

What happens if I am too ill to attend an Appeal Hearing in person?

When you take your case to appeal, the 'Enquiry Form' will ask you to indicate whether you wish a written or an oral hearing:

- a written hearing is based on the paperwork only;
- an oral hearing is heard in person, with the members of the Tribunal having the opportunity to put questions to you, as well as having the paper evidence.

If your illness makes it impossible for you to travel to attend an Oral Hearing here are options you can consider:

- You can have a Domiciliary Hearing *i.e.* held in your own home. For this you must provide medical evidence that it is impossible for you to travel to a Tribunal Venue.
- You may be able to be present via a Video Link or some other electronic means if you contact the Tribunal with enough notice.
- You can opt for a Paper Hearing - determined purely on the paperwork: *i.e.* the documentary evidence bundle and any additional items submitted in time for the Tribunal Hearing. Although the overall success rate is lower than for Oral Hearings, the 25% ME Group advocacy service view is that if the statistics were to be adjusted according to how well the paper case was made then they might tell a different story. Putting your case *well* on paper has a better chance of success than sloppy paperwork and an oral hearing, in our view.
- You can name a Representative (on your application for an Appeal and/or the Enquiry Form) and, although this person would normally be expected to attend along with yourself, it may be possible that they attend the Tribunal Hearing without you. However you should check this with the Tribunal first - giving as much notice as possible.

Other Points

If you opt for a Paper Hearing you can still change your mind and opt for an Oral Hearing as long as you give the Tribunal enough notice. *And vice versa.*

If you have opted for Paper Hearing, then you will not be given notice of when your case is to be heard. This is well worth bearing in mind, especially if you intend to submit further paper evidence for the Tribunal to consider.

The Tribunal can pay for a Taxi if you cannot use any other form of transport to get to the hearing, and the cost is an issue.

If you have opted for an Oral Hearing and it is impossible for you to attend on the date and time given ...

Contact the Tribunal to let them know this, giving as much notice as possible.

The Tribunal can rearrange the hearing.

Communicate with the Tribunal Administration - contact details on the paperwork they will have sent you –as soon as feasible. They may have to check with the Tribunal Judge.

Even if it is too late for the Tribunal administration to contact the Tribunal hearing your case and the hearing goes ahead without you, all is not lost: the Tribunal decision can be Set Aside and another hearing arranged provided you have a very good reason and that you made every possible effort to contact the Tribunal at the earliest opportunity. You will need evidence *e.g.* letter from your doctor, list of attempted phone calls.

The overriding principle is that you have a Fair Hearing. You may be able to appeal to the Upper Tribunal if you are unreasonably denied the opportunity to put your case.

25% ME Group Advocacy

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with grateful acknowledgement 'Pete's Benefits Advice' (Shropshire ME Group)