



MITT ROMNEY  
Governor

KERRY HEALEY  
Lieutenant Governor


**Commonwealth of Massachusetts**  
*Executive Office of Health and Human Services*  
**Department of Transitional Assistance**  
600 Washington Street • Boston, MA 02111

RONALD PRESTON  
Secretary

JOHN A. WAGNER  
Commissioner

**Field Operations Memo 2003-29**  
**September 26, 2003**

**To:** Transitional Assistance Office Staff

**From:**  Cescia Derderian, Assistant Commissioner for Field Operations

**Re:** **Patterson v. John Wagner, Commissioner DTA - Emergency Assistance**

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**Background**

A superior court judge has issued a temporary restraining order mandating that the Department stop imposing the \$100 per night charge to an EA AU who loses a shelter termination appeal after requesting that the Department continue their assistance pending their appeal.

The court further ordered that the Department stop using the NFL-ST and NFL-9 as revised effective September 1, 2003. Furthermore, the Department must notify all EA AUs who have received notices of shelter terminations dated on or after September 4, 2003 that the Department will not impose the \$100 per night charge if they file an appeal within 21 days of the date of the original termination notice.

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**TAO Responsibilities**

Because of the court order described above, each TAO must:

- identify all EA AUs who have received an EA shelter termination notice dated on or after September 4, 2003. To assist in the identification process, you may reference the BEACON View screen entitled "EA AUs in Shelters within Last Two Months";
  - after identifying such AUs, the TAO must send the identified AUs the notice as shown on Attachment A;
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**TAO  
Responsibilities  
(continued)**

- in addition, all TAOs must stop using the NFL-ST and NFL-9 notices revised effective 9/2003. Use the revised NFL-ST (Attachment B) and NFL-9 (Attachment C) notices revised effective 9/26/2003. Until you receive a supply from Schraffts, please copy these attachments; and
- furthermore, if you identify any AUs with a deadline in the next few days for filing an appeal or filing an appeal within the ten days necessary to receive aid pending, please contact them by telephone to inform them that the Department has stopped imposing the \$100 per night charge.

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**Questions**

If you have any questions regarding this restraining order or your obligations as described in this memo, please contact Dan LePage from the Legal Division at 617-348-8530.

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TAO Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Important! This notice affects your benefits and requires immediate attention!**

**IMPORTANTE! Este aviso afecta sus beneficios y requiere atención inmediata!**

The EA shelter termination notice that you received stated that if you appealed and chose to stay in shelter until your hearing and then lost your appeal, you would be charged \$100 per night for that period. This policy is not in effect at this time. As long as you file an appeal within 21 days after the date of your termination notice, you can stay in shelter while your appeal is being decided and not have to pay any money if you lose. If you need help filing an appeal, contact your case worker.





Massachusetts Department of Transitional Assistance  
**Notice of Termination of Temporary  
 Emergency Shelter**

**Attachment B**

Date \_\_\_\_\_

TAO \_\_\_\_\_

\_\_\_\_\_  
 Name

\_\_\_\_\_  
 SSN

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City

\_\_\_\_\_  
 ZIP

This notice informs you that your temporary emergency shelter benefits are being stopped effective \_\_\_\_\_ because:

- You have been asked to leave a temporary emergency shelter because there is reasonable cause to believe that a member of the EA assistance unit is engaging in or engaged in a criminal activity that threatens the health, safety and/or security of you, other residents, guests and/or the staff of the temporary emergency shelter. 106 CMR 309.040(F)(1)(a)
- You did not comply with one or more of the temporary emergency shelter requirements for a second time by:
  - a. not attending a scheduled interview for the \_\_\_\_\_ family shelter without good cause. 106 CMR 309.040(E)(1)(a)
  - b. behaving unreasonably at the interview for the \_\_\_\_\_ family shelter resulting in your not being accepted for placement. 106 CMR 309.040(E)(1)(b)
  - c. not cooperating in developing your self-sufficiency plan. 106 CMR 309.040(E)(1)(c)
  - d. not participating in the activities in your self-sufficiency plan. 106 CMR 309.040(E)(1)(d)
  - e. rejecting one opportunity for safe permanent housing. 106 CMR 309.040(E)(1)(e)
  - f. violating three or more shelter rules violations. 106 CMR 309.040(E)(1)(f)
  - g. one hotel rule violation as specified on the *Notice To Recipients of EA Staying in Hotels/Motels* form or being expelled by the hotel/motel for a rule violation. 106 CMR 309.040(E)(1)(g)
  - h. posing a threat to the health and/or safety of you, other guests and/or the staff of the temporary shelter. 106 CMR 309.040(E)(1)(h)

This notice informs you that while the termination of your shelter benefits effective \_\_\_\_\_ is pending, you have again not complied with your responsibilities while in a temporary emergency shelter.

Reason and Manual Citation \_\_\_\_\_

If you disagree with this decision, you have the right to a fair hearing. The reverse side of this notice contains important information about your hearing rights. To request a hearing, complete the reverse side of one copy of this notice.

\_\_\_\_\_  
 TAO Worker's Signature

\_\_\_\_\_  
 Director's/Designee's Signature

# Appeal Rights

## Your Right To Appeal

You have the right to a hearing with a Hearing Officer to challenge an action or decision by the Department of Transitional Assistance about your case.

## How To Appeal

If you want a hearing, fill in the blanks at the bottom of this page and mail or fax it to us at: Department of Transitional Assistance (DTA), Division of Hearings, P.O. Box 167, Boston, MA 02112-0167 or fax to (617) 348-5311.

**If we get your hearing request within 10 days from the date of this notice, you can keep your shelter benefits while you are waiting for your hearing and the decision. If the shelter approves, you can stay in your current shelter placement until the decision.**

We must get your hearing request **no later than 21 days** from the date of this notice or you will not get a hearing.

## When the Hearing Will Be Held

Your hearing will be held as soon as possible. You will get notice at least two days in advance of the date, time and place for the hearing. You can only change the hearing date if you have a good reason (good cause). To ask for a change in the hearing date for good cause, call the Division of Hearings at (617) 348-5321 or 1-800-882-2017. If you miss the hearing without good cause, you may lose your rights to a hearing.

## Your Right To Get Help for the Hearing

You have the right to bring an attorney or anyone else as your representative to the hearing. To try to get free legal help for your hearing, contact legal services or other community agencies. Your local DTA office can give you information about these services.

You or your representative have the right to see your case file before the hearing, to bring witnesses and present evidence at the hearing, and to question (cross-examine) witnesses against you. The Hearing Officer must make a decision based on all the evidence presented.

If you do not speak English well and want an interpreter, please write this on your hearing request or call the Division of Hearings at (617) 348-5321 or 1-800-882-2017 (TTY (617) 348-5337 or 1-800-532-6238) for the hearing impaired, as soon as possible before the hearing.

## Nondiscrimination Notice for Clients

Under federal and state law the Massachusetts Department of Transitional Assistance does not discriminate on the basis of race, color, sex, sexual orientation, national origin, religion, creed, age or disability. For help with these matters, we encourage you to contact the Director of Equal Opportunity, Department of Transitional Assistance, 600 Washington Street, Room 4039, Boston MA 02111, Tel. (617) 348-8490, TTY (617) 348-5599 for the hearing impaired.

I, \_\_\_\_\_, hereby request a fair hearing before a hearing officer of the Division of Hearings. I wish to request a hearing for the following reasons:

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Name \_\_\_\_\_ SSN \_\_\_\_\_  
Address \_\_\_\_\_ Telephone (     ) \_\_\_\_\_  
City/ZIP \_\_\_\_\_ Date \_\_\_\_\_  
Signature \_\_\_\_\_

## My authorized representative is:

Name \_\_\_\_\_ Title \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone (     ) \_\_\_\_\_

- A. I do wish to continue staying at my present temporary emergency shelter placement.  
 B. I do not wish to continue staying at my present temporary emergency shelter placement.



# Notice of Approval, Denial or Termination for Emergency Assistance or Other Financial Services

Massachusetts Department of Transitional Assistance

Attachment C

Date \_\_\_\_\_

TAO \_\_\_\_\_

Name \_\_\_\_\_ SSN \_\_\_\_\_

Address, City & Zip \_\_\_\_\_

This notice is to inform you that:

Your request for:     Emergency Assistance Temporary Emergency Shelter     Other

**is approved**

Service(s)	Amount	Service(s)	Amount
_____	\$ _____	_____	\$ _____

**is denied**

Service(s)	Reason and Manual Citation
_____	_____

Your:     Emergency Assistance Temporary Emergency Shelter     Other

**is terminated** effective \_\_\_\_\_ because:

- You did not appear at a designated shelter placement without good cause. 106 CMR 309.040(F)(1)(c)
- Your monthly gross income exceeds the EA Eligibility Standard. 106 CMR 309.020(E) and 106 CMR 309.040(F)(1)(f)
- You abandoned the shelter placement. 106 CMR 309.040(F)(1)(d)
- You have feasible alternative housing. 106 CMR 309.040(F)(1)(e)
- You refused an available placement. 106 CMR 309.040(F)(1)(c)
- Other Reason and Manual Citation

If you disagree with this decision, you have a right to a fair hearing. The reverse side of this notice contains important information about your hearing rights. To request a hearing, complete the reverse side of one copy of this notice.

TAO Worker's Signature \_\_\_\_\_

Supervisor's Signature \_\_\_\_\_

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I, \_\_\_\_\_, hereby request a fair hearing before a Hearing Officer of the Division of Hearings. I wish to request a hearing for the following reasons:

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Name \_\_\_\_\_ SSN \_\_\_\_\_  
Address \_\_\_\_\_ Telephone (      ) \_\_\_\_\_  
City/ZIP \_\_\_\_\_ Date \_\_\_\_\_  
Signature \_\_\_\_\_

## My authorized representative is:

Name \_\_\_\_\_ Title \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone (      ) \_\_\_\_\_

- A. I do wish to continue staying at my present temporary emergency shelter placement.  
 B. I do not wish to continue staying at my present temporary emergency shelter placement.