

What Do I Do If DSHS Stops My Benefits Because I Am A “Fleeing Felon”?

Am I a fleeing felon?

The **Department of Social and Health Services (DSHS)** defines a fleeing felon as:

- “Fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which you are fleeing.
- “Violating a condition of probation or parole as determined by an administrative body or court that has the authority to make the decision.” The crime underlying this violation may be a misdemeanor or a felony.

[WAC 388-442-0010](#).

How does being a fleeing felon affect my public benefits?

If you are a fleeing felon, you are not eligible for many federal and state public benefits. Please refer to the publications regarding social security or veterans benefits if you receive any of the first four benefits on this federal program list. Your benefits for the following **federal programs** may be suspended:

- Social Security retirement;
- Social Security Disability;
- Supplemental Security Income;
- Veterans benefits;
- Food assistance; and
- TANF.

Your benefits for the following **state programs** may be terminated:

- SFA;
- General Assistance (GA); and
- Basic Food Assistance.

WAC 388-442-0010. DSHS will not stop your Basic Food and TANF benefits though if the felony relates to a drug-related crime.

Eligibility for housing assistance is also affected. This publication only addresses the fleeing felon rules for public benefit programs administered by DSHS. For information on the VA or on the Social Security Administration, please see the separate publications addressing fleeing felons for those programs.

Does being a fleeing felon affect benefits for my spouse and children?

Yes, if they are otherwise eligible when your income is counted. For DSHS benefits, the fleeing felon will not be included in the assistance unit, but her or his income will be deemed to the family unit. This means that even though the fleeing felon's income will be counted, no benefits will be provided for the fleeing felon. The benefits will be provided to the other members of the assistance unit though.

DSHS rules permit the child of a fleeing felon, when the child is eligible on her or his own, to receive TANF/SFA even if the child's parent is a fleeing felon. If you are pregnant and a fleeing felon, you may keep your State Family Assistance benefits until the pregnancy ends. Your newborn child may get benefits if that child is eligible on her or his own. Your spouse will be eligible for dependent benefits through these programs unless your spouse is a fleeing felon. If your spouse is a fleeing felon and you are not, your spouse is not eligible for benefits even though you are eligible.

What if I am a child and I am a fleeing felon?

DSHS states that the fleeing felon rule applies to juvenile offenders too. DSHS may be wrong about this though, and if you are a juvenile who cannot get benefits because DSHS says you are a fleeing felon, you should request a fair hearing appeal. You will have to argue, in your hearing, that in Washington, juveniles are not "felons." RCW 13.04.240 says that juveniles who are "delinquent" are adjudicated offenders and are "in no cases convicted of a crime".

A child who is a recipient of DSHS benefits either on her or his own or through her or his parents may lose those benefits. That child will not be eligible for TANF/SFA or Basic Food.

Does it matter if I didn't know or completely forgot about the warrants that make me a fleeing felon?

Yes, DSHS rules require that you know about the outstanding warrant and that you are intentionally feeling to avoid prosecution. If you did not know about the warrant, DSHS should tell you about it and you should right away ask for a chance to resolve it before DSHS takes any action on your benefits.

If I know that I have an outstanding warrant, should I apply for benefits anyway?

Probably not, as this could cause you more problems down the line. The best course would be to attempt to resolve the outstanding warrant before you apply for benefits. When you apply for federal or state public benefits, you will be asked whether you have any outstanding warrants or violations. If you know that you do, you must answer honestly. If you give your answer under oath and you don't tell the truth, then you may later be found guilty of welfare fraud. This could result in jail time as well as in a requirement to pay back any benefits you got as a result of not telling the truth. If you

apply for benefits and have an outstanding warrant or violation, the federal or state agency may notify the appropriate law enforcement agency of your whereabouts in order to facilitate your arrest.

What do I do when I am told that my benefits will be suspended because I am a fleeing felon?

You will want to do three things.

1. Request a Fair Hearing and Continuing Benefits. You have ninety days to request a fair hearing, but to receive continuing benefits while waiting for the hearing, you must request the hearing within ten days of the date of the notice or before the effective date of the proposed action. If DSHS continues to pay your benefits and it is ultimately decided that you were not eligible since you were a fleeing felon, DSHS may seek an overpayment for up to sixty days of continuing benefits, measured from the date your request for a fair hearing is received by the Office of Administrative Hearings.. See the publication titled, “Representing Yourself at a Fair Hearing” for more information. If you first ask for the fair hearing appeal over the phone, write a letter to DSHS that same day asking for the fair hearing appeal and continuing benefits. Keep a copy of the letter and mail a copy to DSHS.

2. Address the Underlying Warrant or Violation. When DSHS notified you about the warrant or the violation, it should have told you where the warrant or violation was issued, the date it was issued, and why it was issued. If this information is not in the notice, ask DSHS to provide it to you in writing.

Once you get this information, you must contact the federal or state agency that issued the warrant or violation and resolve the warrant or violation. First get a copy of the warrant or violation from the court or agency that issued the warrant or violation. Next, contact the office that asked the court or agency to issue it. This is often the prosecutor’s office. Look at the warrant or violation to see who signed it or to see if there is an address on it. This is the office that you will have to work with to resolve the warrant or violation. In some areas, the local public defender will help you with getting the matter resolved. If you can prove that the warrant or violation was addressed or issued to the wrong person, then you should be able to get it dismissed. Here is a list of examples of this. If your situation is not on this list, but it is similar to the items on the list, then be sure to explore it as an option to get the matter dismissed.

- The warrant or violation was issued to someone else with the same name as yours;
- It was issued due to identity theft;
- You were fleeing from an abusive relationship;
- You are low income and could not afford to stay there while the criminal matter was resolved;

- You have rehabilitated yourself – you are now a law abiding citizen; or
- The warrant or violation was issued due to administrative error (for example, you paid the restitution, but the parole officer never gave you credit for it, or you did register your new address with the parole officer even though she or he says you didn't).

If the office that issued the warrant or violation won't dismiss it, then you must meet the terms of the warrant or violation.

If you did not ask for a fair hearing within 90 days of getting the notice that DSHS was suspending your benefits, then you will have to resolve the warrant or violation first. After that is resolved, you can reapply for the benefits.

3. Deal with any overpayment issued. If you request continuing benefits while you try to resolve this matter and if you are not able to get the warrant or violation dismissed, then DSHS may send you a notice of overpayment. If this happens, then please refer to the publication titled, "How to Fight a Cash/Food Stamp Overpayment."

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