

FAIR HEARINGS OVERVIEW

The youth has the right to contest a department decision affecting YAVFC eligibility. After the department notifies the youth of a denial or closure of YAVFC through a DHS-1301, Young Adult Voluntary Foster Care Case Denial/Closure Notice, the youth may request an administrative hearing. The department provides an administrative hearing to review the decision and determine its appropriateness. Resolution to issues raised in the request for a hearing should be resolved in the quickest manner possible. If the youth can verify they are eligible, the necessary forms should be completed to enroll the youth immediately and to withdraw the hearing request.

Note: Every DHS-1301, Young Adult Voluntary Foster Care Case Denial/Closure Notice, given to a youth must **also** be submitted to the Young Adult Extension Unit at:

DHS-YAVFC@Michigan.gov **or**
DHS-Subsidy Office
Young Adult Extension Unit
235 Grand Ave., Suite 412
Lansing, MI 48909

Hearing Request

Hearing requests must be made in writing and signed by the youth. Faxes or photocopies of signatures are acceptable. The Michigan Administrative Hearing System (MAHS) will deny requests signed by unauthorized individuals and requests without signatures. The hearing request must reference the reason(s) for requesting the hearing and the specific issue at dispute.

Where to File a Hearing Request

Instruct youth to email or mail the hearing request to

DHS-YAVFC@Michigan.gov **or**
DHS-Subsidy Office
Young Adult Extension Unit
235 Grand Ave., Suite 412
Lansing, MI 48909

The Young Adult Extension Unit receives the request on behalf of the department. Route all hearings related material through the Young Adult Extension Unit regardless of the addressee.

All hearing requests received must be date stamped and forwarded immediately to the Young Adult Extension Unit. If the hearing request is received by a local office that is not responsible for the disputed action, date stamp the request and forward it immediately to the Young Adult Extension Unit.

Deadlines for Requesting a Hearing

Only MAHS may deny a request for a hearing. Accept and forward all hearing requests to MAHS.

The youth has 21 calendar days from the mailing of the DHS-1301, Young Adult Voluntary Foster Care Case Denial/Closure Notice, to request a hearing. If a hearing request is filed more than 21 calendar days from the date of the notice of case action, the Young Adult Extension Unit must do the following:

- Ensure the local office supervisor completes a DHS-3050, Hearing Summary, stating:
 - Why the request is ineligible for a hearing.
 - Specific reasons for lack of YAVFC eligibility.
 - The request was received after 21 days from the date of the mailing of the notice of case action (attach a copy of the notice).
- Forward the hearing request and the summary to MAHS.

MAHS will inform the youth and the hearings coordinator if the request is denied.

Young Adult Extension Unit Time Limits

If the hearing request is timely, the Young Adult Extension Unit has 15 days from receipt of the hearing request to complete the following:

- Log the request.
- Contact the youth.
- Arrange and hold a pre-hearing conference.

Note: The conference need not be held within the 15 day standard.

- Determine the nature of the complaint and any possible resolution.
- Forward the request with either a DHS-18A, Hearing Request Withdrawal, or a DHS-3050, Hearing Summary, to MAHS so that MAHS receives it by the 15th day from the receipt of the hearing request.
- Contact the Federal Compliance Division (FCD). For FCD staff to fully review the case, the following information must be provided upon request:
 - Case name.
 - MiSACWIS person ID.
 - Copies of:
 - DHS-1297, YAVFC Agreement.
 - DHS-1302, YAVFC Case Closure Request.
 - DHS-1301, YAVFC Case Denial/Closure Notice.
 - Additional information relevant to the reason for denial.

Young Adult Extension Unit Review

Upon receipt of the hearing request from the youth or local office, the first-line supervisor in the Young Adult Extension Unit must review the disputed case action for accuracy according to policy and fact.

Administrative Review

The Young Adult Extension Unit program manager or designee must review all hearing requests which are not resolved by the first-line supervisor. The purpose of the review is to assure staff did the following:

- Applied DHS policies and procedures correctly.

- Explained DHS policies and procedures to the youth.
- Explored all eligibility alternatives (for example, if the denial is based on unemployment, is the youth involved in MI Works!?).
- The Young Adult Extension Unit program manager or designee must evaluate the advisability of a hearing in relation to such factors as intent of policy, type of issue(s) raised, appropriateness of the department's denial, cancellation, and administrative alternatives.
- The Young Adult Extension Unit program manager is responsible for determining that a hearing request **cannot** be resolved except through formal hearing.

The administrative review does not replace the hearing process. The hearing must be held as scheduled unless the department reinstates YAVFC eligibility or the youth withdraws the hearing request.

Pre-hearing Conference

Concerns expressed in the hearing request should be resolved whenever appropriate and possible through a conference with the youth rather than through a hearing.

The spokesperson for the Young Adult Extension Unit at the pre-hearing conference may be anyone from the Young Adult Extension Unit program manager to a first-line supervisor. Whoever is assigned this function acts on behalf of the Young Adult Extension Unit program manager.

A pre-hearing conference must be offered to the youth upon receipt of a hearing request.

The pre-hearing conference must take place as soon as possible after the Young Adult Extension Unit receives the request unless:

- The youth chooses not to attend the pre-hearing conference; or
- A conference was held prior to receipt of the hearing request, and the issue in dispute is clear, and DHS staff fully understand the positions of both the department and the youth.

All appropriate staff, including placement agency foster care (PAFC) staff if applicable, must be consulted before the pre-hearing conference and attend as necessary.

All of the following must be completed at the pre-hearing conference:

- Determine why the youth is disputing the DHS action.
- Review any documentation the youth has to support his/her position.
- Explain the department's position and identify and discuss the differences.
- Determine whether the dispute can be resolved or requires a hearing.

Corrected Case Action

If the Young Adult Extension Unit determines that the denial or termination is incorrect and the youth is eligible for YAVFC the youth's worker must complete the following steps:

- Have the youth sign the DHS-1297, YAVFC Agreement.
- Have the youth sign the DHS-18A, Hearing Request Withdrawal.
- Provide notification to the youth that corrective action has been taken.

Notify MAHS that the disputed action has been corrected and that the youth's concerns have been resolved. MAHS must have all the following documentation to deny hearing requests:

- The hearing request with the signature of the youth.
- A short summary of the actions taken to correct all the concerns (a DHS-3050 may be used).

MAHS will send the youth a letter stating that the hearing request is dismissed because there is no longer any basis for a hearing. The hearing will not be dismissed if the youth claims that the department failed to correct all the disputed actions.

Hearing Summary

Complete a DHS-3050, Hearing Summary, if the dispute is not resolved at a pre-hearing conference. All case identifiers and notations on case status must be complete.

The narrative must include all of the following:

- Clear statement of case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the youth.
- Description of the relevant documents the Young Adult Extension Unit intends to offer as exhibits at the hearing. Attached exhibits and documents must be clearly numbered and identified.

Withdrawals

When any issue is still in dispute, do not:

- Suggest that the youth withdraw the request; **or**
- Mail a withdrawal form to the youth unless it is requested.

Prior to Mailing Hearing Request to MAHS

When all issues are resolved and the youth wishes to withdraw the request, the Young Adult Extension Unit must request a signed statement requesting withdrawal from the youth. The DHS-18A, Hearing Request Withdrawal, may be used for this purpose. The withdrawal must clearly state why the youth has decided to withdraw the request. Enter all identifying case information on the withdrawal, attach the original copy to the request and forward them to MAHS. File a copy of the withdrawal in the case record.

After Mailing Hearing Request to MAHS

When all issues are resolved and the youth wishes to withdraw the request, do the following:

- Youth requests withdrawal while meeting with their caseworker:
 - Have the youth complete the DHS-18A, Hearing Request Withdrawal.
 - Fax a copy of the withdrawal request to MAHS at (517) 241-8541 or (517) 335-6696. The original request form must be placed in the case file at the local office and submitted to the Young Adult Extension Unit.
- Youth requests withdrawal via telephone:
 - Ask the youth to promptly send a written request for withdrawal to the Young Adult Extension Unit. The

youth may obtain and complete a DHS-18A at the local office or online at: www.michigan.gov/dhs-forms in the Other category.

- When the request for withdrawal is received, fax a copy to MAHS at (517) 241-8541 or (517) 335-6696. File the original in the case record and submit to the Young Adult Extension Unit.

Requests for Postponement (Adjournment)

The youth or local office may request a postponement (also called adjournment) of a scheduled hearing. If the youth requests a postponement, instruct the youth to call MAHS to request the postponement. The number to call and instructions are on the hearing notice. Only MAHS can grant or deny a postponement. MAHS will notify the hearings coordinator if the postponement is granted. When the hearing is rescheduled, MAHS will issue a new DHS-26A, Notice of Hearing, which is mailed to all parties who received the original notice.

If the postponement is granted at the request of the youth, the standard of promptness is extended for as many days as the hearing is postponed.

Late Arrival for the Hearing

Hearings will be held on the scheduled date if the youth arrives within 30 minutes of the scheduled time.

If the youth arrives more than 30 minutes late, immediately call MAHS for direction on how to proceed. Whenever possible, the hearing will be held on the scheduled date.

Failure to Appear for the Hearing

Contact MAHS if the youth does not appear for the hearing within 30 minutes of the scheduled time. Do not take negative action until written authorization from MAHS has been received. If the youth later contacts DHS to have the hearing rescheduled, instruct the youth to:

- Write MAHS at P.O. Box 30695, Lansing, MI 48909; or

Presentation of the Case

- Call MAHS at the toll-free number included on the DHS-26A, Notice of Hearing.

The Young Adult Extension Unit and youth will each present their positions to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the caseworker and the Young Adult Extension Unit are correct according to fact, law, policy and procedure.

Following the opening statement(s), if any, the ALJ directs the Young Adult Extension Unit to explain the position of the department. The hearing summary, or highlights of it, may be read into the record at this time. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the department's position. Always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by the central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the youth received adequate or timely notice of the proposed action and affording all other rights.

Both the Young Adult Extension Unit and the youth must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered into evidence.

Admission of Evidence

The ALJ will follow the same rules used in circuit court to the extent practicable. The ALJ must ensure that the record is complete, and may do the following:

- Take an active role in questioning witnesses and parties.
- Assist either side to be sure all the necessary information is presented on the record.
- Be more lenient than a circuit court judge in deciding what evidence may be presented.
- Refuse to accept evidence that the ALJ believes is:
 - Unduly repetitious.
 - Immaterial.
 - Irrelevant.
 - Incompetent.

Both parties may:

- State on the record its disagreement with the ALJ's decision to exclude evidence and the reason for the disagreement.
- Object to evidence the party believes should not be part of the hearing record.

When refusing to admit evidence, the ALJ must state on the record the nature of the evidence and why it was not admitted. The ALJ may allow written documents to be admitted in place of oral testimony if the ALJ decides this is fair to both sides in the case being heard.

Hearing Decisions

The ALJ determines the facts based only on evidence introduced at the hearing, draws conclusion of the law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless:

- The ALJ believes that the applicable law does not support DHS policy.
- DHS policy is silent on the issue being considered.

In that case, the ALJ recommends a decision and the policy hearing authority (the DHS director) makes the final decision.

MAHS mails the final hearing decision to the youth and the Young Adult Extension Unit. In most cases, the youth and DHS have the

right to appeal a final decision to circuit court within 30 days after that decision is received.

Implementing the Decision and Order

All hearing decisions must be recorded in the electronic and paper case records.

Some hearing decisions require implementation by the Young Adult Extension Unit and the caseworker. Implement a decision and order within 10 calendar days of the mailing date of the hearing decision. Do not provide an additional notice of case action. The decision and order serves as notice of the action.

Implement the decision and order pending a court appeal unless a circuit court or other court with jurisdiction issues an order requiring a stay. In all cases the Federal Compliance Division must be consulted prior to reinstating or reconciling any title IV-E payments as the result of a hearing.

Standard of Promptness

Final action on hearing requests, including implementation of the decision and order, must be completed within 90 calendar days. The standard of promptness begins on the date the hearing request was first date stamped by any local office or the Young Adult Extension Unit.

Payments during an appeal

Payments will not be made during an appeal process.