOUTH DAKOTA     )  
  )  
COUNTY OF LAWRENCE     )

DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF ADMINISTRATIVE HEARINGS

OAH # 22-365 case # 001286794

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**IN THE MATTER OF THE  
ADMINISTRATIVE HEARING  
FOR DAVID SCHIED**

**NOTICE OF HEARING**

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**YOU ARE HEREBY NOTIFIED** That you, your witnesses, and your exhibits and documents intended to be introduced into evidence must be present at the hearing scheduled for the **5<sup>th</sup> day of May, 2022, commencing at 8:30 a.m. (Mountain Time)/ 9:30 a.m. (Central Time) at the Department of Social Services Office, 2200 W. Main Street, Sturgis, South Dakota.** If you or an authorized representative fails to attend the hearing without a good cause reason beyond your control, the hearing request will be dismissed. The undersigned Administrative Law Judge will preside. If you need to reschedule, you must immediately contact the Legal Assistant, Office of Administrative Hearings, 700 Governors Drive, Pierre, South Dakota (not your local DSS office) toll free at (866) 357-2544.

**ISSUE**

**Whether David Schied is eligible for Medical Assistance as an individual, and whether the Department may deny him eligibility for another Medical Assistance program because a level of care determination could not be made?**

**The statement of the issue(s) is based upon the notice of adverse action and/or the hearing request.** Opportunity shall be afforded all interested parties to respond and present evidence on issues of fact and argument on issues of law or policy.

**YOUR RIGHTS:**

**If the amount in controversy exceeds two thousand five hundred dollars or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request no later than ten days after service of a notice of hearing.**

You have a right to be present, and a right to present your case or have it presented by your attorney or other person such as a friend or relative without undue interference but, you must appear or this matter will be dismissed against you in favor of the Department. You have a right to be present during the giving of all evidence, to have reasonable opportunity to inspect all documentary evidence before and during the hearing, to examine and cross-examine witnesses, to submit evidence in support of your interests, and to bring witnesses, and may request the Administrative Law Judge to issue subpoenas to compel the attendance of witnesses or the production of evidence on your behalf. These and other due process rights will be lost if they are not exercised at the time of the hearing. A corporation must be represented by an attorney.

Free legal services may be available at a Legal Services office in your area. The Department of Social Services has no responsibility to pay your legal fees or costs. The Department of Social Services is not responsible for the expenses of individuals appearing on your behalf.

The evidence against you is located at the Department of Social Services Office. You may examine the case file prior to the hearing. To obtain a copy of the evidence please contact the Division of Economic Assistance, Department of Social Services, PO Box 2440, Rapid City, South Dakota. 57709. Phone: 605.394.2525.

If requested, that Office will provide you a free copy of documents it intends to offer as evidence at the hearing. A brochure explaining hearing procedures is enclosed.

A conference with individuals involved in the adverse action is optional and shall not delay or replace the fair hearing process. You are entitled to an impartial Administrative Law Judge who does not have any personal stake or involvement in the case.

This is an adversary adjudicative proceeding pursuant to South Dakota Codified Laws (SDCL) Title 28 and chapter 1-26 and Administrative Rules of South Dakota (ARSD) chapter 67. The decision based on the hearing may be appealed to the Circuit Court and the South Dakota Supreme Court as provided by law.

Dated this 21<sup>st</sup> April, 2022.

*Eric H. Monson*

Eric H. Monson, Administrative Law Judge  
Office of Administrative Hearings  
Department of Social Services  
700 Governors Drive  
Pierre, SD 57501  
(605) 773-6851

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a true and correct copy of the foregoing Notice of Hearing upon the individuals named below at their last known addresses on this 21<sup>st</sup> day of April, 2022.

*Melody Hackett*

Melody Hackett, Legal Assistant

|  |   |
|--|---|
| David Schied<br>PO Box 321<br>Spearfish SD 57783<br>(U.S. Mail, first-class postage prepaid) | Wade Reimers<br>Special Assistant Attorney General<br>Department of Social Services<br>700 Governors Drive<br>Pierre SD 57501<br>(U.S. Mail, first-class postage prepaid) |
|--|---|



South Dakota  
Department of  
**Social Services**

ADMINISTRATIVE HEARINGS  
700 GOVERNORS DRIVE  
PIERRE, SD 57501-2291

ADDRESS SERVICE REQUESTED

DAKOTA CENTRAL 573

21 APR 2022 PM 2 T



*Received  
Thursday 4/28/22*

**David Schied**

PO Box 321  
Spearfish SD 57783



## Preparation

You must attend the hearing. Before the hearing, plan what you want to present. Note questions you want to ask, arguments you want to make and key points you may want to refute. Keep in mind witnesses need sufficient advance notice of their need to appear.

If the hearing is by telephone, you must submit a copy of your exhibits to the ALJ and the DSS representative at least five days before the hearing. This way, the exhibits are available to all during the hearing. Save a copy for yourself so you have your exhibits during the hearing.

Witness testimony must concern facts about which he or she has personal knowledge. The ALJ will consider only the evidence produced for the record during the hearing, so it is vital you present all information you want considered.

## During the hearing

Hearings are kept as informal as possible, but are conducted in a manner consistent with the rights of the parties and with respect and dignity to all persons involved.

The ALJ will open the hearing by explaining how the hearing will be conducted and the parties' rights.

- Listen carefully.
- Be prepared to explain your position fully and truthfully.
- Bring a pen and paper for notes.
- Avoid repetition.
- Ask short, to-the-point questions.
- State legal objections and the ALJ will make a ruling.

Note: This brochure is not intended as a substitute for legal representation.

## An impartial hearing official

The ALJ makes a decision based only on the evidence presented at the hearing. He or she ensures all parties have a fair opportunity to be heard and that the record is complete.

The ALJ will not participate in a discussion with you or anyone else about the facts or merits of your case outside of a scheduled hearing.

For more information on hearing procedures:

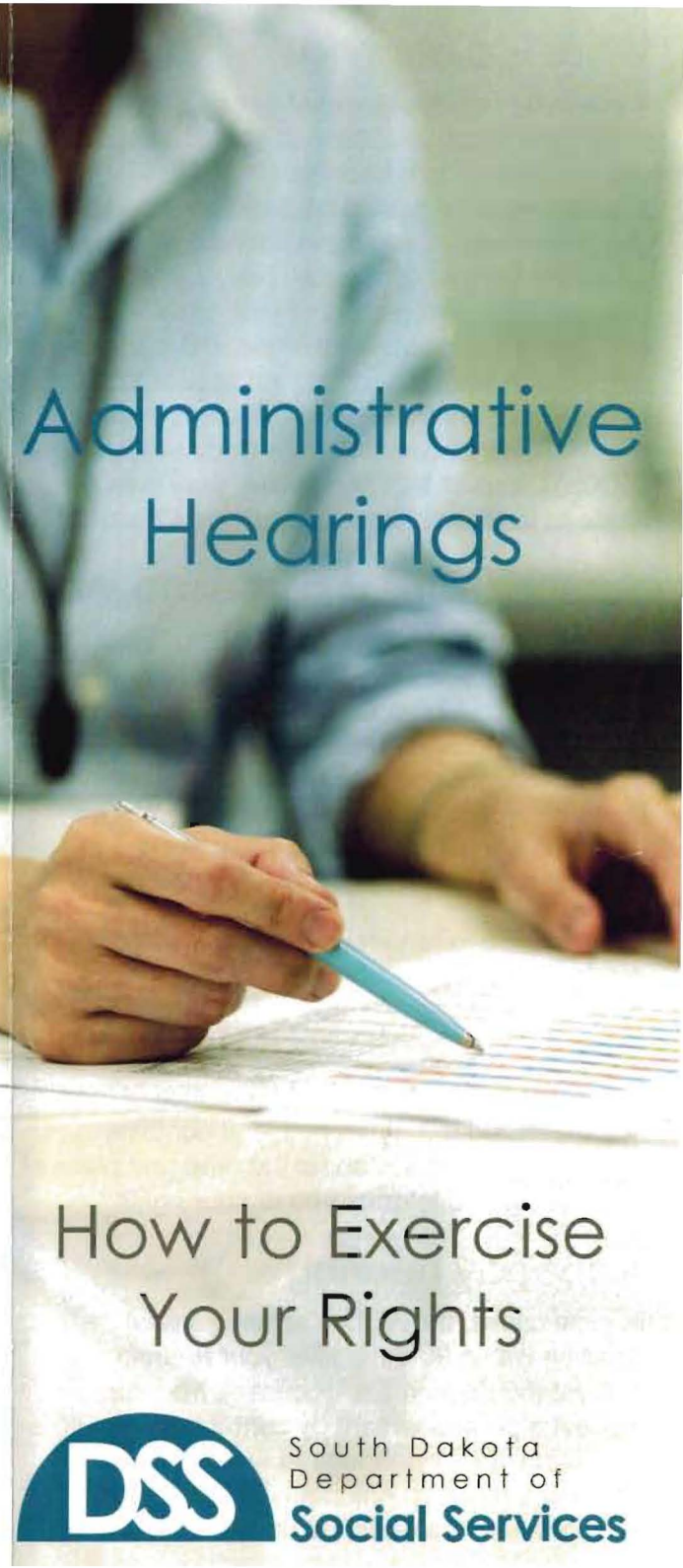
- South Dakota Codified Law (SDCL) Chapter 1-26
- Administrative Rules of South Dakota (ARSD) Chapter 67:17

## Contact Information

Office of Administrative Hearings  
700 Governors Drive  
Pierre, SD 57501-2291  
Phone: 605.773.6851  
Fax: 605.773.6873  
Online: [dss.sd.gov](http://dss.sd.gov)



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# Administrative Hearings

## How to Exercise Your Rights





## What is a hearing?

If you feel the Department of Social Services (DSS) has made a mistake in your case, you may be entitled to a hearing. During this legal proceeding, an impartial administrative law judge (ALJ) conducts a hearing to become informed about the facts of your case. The ALJ has not had any prior involvement in your case. The ALJ will view the evidence presented at the hearing and issue a written decision. An appeal of that decision may be made to circuit court under the requirements of South Dakota Codified Law (SDCL) Chapter 1-26. An appeal may then be made to the South Dakota Supreme Court.

## How to request a hearing

You must request a hearing in writing to the DSS Office of Administrative Hearings. However, a Supplemental Nutrition Assistance Program (SNAP) or **Medical Assistance hearing request may be made verbally to the department, and may be made electronically such as email** or FAX. You should request a hearing as soon as possible after an adverse action occurs.

The deadline to request a hearing is stated in the department's Notice of Action.

## Read the Notice of Hearing

You will receive advance written notice of the hearing. Read the entire notice. It contains important information about the time and place of the hearing and informs you of your rights.

## A speedy hearing

In most cases, the ALJ must issue a final decision within 90 days after your hearing request (60 days in SNAP cases). You may request a postponement by contacting the Office of Administrative Hearings at least 10 days before the hearing. Any delay caused by your postponement extends the deadline for a final



decision in your case.

## Access

All interested parties have a right to participate. Hearings are conducted by telephone, videoconference or in person. **If any party or witness is physically disabled**, has a speech, hearing or vision impairment; or speaks a language other than English, **notify the Office of Administrative Hearings so arrangements may be made**. If the hearing is set by telephone, you may request an in-person hearing.

## You do not have to go alone

A relative, friend or other authorized person may appear with and assist you at the hearing. You have a right to the assistance of legal counsel at your own expense. Do not wait until the day of the hearing to seek legal advice. In some cases, free legal assistance may be available from legal aid providers. **The ALJ does not have authority to**

appoint or select an attorney for you or to order any party to **pay another's** legal or **other costs**.

## Your rights

**You have the right to:**

- **Reasonable advance notice.**
- **See evidence before the hearing.** At your request, the agency representative will provide you a free copy of documents or other exhibits it will offer as evidence during the hearing.
- **Be present when all evidence is taken.**
- **Participate fully.** You will be allowed to testify, bring witnesses, present exhibits and ask questions or cross-examine witnesses.
- Be assisted by a friend, relative or your lawyer.
- A decision made by an impartial official **based solely on the evidence presented**.