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Lieutenant Governor


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

TIMOTHY MURPHY
Secretary

JOHN A. WAGNER
Commissioner

Field Operations Memo 2006-50
October 19, 2006

To: Transitional Assistance Office Staff

From:  Cescia Derderian, Assistant Commissioner for Field Operations

Re: Revision to the Notice of Termination of Temporary Emergency Shelter (NFL-ST) and the Warning Notice of Noncompliance (TES-WN-13)

Overview

The EA AU is issued a written notification when the Department intends to terminate the EA AU's shelter benefits or when the EA AU has been found to be noncompliant with the EA regulations. The *Warning Notice of Noncompliance (TES-WN-13)* and the *Notice of Termination of Temporary Emergency Shelter (NFL-ST)* are used for these purposes.

Purpose of Memo

This memo notifies staff that the *TES-WN-13* (Attachment A) and the *NFL-ST* (Attachment B) are being revised to include a separate section to identify the name of the EA AU member(s) involved, a description of the incident(s)/violation(s) and the date(s) of each of the incident(s)/violation(s) occurred.

Noncompliance Committee

Upon receipt of a noncompliance referral accompanied by all supporting documentation for review, the Noncompliance Committee will render a decision. Once a decision is made, the TAO will receive written notice of the committee's decision. No action can be taken by the AU Manager or Homeless Coordinator until notified of the decision by the committee.

Issuing the TES-WN-13 or NFL-ST

If the decision of the Noncompliance Committee is to warn the EA AU about the noncompliance or to terminate the shelter benefits, the AU Manager or Homeless Coordinator must complete the TES-WN-13 or the NFL-ST in the following manner:

- Complete the top section of the notice with the current date, the TAO address, the EA AU name, SSN and mailing address;
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**Issuing the
TES-WN-13 or
NFL-ST**

-
- Put a checkmark in the appropriate box(es) to identify the applicable regulation and manual citation for the noncompliance or termination;
 - Put a checkmark in the new box next to the “Household Member(s)” and “Description of Incident(s)/Violation(s)” section on the form;
 - Write the **name of the EA AU member** who:
 - is responsible for the first noncompliance (TES-WN-13);
 - is engaging in or has engaged in the criminal activity (NFL-ST); or
 - is responsible for the second determination of noncompliance (NFL-ST).

The EA AU member can be an adult or a child.

- Write a **description and the date of each incident(s)/violation(s)** that has caused the noncompliance warning (TES-WN-13) or the termination of the shelter benefits (NFL-ST). The precise description, as provided by the Noncompliance Committee, will include the action that is considered the noncompliance or second noncompliance, or the criminal activity that is a threat to health, safety and/or security and the date of each incident(s)/violation(s).

Example: On the TES-WN-13, in addition to putting a checkmark in the box next to item “f. not participating in the activities in one or more parts of the self-sufficiency plan without good cause. EA 106 CMR 309.040(E)(1)(c),” the incident(s)/violation(s) description must state the date and particular reason, such as failure to get a job, failure to do housing search, failure to meet with Housing Search Worker, etc.

If the noncompliance is for not following three or more shelter rules, each of the violations that resulted in the determination of noncompliance must be included as well as the date of each violation.

Note: When the decision is to terminate benefits, the NFL-ST must be sent at least 10 days in advance of the proposed shelter termination date.

Copies of all notices issued must be faxed into Field Operations.

Questions

If you have any questions, please have your Hotline designee call the Policy Hotline at 617-348-8478.



Warning Notice of Noncompliance

Date

TAO

Address

Name

SSN

Address

City/Town

ZIP

This Warning Notice explains how you have not met your responsibilities while in a temporary emergency shelter. You have not met the temporary emergency shelter requirements by:

- a. violating three or more reasonable shelter rules. 106 CMR 309.040(E)(1)(e)
b. being a threat to the health and/or safety of yourself, other shelter guests and/or the staff of the temporary emergency shelter. 106 CMR 309.040(E)(1)(f)
c. not attending scheduled interview(s) at the family shelter(s) without good cause. EA 106 CMR 309.040(E)(1)(a)
d. behaving unreasonably at the interview(s) at the family shelter(s) resulting in your not being accepted for placement in the shelter(s). EA 106 CMR 309.040(E)(1)(b)
e. not cooperating in developing one or more parts of the self-sufficiency plan. EA 106 CMR 309.040(E)(1)(c)
f. not participating in the activities in one or more parts of the self-sufficiency plan without good cause. EA 106 CMR 309.040(E)(1)(c)
g. rejecting one opportunity for safe permanent housing. EA 106 CMR 309.040(E)(1)(d)

EA AU Member(s)
Description of Incident(s)/Violation(s) and Date(s)

If you disagree with the noncompliance decision and/or the decision to transfer you, 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.

You may request a face-to-face interview with your worker to discuss this situation and the consequences of another instance of noncompliance. Call your worker at the telephone number below if you want to have such an interview.

If you do not comply with the temporary emergency shelter requirements again, for any the above reasons, your temporary emergency shelter benefits will be stopped.

AU Manager / Homeless Coordinator's Signature

Telephone Number

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. You may appeal the shelter placement only if you believe the Department has not made reasonable efforts to find temporary emergency shelter to accommodate the physical composition of your household and to place you within 20 miles of your home community.

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, Division of Hearings, P.O. Box 120167, 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 you appeal within 10 days and are appealing a transfer because you have been asked to leave your current family shelter placement, you can stay in your current family shelter placement until the decision, only if the family shelter approves.

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:

Name _____

SSN _____

Address _____

Telephone () _____

City/ZIP _____

Date _____

Signature _____

My authorized representative is:

Name _____

Title _____

Address _____

Telephone () _____



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

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: 106 CMR 309.040(F)(1)(b)
 - 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)(c)
 - e. rejecting one opportunity for safe permanent housing. 106 CMR 309.040(E)(1)(d)
 - f. violating three or more shelter rules violations. 106 CMR 309.040(E)(1)(e)
 - 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)(f)

EA AU Member(s) _____
 Description of Incident(s)/Violation(s) and Date(s) _____

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.

 AU Manager / Homeless Coordinator's Signature
 NFL-ST (Rev. 10/2006)
 13-039-1006-05

 Director/Designee's Signature

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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.

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Name _____ SSN _____

Address _____ Telephone () _____

City/ZIP _____ Date _____

Signature _____

My authorized representative is:

Name _____ Title _____

Address _____

Telephone () _____