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Madison, WI 53708-8916
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Governor Scott Walker

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TO: **Income Maintenance Supervisors**
Income Maintenance Lead Workers
Income Maintenance Staff
W-2 Agencies
Workforce Development Boards
Job Center Leads and Managers
Training Staff
Child Care Coordinators

FROM: Shawn Smith, Director
Bureau of Enrollment Policy & Systems
Division of Health Care Access and Accountability

BEPS/DFS OPERATIONS MEMO

No: 12-59

DATE: 11/08/2012

FS	☒	**MA**	☒	**BC+**	☒
SC	☐	**CTS**	☒	**FSET**	☐
BC+ Basic	☐			**BC+ CORE**	☒
CC	☐	**W-2**	☐	**EA**	☐
CF	☐	**JAL**	☐	**JC**	☐
RAP	☐	**WIA**	☐	**Other EP**	☐*

SUBJECT: Fair Hearings Tracking Tool

CROSS REFERENCE: IMM Chapter 3

EFFECTIVE DATE: DECEMBER 10, 2012

PURPOSE:

The purpose of this memo is to clarify the existing fair hearing process and timelines and to announce the implementation of the new Fair Hearings Tracking tool on December 10, 2012. The Fair Hearings Tracking tool is designed to effectively record, track and monitor investigations for Fair Hearing requests regarding Income Maintenance (IM) programs through a centralized repository. The goals of the tool are to streamline the monitoring of fair hearings, improve timeliness of the process in an effort to reduce the number of fair hearings and to provide a standardized way of communicating between The Division of Hearings and Appeals (DHA) and IM agencies.

BACKGROUND:

As part of the 2011-2013 biennial budget, the Legislature directed the Department of Health Services (DHS) and the IM Consortia to share responsibilities related to IM program fair hearing requests. A workgroup that included representatives from DHS, the Division of Hearings and Appeals (DHA), and local IM agencies reached a consensus recommendation that the IM Consortia would be responsible for all fair hearing related activities for eligibility determinations and programs administered by the IM Consortia. As part of this process, each IM Consortia has

identified a single point of contact for DHA communication of fair hearing requests, schedules, and decisions.

Currently, the communication between DHA and the IM agencies is done through email and/or postal mail and each agency handles the fair hearing process in a different manner- with no standard way of tracking or prioritizing work related to fair hearings. As of December 10, 2012, the communications and organization related to fair hearings for most IM programs will occur through the Fair Hearings Tracking tool. (See complete list of fair hearing types that will be included in the new tool later in the memo.)

This memo will provide a high level overview of the Fair Hearings Tracking tool and new CWW pages. Also included is a description of the current fair hearings process based on email and/or postal mail and related timelines. Hearing types that are not included in the Fair Hearings Tracking tool will continue to be handled using the existing email/postal mail-based fair hearings process. More detailed information regarding the Fair Hearings Tracking Tool will be provided in Process Help and through training materials that will be provided prior to implementation.

CURRENT FAIR HEARINGS PROCESS:

New timeframes for IM Consortia to submit fair hearing documents to DHA were established in January, at the time of the transition to the IM Consortia-based model, in order to better streamline the fair hearing process and create administrative efficiencies. Details on these timeframes and required documentation submission are provided below. This process currently applies to all appeals. After the Fair Hearings Tracking tool is in production, this process will only apply to hearing types not included in the Tracking tool.

- DHA sends a Request for Summary to the IM Fair Hearing Consortia Contact by email. This e-mail includes 3 items: (1) appeal document(s) DHA received from the petitioner, (2) Summary of Action Leading to Appeal form (see Attachment 1) and (3) Wthdrawal Request form pre-filled with petitioner's contact information (see Attachment 2). The IM Fair Hearing Consortium Contact is responsible for making sure the Request for Summary is routed to the appropriate worker in the IM Consortium, based on the Consortia's established model for processing and handling fair hearings.

- The worker must submit the Summary of Action Leading to Appeal form to DHA within **5 calendar days** of the date DHA sent the Request for Summary. This form includes the completion of an initial summary. If the issue is resolved with the petitioner prior to submitting the initial summary, the worker must type "Withdraw expected" in the comments section of the summary followed by a description of the action taken. The worker must provide the petitioner with the withdrawal request form. DHA must receive withdrawal requests from the petitioner in writing.

- If the appeal has been incorrectly routed and is based on an action taken by a different agency, the worker must reply to DHA within **3 calendar days** of the date DHA sent the Request for Summary. Since this process is time sensitive, it is best practice to reply as soon as possible. The worker should indicate which agency is believed to be the correct agency to receive this notice.

After receipt of the initial summary, DHA will send the appeal notice to the IM Consortium. If the appeal notice contains an order to continue benefits, the worker must take action in a timely manner in order to ensure that the petitioner does not experience a break in service. If DHA orders benefits to be continued, benefits must be continued, except in the following situation:

- FoodShare benefits should not be continued if the certification period has expired. The certification period is the length of time that the food group can receive FoodShare benefits before a renewal is needed. The certification period for most food groups is 12 months. If benefits cannot be continued due to this reason, the IM worker must inform DHA by email. The food group may reapply for FoodShare and be found eligible for a new period with benefits calculated as if the hearing was not pending. If this occurs, it is likely the hearing request can be withdrawn.

- The IM worker must submit a detailed summary to DHA within **10 calendar days** of the date DHA sent the Request for Summary. The detailed summary can be included with the initial summary or it can be submitted separately. The IM worker must also submit a copy of the detailed summary to the petitioner and the petitioner's representative. The detailed summary may be amended after the original submission. If the initial or detailed summary is amended, the updated summary must be sent to DHA and the petitioner and the petitioner's representative.

  - DHA will accept a limit of 10 faxed pages or 75 scanned pages. If the documents to be submitted are in excess of these limits, a hard copy must be sent to DHA via postal mail..
  - The detailed summary may also be submitted with the "Summary of Action Leading to Appeal" form. If the entire detailed summary is not able to be submitted within the 5 day deadline for this form, indicate in the comments section that a detailed summary will be following in a separate submission.
  - It is expected that the worker will contact the petitioner prior to completing the detailed summary in order to gather more information and determine if the issue can be resolved and withdrawn prior to the fair hearing.

  ➢**NOTE:** Each Request for Summary is specific to an appeal. A summary cannot be edited and resubmitted for a second appeal, even if filed by the same petitioner.

- The IM agency must allow the petitioner and petitioner's representative to examine the case record. If the representative is not an attorney, the petitioner's written and signed authorization is required. The petitioner also has the right to photocopy, free of charge, all documents s/he would like to introduce as an exhibit at the hearing. The IM agency must provide the petitioner an opportunity to photocopy at a reasonable time before the hearing and/or on the hearing date.

- DHA will send a Hearing Notice to the IM Consortium Fair Hearing Contact indicating the scheduled hearing date, time and assigned Administrative Law Judge (ALJ) (see Attachment 3). The worker must email the ALJ notifying him/her of who will be appearing on behalf of the agency and the contact telephone number for the day of the hearing. An example of a hearing notice is attached.

- In preparation for the hearing, the worker representing the agency should check the case in CARES Worker Web (CWW) to review any updates to the case since the appeal process began.

- After the hearing, case comments must be added to the case in CWW summarizing the information discussed at the hearing or noting that the hearing request was withdrawn or abandoned.

- DHA will send the Decision to the IM Consortium Fair Hearing Contact. If the Decision is a Remand or a Stipulation, the worker must take the action specified in the Decision and submit the Certification of Administrative Action along with supporting documents, such as screen prints and notices verifying that action was taken, to DHA by the due date (generally within 10 calendar days). For all appeal cases, the worker must enter case comments in CWW detailing the Decision and action taken, if applicable.

CARES—FAIR HEARINGS TRACKING TOOL:

The Fair Hearings Tracking tool pages in CWW will be available to IM workers statewide.

This tool will track the following types of appeals:

HEALTH CARE:

- BCB – BadgerCare Plus – Benchmark
- BCC – BadgerCare Plus – Core Plan
- BCS – BadgerCare Plus – Standard
- COP – Community Options Program
- CWA – Medicaid Waiver Programs
- CWK – Medical Assistance Waiver Programs
- FCP – Family Care Program
- FPO – Family Planning Only Services
- MAC – Medical Assistance Compel
- MAP – Medicaid Purchase Plan
- MDV – EBD Medicaid Divestment
- MGE – EBD Medicaid General Eligibility
- MOP – Medical Assistance – Overpayment
- MQB – Medicare Premium Assistance
- MRA – EBD Medicaid Resource Allocation
- MTI – Medical Assistance Tax Intercept

FOODSHARE:

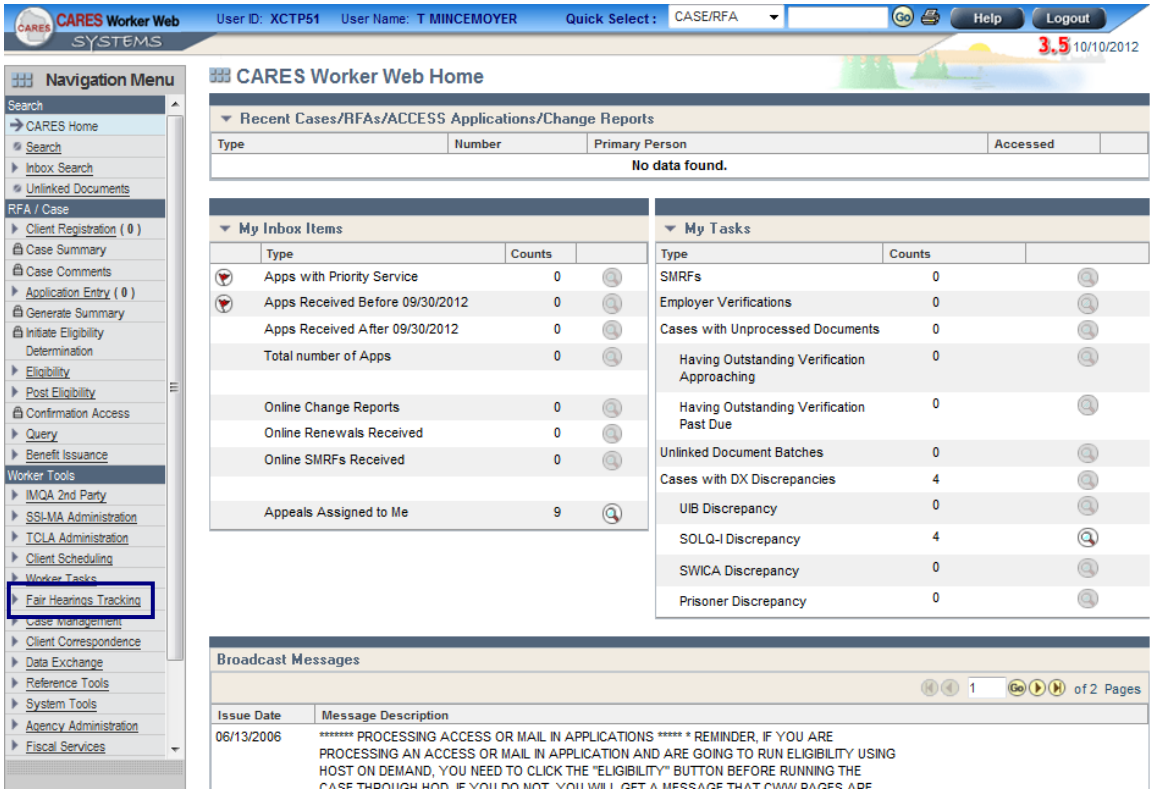
- FOO – FoodShare General Eligibility
- FOP – FoodShare – Overpayment
- FTI – FoodShare – Tax Intercept
- FWP – FoodShare Work Program Sanction

CARETAKER SUPPLEMENT:

- ~~CTO – Caretaker Supplement Overpayment~~
- CTS – Caretaker Supplement General Eligibility

After implementation, DHA will no longer send notification emails to the agencies for the above types of appeals. Notification will be sent only through the Fair Hearings Tracking tool. Notification for other types of appeals not listed above will continue to be handled outside of the Fair Hearings Tracking tool consistent with current processes through email or other means. If DHA needs to contact the Fair Hearing Consortium contact for questions or changes about an appeal, it would be done outside of the Fair Hearings Tracking tool by email or phone.

Workers will access the Fair Hearings Tracking tool using the Navigation Menu in CWW under "Worker Tools".



The following pages will be used to access appeals or appeal information in CWW.

Pages that are accessed from the Navigation Menu:

- Fair Hearings Tracking Home
- Fair Hearings Search Criteria/Search Results

Pages that are accessed from within the tool:

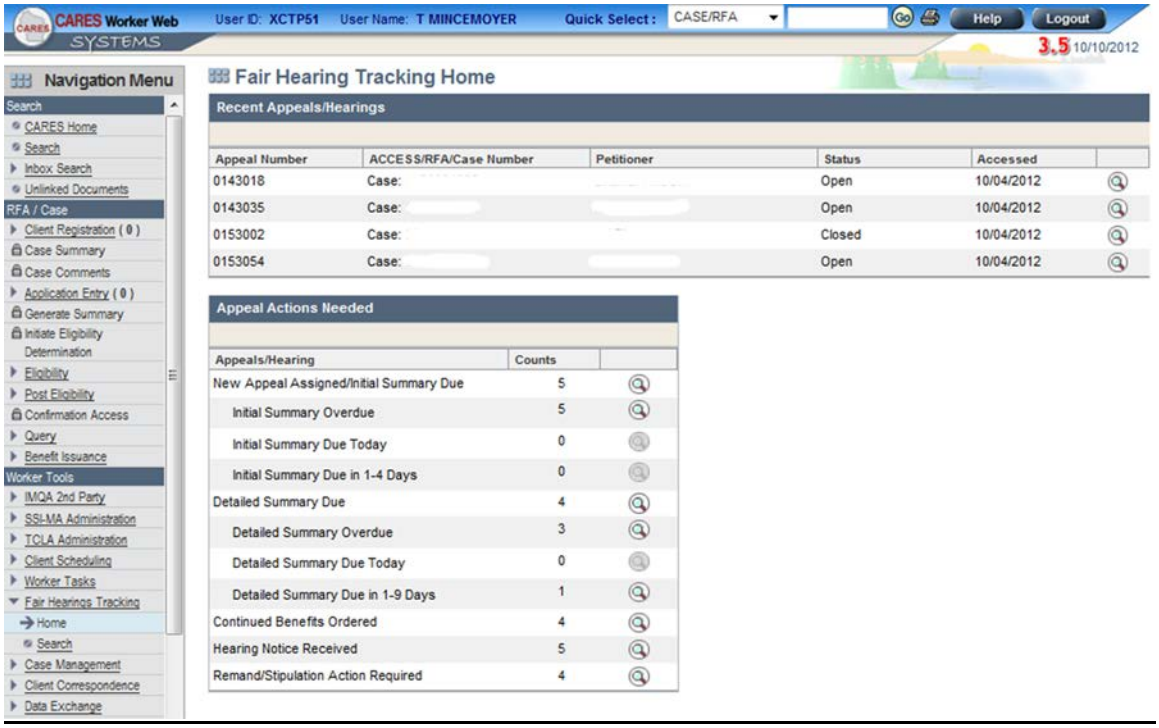
- Appeal Information
- Initial Summary
- Appeal Notice
- Detailed Summary
- Hearing Notice
- Decision Notice
- Fair Hearings Comments
- Transfer Appeal

Accessed from CWW Home Page

- Counts of “Appeals Assigned to Me”

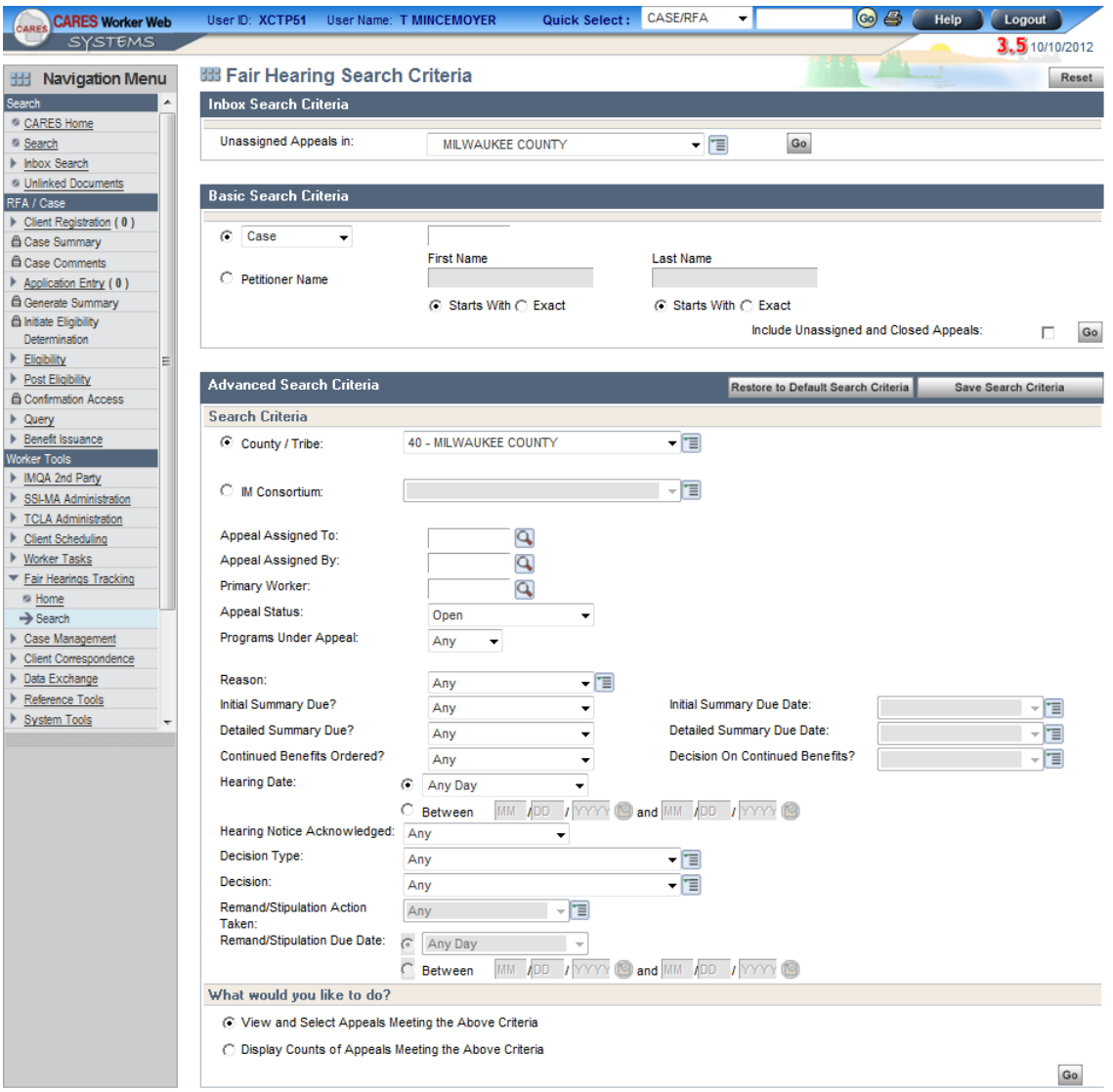
Information sent back and forth between DHA and IM agencies will be done through a twice daily batch process at 12 PM and 10 PM.

FAIR HEARING TRACKING HOME PAGE:



The Fair Hearings Tracking Home page has two sections, Recent Appeals/Hearings and Appeal Actions Needed. The recent Appeals/Hearings section shows appeals that the logged in worker has recently accessed, similar to the CWW home page. The Appeal Actions Needed section shows the worker actions needed for appeals that are assigned to them and what status each appeal is in. This section also prioritizes the tasks based on the date they are due.

FAIR HEARING SEARCH CRITERIA PAGE:



The Fair Hearings Search Criteria page has three sections: Inbox Search Criteria, Basic Search Criteria and Advanced Search Criteria.

The Inbox Search Criteria is used by the Fair Hearings Consortium Contact to search for unassigned appeals in their consortium. New appeals sent from DHA will remain in the inbox until the Fair Hearing Consortium contact assigns them to a worker.

The Basic Search Criteria is used to find specific appeals by searching by Case/RFA/ACCESS/Appeal number or by petitioner name.

The Advanced Search Criteria is used to find appeals using more detailed criteria such as who the appeal is assigned to, what status the appeals is in, what programs are under appeal, dates appeal actions are due, etc.

FAIR HEARING SEARCH RESULTS PAGE:

CARES Worker Web SYSTEMS | User ID: XCTP51 | User Name: T MINCEMOYER | Quick Select: CASE/RFA | Help | Logout | 3.5 10/10/2012

Navigation Menu

Search
- CARES Home
- Search
- Inbox Search
- Unlinked Documents

RFA / Case
- Client Registration (0)
- Case Summary
- Case Comments
- Application Entry (0)
- Generate Summary
- Initiate Eligibility Determination
- Eligibility
- Post Eligibility
- Confirmation Access
- Query
- Benefit Issuance

Worker Tools
- IMQA 2nd Party
- SSI-MA Administration
- TCLA Administration
- Client Scheduling
- Worker Tasks
- Fair Hearings Tracking
- Case Management

Fair Hearing Search Results

Advanced Search Criteria

IM Consortium:		County / Tribe:	13 - DANE COUNTY
Appeal Assigned To:		Appeal Assigned By:	
Primary Worker:		Appeal Status:	Open
Programs Under Appeal:	Any		
Reason:	Any		
Initial Summary Due:	Any	Initial Summary Due Date:	
Detailed Summary Due:	Any	Detailed Summary Due Date:	
Continued Benefits Ordered:	Any	Decision On Continued Benefits:	
Hearing Date:		Hearing Notice Acknowledged:	Any
Decision Type:	Any	Decision:	Any
Remand/Stipulation Action Taken:	Any	Remand/Stipulation Due Date:	

Search Results

Appeal Number	Case/RFA/ACCESS Number	Last Name	First Name	Programs Under Appeal	Reason(s)	County/Tribe	Status
0143035	CASE -			Caretaker Supplement Overpayment	5173 Case ,Delayed ,Insufficient ,Other	DANE COUNTY	Open

Return

The Fair Hearings Search Results page shows any appeals that matched the search criteria in the search results section. To navigate to the Appeal Information page for that specific appeal, click on the magnifying glass on the right hand side.

APPEAL INFORMATION PAGE:

CARES Worker Web SYSTEMS | User ID: XCTP51 | User Name: T MINCEMOYER | Help | 3.5 10/10/2012

Petitioner: | Appeal: 0143011 | Status: Open

Documents (0)

Appeal Information

Reset

Petitioner Information

First Name:		Last Name:	Knotek
Appeal Address:		Phone:	

Appeal Information

Associated with:		Primary Worker:	
Program Under Appeal:		Reason(s):	
Appeal Date:	08/13/2012	County:	RACINE COUNTY
Assigned By:	XCTP51	Assigned To:	XCTP51

What would you like to do?

Worker Assignment

Assign to Worker ID XCTP51

Step	Status	Date
Initial Summary	Not Completed	09/27/2012
Detailed Summary	Not Started	
Appeal Notice	Not Received	
Hearing Notice	Not Received	
Decision Notice	Not Received	

Management Functions

- Transfer Appeal
- Add Comment

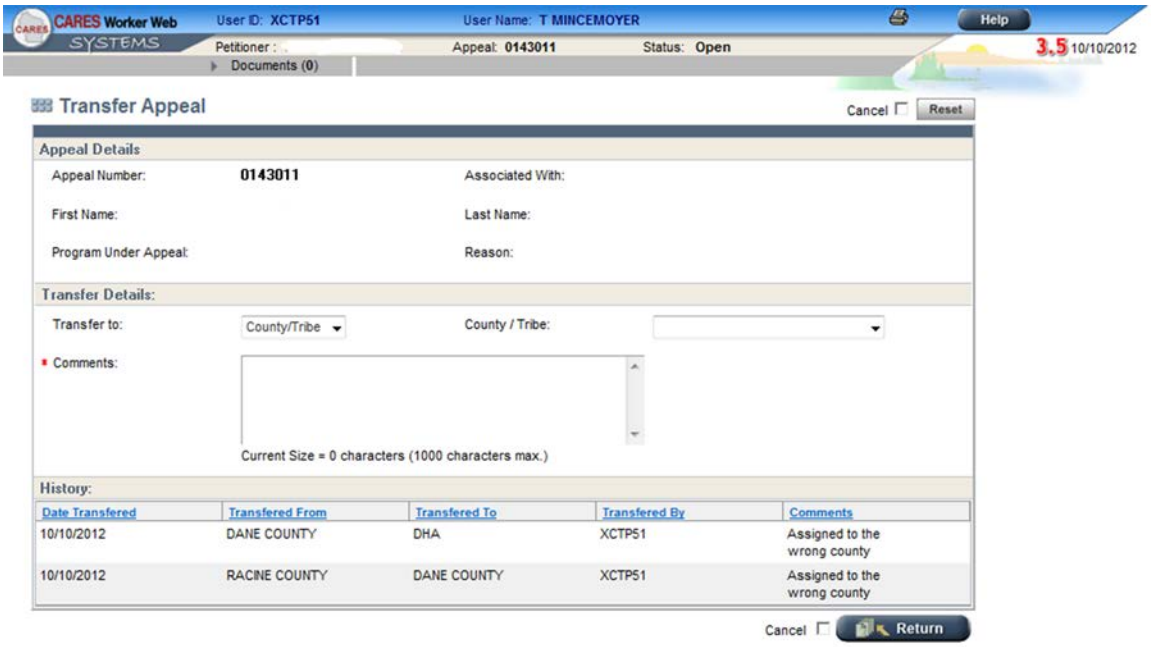
Close | Next

The Appeal Information page is the main landing page of a specific appeal. This is where the Fair Hearing Consortium contact would assign an appeal to a worker by entering their worker ID or using the worker look up function.

The Appeal Information page shows details about a specific appeal such as the petitioner's name, address, case number, county, reason for appeal and at what step the appeal is at in the fair hearing process. From this page, a worker takes action on an appeal by choosing which step of the appeal process they would like to complete. They can also navigate to completed steps of the appeal.

At the bottom of the page, there are also functions to transfer the appeal or add comments.

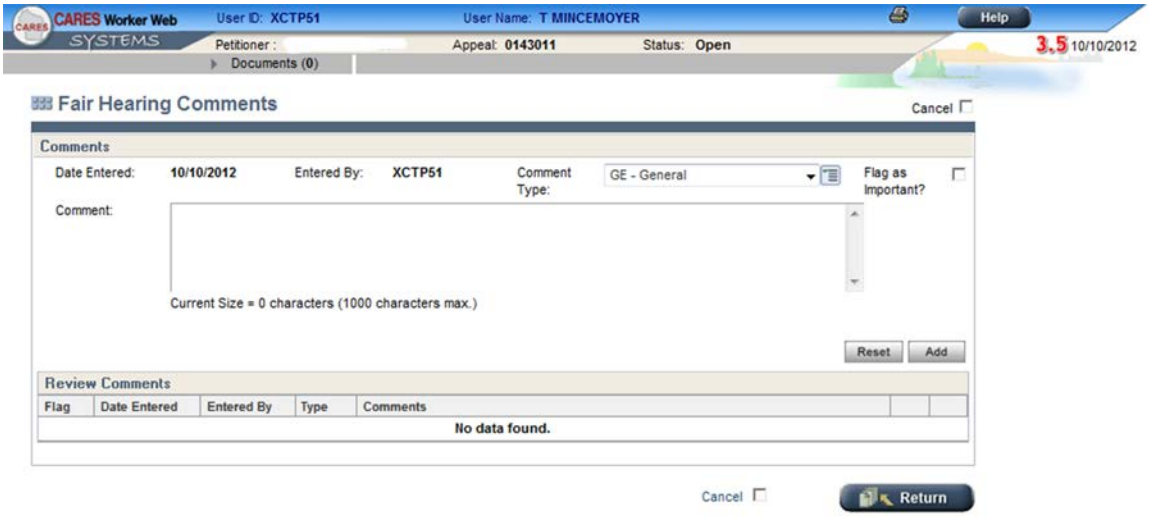
TRANSFER APPEAL PAGE:



If the IM Consortium receives an appeal from DHA in error, the worker has the ability to transfer the appeal to another County/IM Consortium or back to DHA if it is not an appeal for an IM program. For appeals being transferred to another County or IM Consortium, the tool requires the worker to complete the initial summary prior to transferring the appeal. For appeals being transferred back to DHA, the initial summary is not required to be completed. Comments are required when transferring an appeal and DHA will receive notification of the transfer through the twice daily batch process.

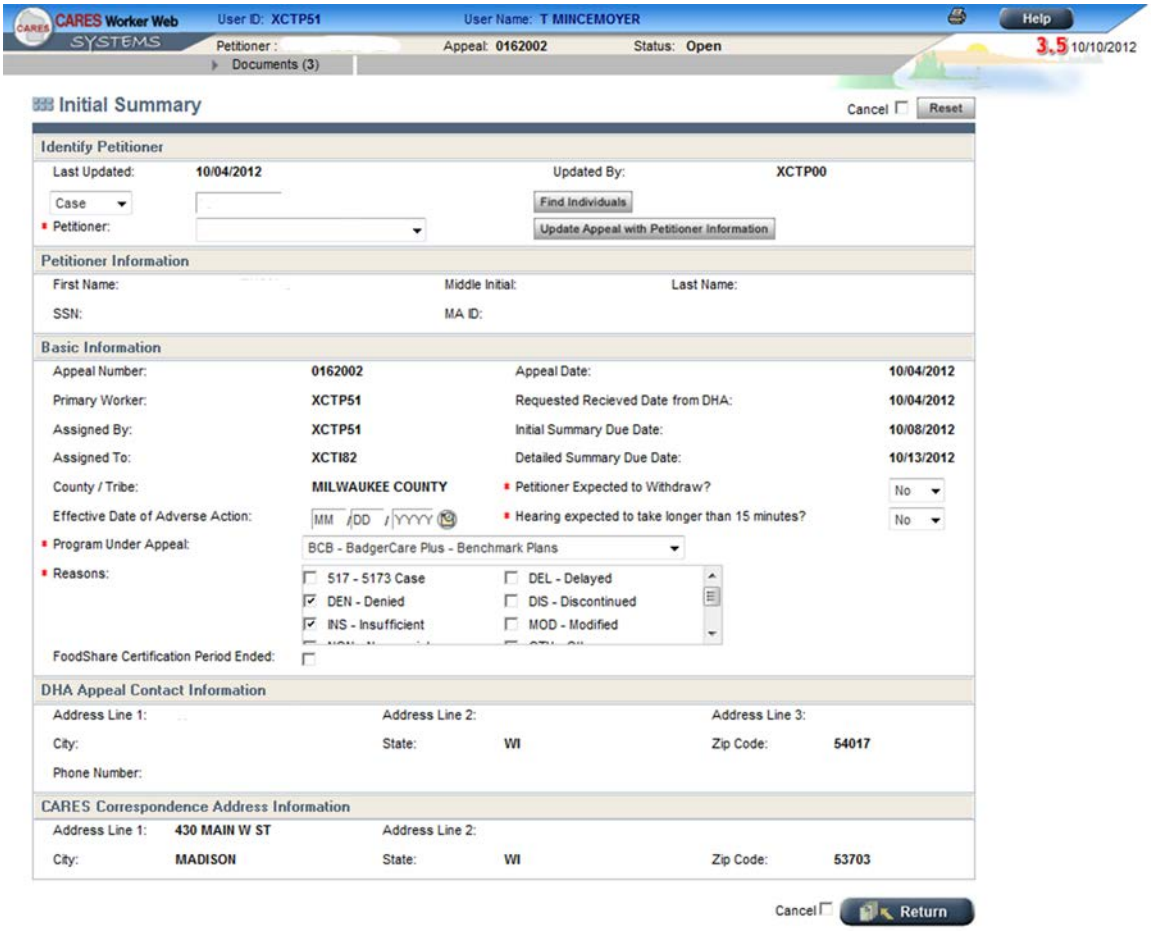
For appeals being handled outside of the Fair Hearings Tracking Tool, the worker may not directly transfer an appeal to another County or IM Consortium. If an appeal has been incorrectly assigned to an agency, the worker must reply to DHA within 3 calendar days of the date DHA sent the Request for Summary. The initial summary does not need to be completed prior to replying to DHA. DHA will then send the Request for Summary to the correct agency.

FAIR HEARINGS COMMENT PAGE:



The Fair Hearings Tracking tool has its own comments section, separate from case comments. This comments section is only to be used to store comments related to the fair hearing.

INITIAL SUMMARY PAGE:



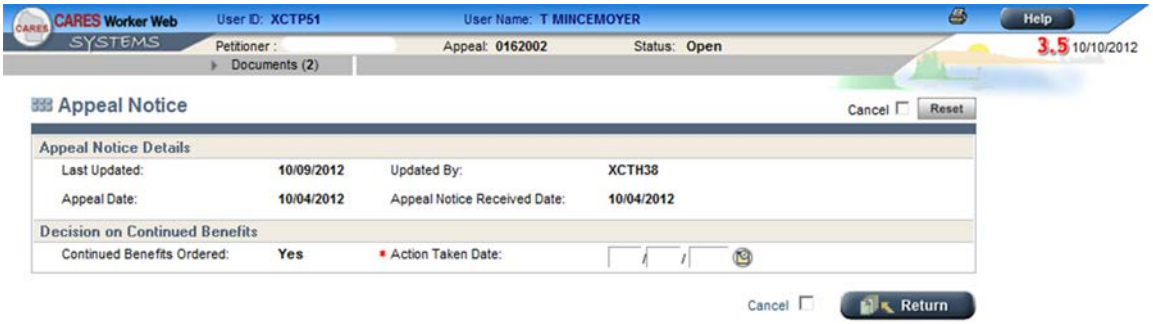
The Initial Summary Page allows a worker to complete basic information about an appeal. This includes the case/RFA/ACCESS number related to the appeal, the program under the appeal, the reason for the appeal and the effective date of adverse action. This step of the appeal process needs to be returned to DHA within 5 calendar days of the Request Received date from DHA. By clicking the Return button, the worker will return to the Appeal Information Page for the appeal.

It is important that the correct issue be identified. This may mean looking back to a previous action. Often a denial follows a negative action, and the likely issue being appealed is the initial action, not the subsequent denial.

> ➢**NOTE:** The effective date of adverse action only applies if the action taken on benefits is Discontinued or Reduced. This date refers to the date the petitioner experiences the actual change in benefits and will always be the 1st of the month.

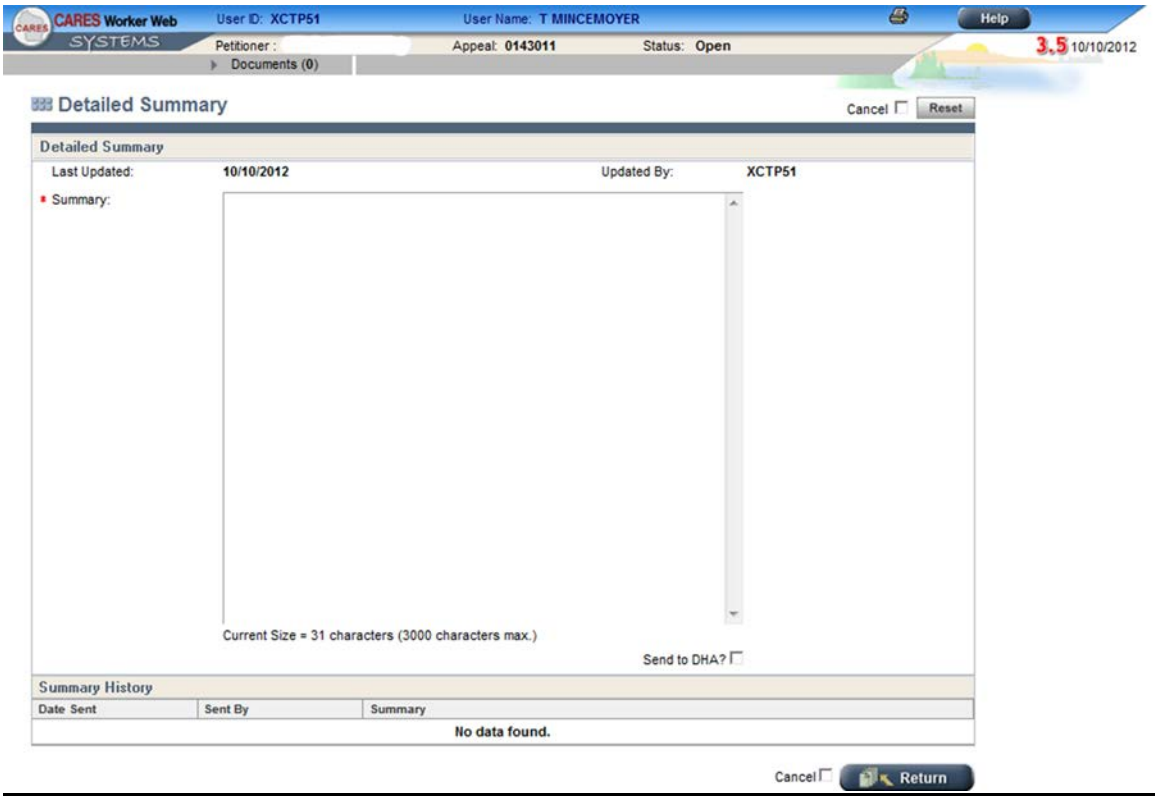
If the issue is resolved and the petitioner is expected to withdraw the appeal, the worker must provide the petitioner with the withdrawal request form.

APPEAL NOTICE PAGE:



The Appeal Notice Page is updated by DHA and indicates to the worker if Continued Benefits have been ordered by DHA. If Continued Benefits have been ordered by DHA, the worker is required to complete the Action Taken Date field. Completing this field indicates that the worker has continued benefits as ordered on the date entered into the field.

DETAILED SUMMARY PAGE:



The Detailed Summary Page is where the worker will either type the detailed summary directly in the text box provided or indicate in the text box that the detailed summary will be attached as a separate document through the Document Viewer. This step of the appeal process needs to be submitted to DHA within 10 calendar days of the Request Received date from DHA.

It is expected that the worker will contact the petitioner prior to completing the detailed summary in order to gather more information and determine if the issue can be resolved and withdrawn prior to the fair hearing. Answering the petitioner's questions and explaining the agency's reasoning may result in the petitioner choosing to withdraw the appeal. If the petitioner indicates that s/he intends to withdraw the appeal, the worker must provide the petitioner with the withdrawal request form.

The detailed summary must include the following information in order to be considered complete:

- A general timeline of all action taken on the case that resulted in the appeal, including the dates of action taken by the agency and the dates the action became effective.
- Policy citations with an explanation of how the agency complied with the policy.
- Description of corrective actions taken to remedy any errors made on the case.
- Copies of applicable documentation such as notices of decision.

Additional documentation such as reminder letters, verification and screen shots of pages in CWW can be submitted at a later date as part of the hearing preparation. The worker can upload these documents into the Document Viewer. All such exhibits must be received by DHA no later than 48 hours prior to the hearing.

If a case has a complicated policy explanation or correction, there is a 3,000 character limit in the text box. For cases requiring a longer explanation, a document can be uploaded and comments should be left on the Detailed Summary page to indicate this.

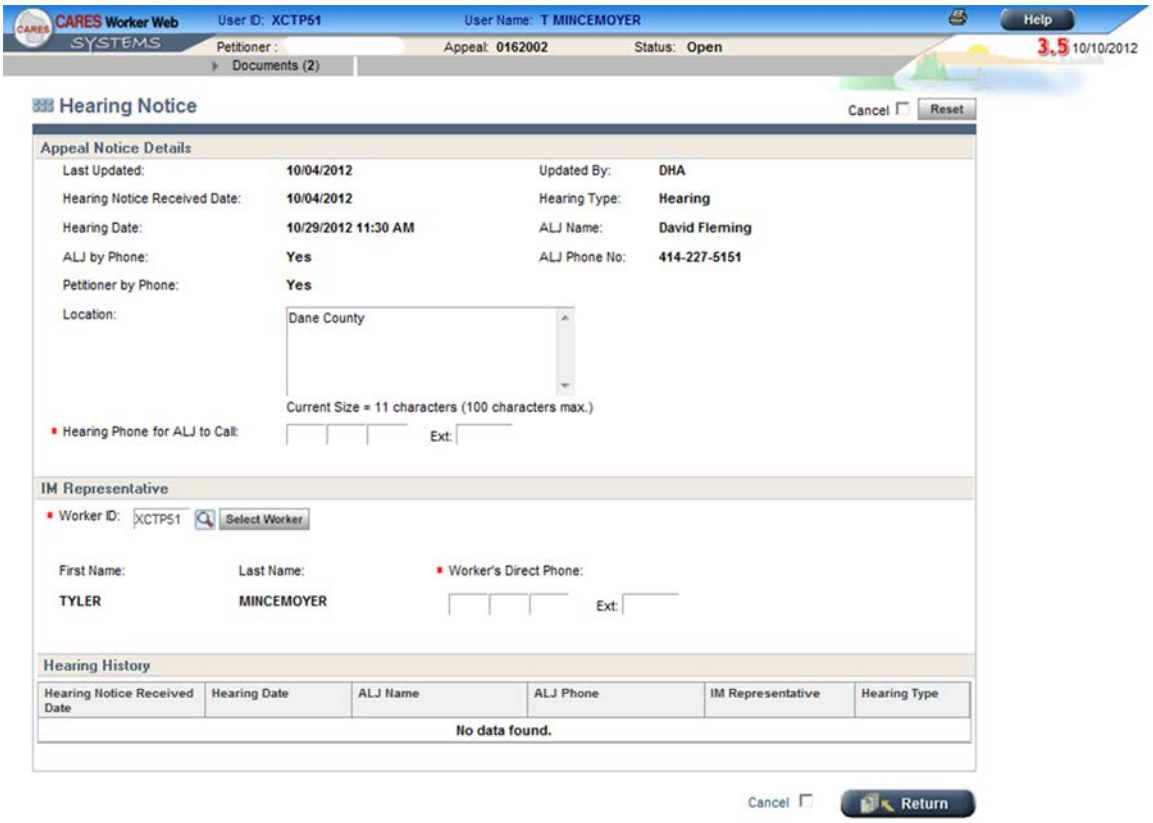
The detailed summary is also required to be sent to the petitioner.

NOTE: DHA will accept a limit of 75 scanned pages. In a situation where a worker would have to fax documents, such as if the ability to upload documents into the tool is not available, DHA will accept a limit of 10 faxed pages. If the documents to be submitted are in excess of these limits, the worker must mail a hard copy of the documents to:

Division of Hearings and Appeals
P.O. Box 7875
Madison WI 53707-7875

The worker must indicate in the text box on the Detailed Summary page that the detailed summary and applicable documents have been sent to DHA through postal mail.

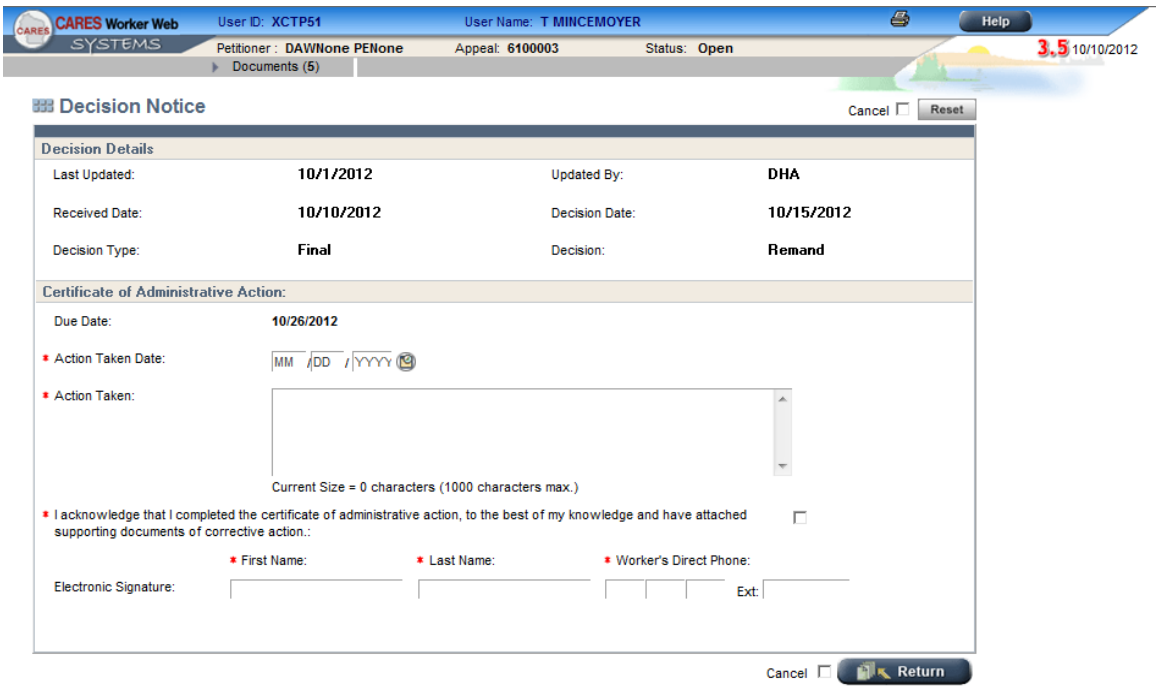
FAIR HEARING NOTICE PAGE:



The Hearing Notice page will be accessible and filled with information about the scheduled hearing once DHA sends the agency the hearing notice. The information on this page includes the date the hearing notice was received, the hearing type, the hearing date and the Administrative Law Judge's (ALJ) name and contact information. The IM agency is required to provide the phone number for the ALJ to call to initiate the hearing with the IM agency

representative at the scheduled hearing date and time, the name of the worker who will be appearing at the hearing as the IM agency representative and the direct phone number to reach the IM agency representative outside of the hearing. This page can be updated if information changes.

DECISION NOTICE PAGE:

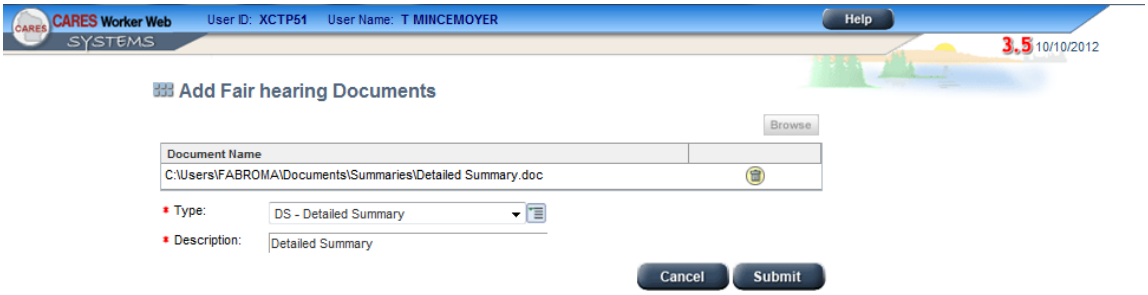


The Decision Notice page will be accessible and filled with information once DHA sends the agency the decision notice. This information includes the date the decision notice was received and the type of decision. It will also include a section labeled “Certificate of Administrative Action” if the hearing type was Remand or Stipulation and the worker is required to take action. The Certificate of Administrative Action section requires the worker to enter a description of the action he or she took to comply with the remand or stipulation and the date the action was taken. The worker is also required to electronically sign this page, certifying that he or she has completed the action and attached supporting documents showing proof of the corrective action taken (i.e. new positive Notice of Decision, Forward Health updates, etc).

Document Viewer and Adding Documents:

The Fair Hearings Tracking tool has its own document viewer that is used only for documents related to Fair Hearings. When documents are sent to the IM agency from DHA through the batch process, they are automatically stored within the viewer and a copy is stored in ECF.

If the IM agency wants to attach documents to send to DHA, they can be uploaded using the 'Add document' button (see ECF Handbook 1.3.3 for instructions on exporting documents from ECF to be uploaded into the tool). These documents may include a detailed summary that is longer than the given 3,000 character box on the detailed summary page or any other supporting evidence such as CARES notices, paystubs, interChange screen shots, etc. If documents are uploaded from ECF onto the worker's PC prior to being uploaded to the Fair Hearings Tracking tool, security protocols need to be followed. These include deleting the documents from your PC after they have been uploaded into the tool and assuring the correct documents are attached to the correct appeal. Any documents that are uploaded into the tool and sent to DHA will be stored in the viewer and a copy will also be stored in ECF.

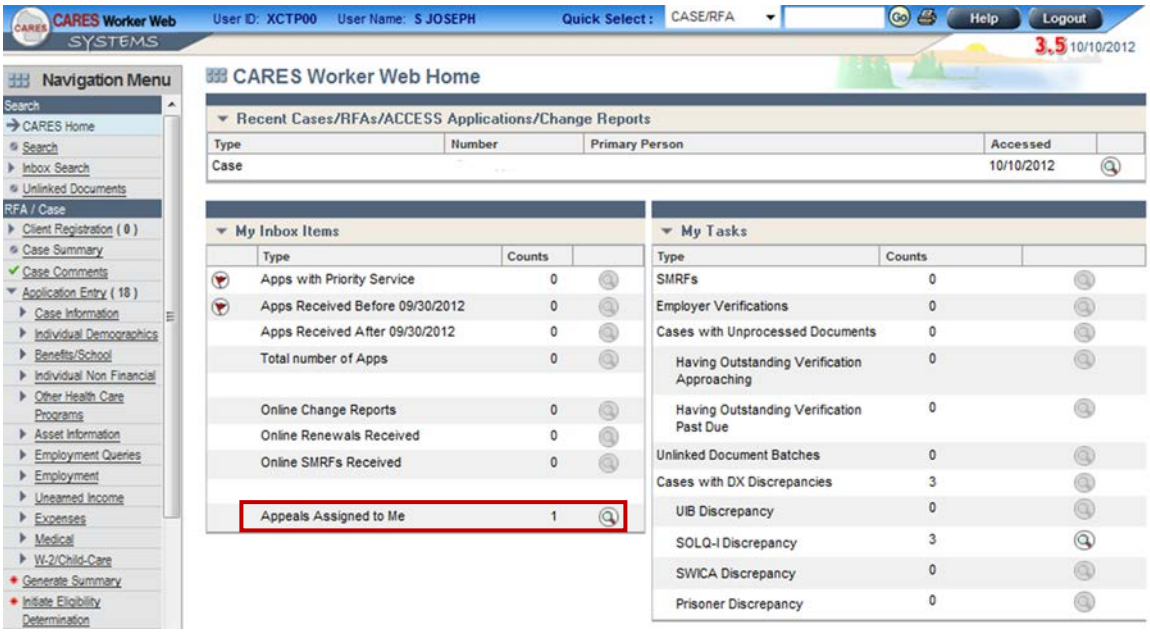


When uploading documents into the Fair Hearing Tracking tool, the worker is required to enter the document type and also a description of the document.

There are 10 document types to choose from:

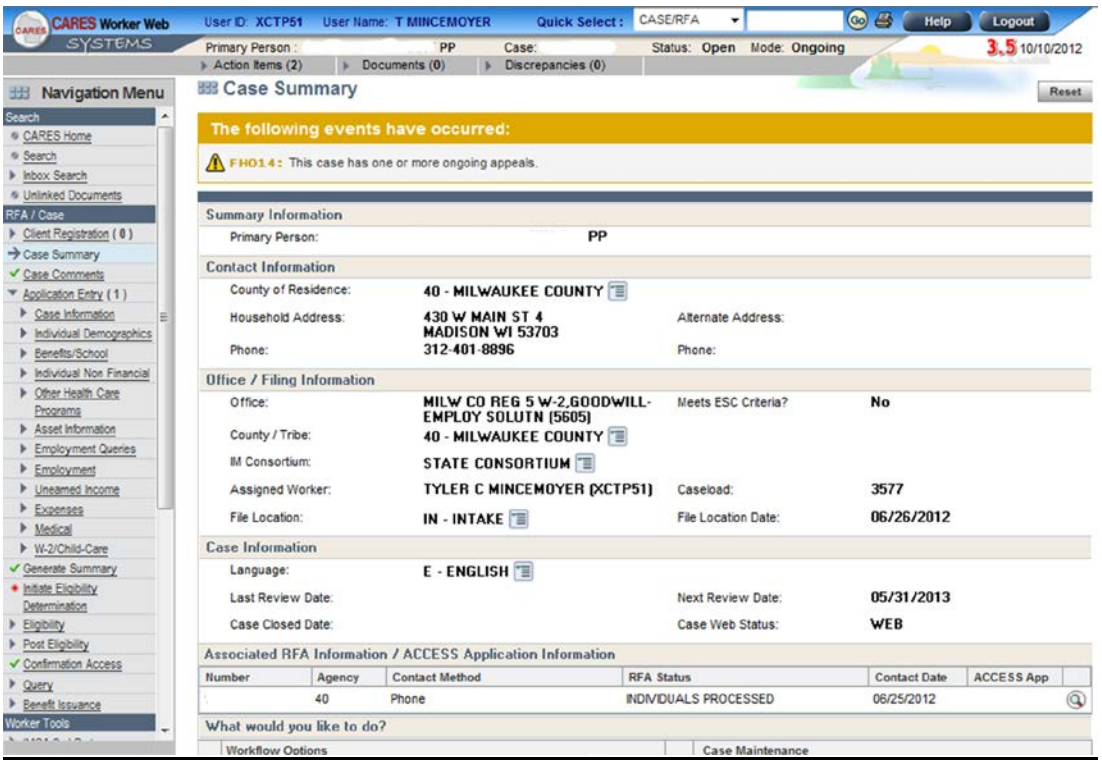
- WF - Withdrawal Form
- IR - Initial Request
- IS - Initial Summary
- DS - Detailed Summary
- AN - Appeal Notice
- HN - Hearing Notice
- DN - Decision Notice
- CA - Certificate of Administrative Action
- EG - Exhibit / General
- IN - Information from DHA

CARES HOME PAGE:



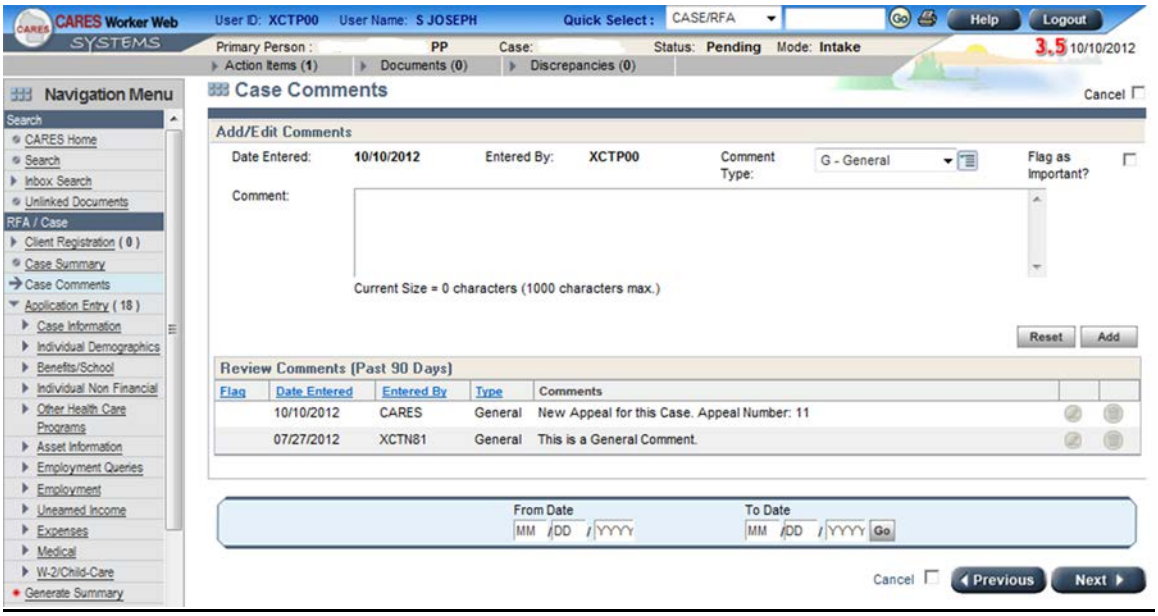
The CARES Worker Web Home page will be updated to show a new inbox item labeled "Appeals Assigned to Me". This will be especially useful for worker's who do not work on fair hearings on a daily basis. This inbox item will help workers know when they need to go into the Fair Hearings Tracking tool to work on an appeal that has been assigned to them.

CASE SUMMARY PAGE:



The Case Summary page will be updated with a banner when there is an open appeal related to the case. It is a yellow banner, so it won't prevent a worker from updating the case. This serves as a caution flag to ensure that changes are not made to the case that would adversely affect the fair hearing status.

CASE COMMENTS:



When an appeal is assigned to a worker and attached to a case, the system will populate a case comment noting that there is a new appeal related to the case and provide the appeal number. The comment will be entered by CARES. If the reader is interested in more information about the appeal, he or she could look up the appeal number in the Fair Hearings Tracking tool.

TRAINING:

Training on how to use the Fair Hearings Tracking tool effectively will be available in the DHS Learning Center prior to the implementation date of December 8, 2012.

Because of the interface between DHA and the IM agencies through batch process, the Fair Hearings Tracking tool will not be available in the CWW - Training Environment.

ATTACHMENTS:

Attachment 1 – Summary of Action Leading to Appeal Form
Attachment 2 – Example Withdrawal Form
Attachment 3 – Example Hearing Notice for hearing conducted by telephone

CONTACTS:

BEPS CARES Information & Problem Resolution Center

*Program Categories – FS – FoodShare, MA – Medicaid, BC+ – BadgerCare Plus, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – FoodShare Employment and Training, BC+ Core – BadgerCare Plus Core, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, Other EP – Other Employment Programs.

DHS/DHCAA/BEPS/RW;AH