



Legal Aid Society of Hawai`i

www.legalaidhawaii.org

DHS Appeal Process

Use this brochure if your Department of Human Services benefits are being denied, reduced, or terminated. This includes AFDC/ TANF/ PONO, GA, AABD, Food Stamps, and Quest.

If you received a notice of overpayment, see Legal Aid's brochure: "Overpayments for DHS programs."

NOTE:

If you are getting denied, reduced, or terminated from a federal Social Security Administration program like SSI; SSDI; or Social Security, the process is different. Call Legal Aid for more assistance.

I got a notice in the mail from DHS. What does it mean?

DHS sends notices when benefits are about to be:

- denied (when you first apply);
- terminated;
- reduced; OR
- if there is an overpayment. (If you received an overpayment notice, see Legal Aid's brochure, "Overpayments.")

What should I do after I get a notice in the mail?

1. Read the notice carefully.

Look at date on the notice and the reason for DHS's decision.

2. Reapply if you are denied or terminated.

You have not received any written notice.

DHS is supposed to give you written notice before they change your benefits.

If you only received a verbal warning from your worker, call him/her and ask for written notice of what was said. Ask specifically why your benefits are being threatened, and ask him/her to include that information in the letter.

When you get the written notice, call Legal Aid to see if we can assist you.

You can reapply for benefits any time after you get terminated or denied. Read the reason on your notice for your denial/termination. This should help you avoid getting denied when you apply again. Reapply even if you plan to appeal DHS's decision.

3. Appeal DHS's decision.

You have the right to appeal. This means that you are asking DHS to reconsider its decision at a hearing. You have **90 calendar days** from the date on the notice to ask for a hearing. At the hearing you will be able to tell your side of the story and prove that DHS's decision was wrong.

If your benefits were TERMINATED or REDUCED and you appeal within 10 calendar days of the date on the notice, you can ask for Aid Paid Pending (APP). See box on the right for more

What is Aid Paid Pending?

Aid Paid Pending (APP) means you will continue to get your current benefit amount until your hearing decision.

If you lose your hearing, you will need to repay the APP you got. DHS will send you an overpayment notice for the amount you need to pay back. This amount can be collected by: (1) deducting 10% of any benefits you receive from DHS; or (2) you repaying DHS a little each month.

To get APP DHS must have TERMINATED or REDUCED your benefits and you must appeal within 10 calendar days of the date on the notice. If you miss this 10-day deadline, you cannot get APP, but you can still appeal within 90 days from the date on the notice.

information on APP. If you miss the 10 calendar days APP deadline, you still have 90 days to appeal in writing to DHS. However, if you miss your 90 day deadline, you cannot appeal. Reapply for benefits as soon as possible.

How do I appeal?

For Food Stamps: You can either call or write to DHS and request a fair hearing. If possible, ask for your fair hearing in writing so you have proof of your request. If you call, make sure you write down the date and time of the call and whom you talked to.

For cash assistance and QUEST: You can either:

- fill out DHS's "Request for Fair Hearing" form OR
- write your own letter which says that (1) you received a notice and (2) you would like to request your fair hearing. You can either hand-deliver or mail the letter. Hand-delivery is best, but make sure you take an extra copy for yourself and get it date-stamped. Keep it for your files. If you must mail your letter, send it certified mail with return receipt requested. Remember to keep a dated copy for your files.

I appealed. What happens next? Once you file an appeal with DHS, you will receive a notice of your hearing date in the mail. At this hearing, you will have to explain your case to a hearing officer.

How To Prepare for Your Hearing

At your hearing, you will have to prove your case to a hearing officer.

1. **Look at the hearing notice and see when your hearing is.** Make sure you are able to go to this hearing. If you cannot make the hearing as scheduled, request another date and time by contacting the Administrative Appeals Office at 586-5290. If you do not call or show up at the hearing, you will automatically lose by default.
2. Before your hearing, start preparing your case. The first notice you get will say why your benefits are being denied, reduced, or terminated. This will be the main issue(s) at your hearing and you must prove that DHS is wrong. Use this reason to help you figure out a strategy on how to prepare your hearing. *See the box below for some strategies that may be useful to you.*
3. Show up on time and at the correct place or you may lose by default.

After the Hearing

While you wait for a decision from DHS, reapply for benefits.

If You Win. Congratulations. If DHS was going to terminate or reduce your benefits, your benefits should continue and be the same amount that you were getting before you got the termination or reduction notice. If DHS was denying your application, you should start to receive benefits.

If You Lose. If you were getting APP, the APP will stop and you will have to pay DHS back for the APP you received. If you haven't already, you can reapply for benefits.

If you think that the hearings officers did something wrong, you can appeal their decision in Circuit Court. You have 30 calendar days from the date on the decision notice to file a Chapter 91 Appeal in Circuit Court.

Appealing in Circuit Court is a long and complex process and takes a lot of work. It involves writing legal briefs and filling out various court forms. If possible, get a private attorney. If you want to try to do it on your own, call Legal Aid for the forms and more instructions.

HELPFUL STRATEGIES

1. Look through your file at your DHS office for anything that may help your case. You can get free copies of any documents you need from your file.
2. Think of ways to prove DHS wrong.

Your worker said you are over the income guidelines: Show your past pay stubs, bank statements, other financial documents.

Your worker said that you did not report something: Look in your file to see if your worker filled out the Certification by Eligibility Worker. Did your worker really explain your reporting duties to you?

You don't understand English well: Ask for an interpreter to be at your hearing. If you think you may have a hard time understanding what is going on at the hearing, ask for one. DHS must provide you with one at your request. Explain at the hearing that you did not understand your reporting duties.

Your worker said that you did not turn in your MERF on time: Look in your file if you did turn in your MERF. Bring any extra copy you may have to the hearing. If you didn't turn in your MERF or turned it in late, show that you had good cause: sick (doctor's or hospital's note); death in the family; had to go off the island/state unexpectedly.

Legal Terms

AABD Aid to Aged, Blind, and Disabled. A cash assistance program for disabled persons.

AFDC/TANF/PONO Aid to Families with Dependent Children. A cash assistance program for families with minor children. Can be called any of these three names.

APP Aid Paid Pending. Getting benefits while you are waiting for the results of your appeal hearing. If you lose, you have to repay DHS for the additional benefits you received

APPEAL When you ask the agency to re-think a decision. You will be given a hearing.

DHS Department of Human Services; the agency that is in charge of AFDC, GA, AABD, Food Stamps, and Quest.

FOOD STAMPS A program that gives food stamp benefits through an Electronic Benefit Transfer (EBT) account. Given to low-income individuals and families through the Department of Human Services.

GA General Assistance. A cash assistance program for disabled persons.

MERF Monthly Eligibility Report Form. This is the form you need to turn into your worker each month; usually for people who receive AFDC, GA, AABD, and Food Stamps.

OVERPAYMENT When DHS pays you too much benefits. It can be caused by DHS or you.

MED-QUEST A medical insurance plan that you can get through the state. You are usually automatically covered if you have AFDC, GA, or AABD (Medicaid Fee for Service).

Legal Aid Society of Hawai'i

<http://www.legalaidhawaii.org>

LEGAL HOTLINE

OPEN Monday to Friday 9-11:30am & 1-3:30pm

Oahu: 536-4302 Maui: 242-0724

Hilo: 934-0678 Kona: 329-8331

Kauai: 245-7580 Molokai: 553-3251

Lanai: 565-6089

Department of Human Services (DHS)

Oahu

Honolulu.....586-8047

333 N. King Street, Rm 201

East Honolulu.....586-8055

333 N. King Street, Rm 201

Leeward.....697-7147

86-088 Farrington Hwy, Suite 106

Waipahu.....692-7171

601 Kamokila Blvd., Rm 468

Windward.....233-3621

45-260 Waikalua Road

Maui

East Maui.....984-8300

54 High Suite 125

West Maui.....243-5110

35 Lunalilo Suite 300

Kauai

Lihue.....274-3371

3060 Ewa Street Rm 103

Kapaa.....822-3475

4-1579 Kuhio Hwy Rm 101

Hanapepe.....335-2110

1-3491 Kaumualii Hwy

Big Island

Hilo Office.....933-8857

13 Keakaulike St.

North Kona Unit.....327-4980

75-5995 Kuakini Hwy Rm 323

South Kona Unit.....323-7573

Kau Unit.....939-2421

Kohala Unit.....889-7141

Hamakua Unit.....775-8854

45-3380 Mamane St. Bldg 1 Rm 110