



California Children's Services Due Process Toolkit

IV. Appeals & Hearings

D. Preparing for a State Fair Hearing

D. Preparing for a State Fair Hearing:

After the CCS beneficiary requests either a CCS State Fair Hearing or a Medi-Cal State Fair Hearing, they will receive two notices from CDSS State Hearings Division. The first notice is to confirm the request for a hearing. The second notice has the date, time, and place of the hearing.

Soon after sending the first notice, the county will assign a hearing representative who represents the county at the hearing. They are responsible for contacting the CCS beneficiary prior to the hearing to provide information about the case. The hearing representative must assist with trying to resolve the case prior to the State Fair Hearing. The CCS beneficiary is not required to resolve the matter prior to the hearing if they still do not agree with the hearing representative.



Advocacy Tip: The CCS beneficiary can contact the hearing representative to discuss the case, and the parties may be able to resolve the issue without going to a hearing. However, the CCS beneficiary should not withdraw the hearing request until receiving written confirmation that the issue has been fixed. Keeping the hearing request ensures the CCS program will address the issue before or after the hearing. If the hearing representative cannot fix the issue before the hearing, then the CCS beneficiary's right to continue with the hearing is preserved.

i. How to Prepare for the State Fair Hearing

Step 1: Review the Case Records

The CCS beneficiary should gather and review all the notices and other documents related to the hearing request.

Step 2: Gather Information

The CCS beneficiary should collect relevant medical records and letters of support from treating doctors. Ideally, these letters will be from a CCS-paneled doctor. To find out if a doctor is CCS paneled, use this website: <https://www.dhcs.ca.gov/services/ccs/Pages/CCSProviders.aspx>. It is important to have a letter of support from the treating doctor explaining why the CCS beneficiary needs the service that was denied, reduced, or terminated.



Advocacy Tip: The CCS beneficiary should reach out to the treating doctor and explain that a service the beneficiary needs has been denied by CCS. The CCS beneficiary should request that the doctor draft a letter explaining why the service that has been denied is medically necessary. It is helpful if the letter provides specific examples and is supported with relevant medical records.

Contact DRC at 1-800-776-5746 or visit <https://www.disabilityrightsca.org/get-help> for a sample letter of support from a doctor.



Advocacy Tip: Upload documents online through the ACMS portal. ACMS is the Appeals Case Management System that is used by CDSS for all hearings. It is the easiest way to track the progress of the appeal and view documents. If the CCS beneficiary is not able to use ACMS, they can contact the assigned hearing representative to ask if the documents can be submitted via email, mail, or FAX.

Step 3: Review the CCS Program's Position Statement

The CCS program will provide an explanation for why they denied or reduced the CCS beneficiary's benefits or services in a written position statement. The CCS program must send the written position statement to CCS beneficiaries, and any advocate working on their behalf, **at least two (2) business days** before the hearing.

This statement will be either mailed or available on the ACMS portal to download. The CCS beneficiary has the right to have the position statement sent in their preferred language. If they don't receive the position statement in their preferred language, the CCS beneficiary has the right to have it read by a translator in their preferred language. The CCS beneficiary may request a translator by contacting the hearing representative who must provide translation at no cost to the CCS beneficiary.

The position statement will explain the CCS program's reasons for taking action against the CCS beneficiary's eligibility or CCS services (even if the CCS beneficiary disagrees with the reasons). The position statement will also help the CCS beneficiary identify other evidence and witnesses they may need. If the CCS beneficiary does not get a copy **within two (2) business days** prior to the hearing, the CCS beneficiary has a couple of options. First, they can proceed with the hearing and ask the ALJ to "have the record left open" so they can submit additional information to respond to anything in the county's position statement. Even if the CCS beneficiary can get the CCS program's position statement on time, they can still ask to have the hearing record left open to submit more evidence. Second, if the CCS beneficiary receives a late position statement, they have the right to postpone the hearing if they need more time to prepare for it.

A CCS beneficiary can provide their own position statement in response to the county's statement. This is optional. However, a written summary of the CCS beneficiary's position may help to simplify the hearing and may help the beneficiary feel more prepared at the hearing. It is important that the statement explain why the CCS beneficiary believes the action taken by the CCS program is wrong.

Contact DRC at 1-800-776-5746 or visit <https://www.disabilityrightsca.org/get-help> for a sample position statement.

Step 4: Postponements

A CCS beneficiary can ask to postpone their hearing at any time prior to the actual hearing if they cannot make the scheduled date and time of the hearing or if they need more time to prepare. The first request for postponement is generally granted without the need to provide a reason, but any additional postponements will require an explanation.⁴⁷ Aid Paid Pending will continue if a postponement is granted.



Advocacy Tip: Once the CCS beneficiary receives the CCS program's position statement, they may want to request a postponement of their hearing to be able to better prepare for their case. This will allow time to negotiate with the hearing representative as well as to gather any updated records.

⁴⁷ 7 CFR § 273.15(c)(4); Cal. Welf. & Inst. Code § 10952.5; Cal. Dep't of Social Svcs, Manual of Policies and Procedures, 22-053.

ii. What to Expect at the State Fair Hearing

CCS State Fair Hearings are more informal than other legal proceedings. Most hearings are done over the phone or by video conference, with the option to have an in-person hearing at the county CCS office. Each side will have the opportunity to present information to support their position. The CCS beneficiary should present information (testimony by witnesses, doctors' letters, diary log, and medical records) to show their needs for the benefits or services that were denied.

The evidence must show:

- 1) That the CCS services or supplies requested are medically necessary. The CCS beneficiary can discuss this with the CCS panelled provider involved in the case.
- 2) The services must be related to the CCS-eligible condition.



Advocacy Tip: The CCS beneficiary is permitted to bring witnesses to provide testimony. Witnesses may include the beneficiary's family members, the beneficiary's treating doctors, or current CCS service providers. The witnesses should be prepared to explain why the decision made by CCS was incorrect as well as their qualifications for determining what is medically necessary.

iii. What to Expect After the State Fair Hearing

The State Fair Hearing decision must be mailed to the CCS beneficiary. If the CCS beneficiary registered their hearing online through ACMS, the decision will also be available to view and download from their ACMS case account.

However, if the CCS beneficiary still does not agree with the ALJ's hearing decision, they can request a rehearing. The beneficiary may also file a lawsuit in California Superior Court.

1. Request for Rehearing

CCS beneficiaries have the right to request a rehearing **within thirty (30) days** after receiving the hearing decision. To have a rehearing granted, the CCS beneficiary must explain why the ALJ did not properly consider the information presented at the hearing or did not apply the correct rules when making the decision.

2. Petition for Writ of Administrative Mandamus

If the CCS beneficiary disagrees with the hearing decision, they also have the option to file a Writ of Administrative Mandate in California Superior Court.⁴⁸ The writ must be filed **within 1 year of the date of the hearing** decision and is a formal legal proceeding. The beneficiary should seek legal advice before doing this.

⁴⁸ Cal. Code Civ. Proc. § 10952.5.

iv. How to Get Help with the Appeals Process

If a CCS beneficiary and their family have questions or need help, the following resources are available:

1. The CCS beneficiary's county CCS office.
2. Health Consumer Alliance for free legal help, call 888-804-3536/TTY 877-735-2929 or visit healthconsumer.org.
3. Disability Rights California (DRC) — 1-800-776-5746 or visit <https://www.disabilityrightsca.org/get-help>.
4. Local Family Resource Centers can also provide information and support regarding the CCS appeal process. For information on how to contact the nearest Family Resource Center, call 1-800-515-BABY or go to the Family Voices of California website at www.familyvoicesofca.org.
5. Parent Training and Information Centers may also be able to provide support (www.cde.ca.gov/sp/se/qa/caprntorg.asp).
6. Family Voices of California — call 415-282-7494 or visit familyvoicesofca.org.