



JANE SWIFT  
Governor

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

WILLIAM D. O'LEARY  
Secretary

CLAIRE MCINTIRE

**Field Operations Memo 2001-31**  
**August 23, 2001**

Transitional Assistance Office Staff

From:



Cescia Derderian, Acting Assistant Commissioner for Field Operations

Emergency Assistance - Court Order

**Background**

This memo is to inform you of a court-ordered change to the EA appeal timeframes. In a preliminary decision in *Massachusetts Coalition for the Homeless, et al v. McIntire*, Superior Court Judge Cratsley has ordered the Department to vacate the current regulations that give EA recipients 10 days from the date of the termination notice to appeal. Until the Department promulgates new regulations establishing new EA appeal timeframes, **the Department must use the 90-day appeal time limits that apply to other programs for EA terminations.**

**Revised NFL-9 and NFL-ST**

The *Notice of Approval, Denial or Termination of Emergency Assistance or Other Financial Assistance Benefits* (NFL-9) (Attachment A) and the *Notice of Termination of Temporary Emergency Shelter Benefits* (NFL-ST) (Attachment B) have been revised to meet the requirements of the court order. Effective immediately, the revised NFL-9 and NFL-ST must be used. An initial supply of the revised notices is being sent to each TAO along with this memo. Please discard current NFL-9 and NFL-ST notices.

**Inform EA AUs**

AU Managers should inform any EA AU facing termination of this change to the EA appeal timeframes.

**Questions**

If you have any questions related to this court order, please have your Hotline designee call the Policy Hotline at 617-348-8470.



Notice of Approval, Denial or Termination for  
Emergency Assistance or Other Financial Services  
Massachusetts Department of Transitional Assistance

Date \_\_\_\_\_

TAO \_\_\_\_\_

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

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

This notice is to inform you that:

Your request for:     Emergency Assistance     Other

is approved

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

is denied

Service(s)	Reason and Manual Citation
_____	_____
_____	_____

Your:                     Emergency Assistance     Other

is terminated effective \_\_\_\_\_

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.

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



# Notice of Request for a Fair Hearing

Massachusetts Department of Transitional Assistance

Division of Hearings

P.O. Box 167, Boston, Massachusetts 02112

**YOUR RIGHT TO APPEAL:** If you disagree with any action or inaction taken by the Department of Transitional Assistance (DTA), you have the right to appeal and receive a fair hearing before an independent referee. DTA must receive your request for a fair hearing no later than 90 days from the date on this notice. Exceptions to the 90-day time limit are: (1) you have 30 days from the date of mailing of the notice by the Department of Revenue to request a hearing regarding the intercept of your state tax refund, (2) you may appeal the amount of your Food Stamp (FS) benefits at any time during your FS certification period, if you think you are not receiving the correct amount, (3) you have up to 120 days if DTA fails to act on your request for services, and (4) you have up to 120 days to appeal alleged coercive action or otherwise improper conduct or up to one year under certain specified circumstances.

**HOW TO APPEAL:** If you wish to request a fair hearing, send this page with the bottom section completed to: DTA, Division of Hearings (DOH), P.O. Box 167, Boston, Massachusetts 02112 or fax to (617) 241-2535. Please keep the copy for your own records.

**IF YOU ARE CURRENTLY RECEIVING ASSISTANCE, READ THIS BLOCK:** Your benefits will be continued until a decision is made on your appeal if DOH receives your appeal request within 10 days from the date on this notice. If you are appealing a FS issue, and your FS certification period ends before your appeal is decided, you will continue to receive the same FS benefits only until the end of your certification period. If you receive assistance during your appeal, but lose your appeal, DTA can recover from you the assistance to which you were not entitled. If you receive TAFDC time-limited benefits during an appeal, which you then lose, the months for which you have received assistance will count toward your time-limited benefits. If you do not wish to continue to receive assistance during your appeal, check Box A below. If you do not receive benefits during your appeal, and you win your appeal, DTA will promptly correct any underpayment.

**WHEN THE HEARING WILL BE HELD:** You will be given at least 10 days notice prior to the fair hearing of the date, time and place of the hearing to permit you time to prepare your case. Fair hearings on EA shelter benefits are expedited; you will be given at least two days notice prior to the fair hearing of its date, time and place. If you wish to have a fair hearing scheduled sooner, check Box B below. If you have good cause for not being able to attend the fair hearing, please contact DOH at (617) 241-2500 or 1-800-882-2017 (TTY (617) 242-8654 or 1-800-532-6238, for the hearing impaired), before the hearing date, so that your hearing can be rescheduled. Failure to appear at the fair hearing without good cause may result in the dismissal of your appeal, except for the first scheduled hearing involving any aspect of the FS Program where good cause for rescheduling need not be demonstrated.

**YOUR RIGHT TO BE ASSISTED AT THE HEARING:** If you cannot speak English or understand it well or if you are hearing impaired and wish to have DOH provide an interpreter, please write that on this appeal request or call DOH at (617) 241-2500 or 1-800-882-2017, at least a week before the hearing. At the hearing, you may be accompanied by an interpreter, attorney, or other representative at your expense. You may wish to contact a local legal services office or community agency for assistance. Information about local legal services offices and other services provided by community agencies in your area can be obtained by contacting your local office. These agencies may provide advice or representation at no cost.

You or your representative may subpoena witnesses, present evidence and cross-examine witnesses. The referee must make a decision on all evidence presented at the fair hearing. You or your representative will be permitted to see your case file before the hearing. If you want to review your case file, schedule an appointment with your worker before the hearing.

**NONDISCRIMINATION NOTICE FOR CLIENTS:** Under federal and state law the Massachusetts DTA does not discriminate on the basis of race, color, sex, sexual orientation, national origin, religion, creed, age or disability. If you have any questions or concerns, we encourage you to contact the Director of Equal Opportunity, DTA, 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 referee of DOH.

A. I do not wish to continue receiving the disputed amount of assistance during the appeal process.

B. I request an expedited hearing.

The reason I wish to request a fair hearing is \_\_\_\_\_

Your Name (Print) \_\_\_\_\_ SSN \_\_\_\_\_

Address \_\_\_\_\_ Telephone ( ) \_\_\_\_\_

City/ZIP \_\_\_\_\_ Date \_\_\_\_\_

Your Signature \_\_\_\_\_

My authorized representative is: Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_ City/ZIP \_\_\_\_\_

Telephone ( ) \_\_\_\_\_



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 it is alleged 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 failed to comply with one or more of the temporary emergency shelter requirements for a second time. 106 CMR 309.040(F)(1)(b)
  - a. not attending a scheduled interview for the \_\_\_\_\_ family shelter without good cause. 106CMR 309.040(E)(1)(a)
  - b. not behaving reasonably at the interview for the \_\_\_\_\_ family shelter resulting in your not being accepted for placement. 106 CMR 309.040(E)(1)(b)
  - c. not making all reasonable efforts to obtain safe permanent housing. 106 CMR 309.040(E)(1)(c)
  - d. not meeting at least weekly with your Housing Assistance Program worker. 106 CMR 309.040(E)(1)(c)
  - e. not agreeing to a self-sufficiency plan. 106 CMR 309.040(E)(1)(c)
  - f. not cooperating in developing your self-sufficiency plan. 106 CMR 309.040(E)(1)(c)
  - g. not participating in the activities in your self-sufficiency plan. 106 CMR 309.040(E)(1)(c)
  - h. rejecting one opportunity for safe permanent housing. 106 CMR 309.040(E)(1)(d)
  - i. being asked to leave a temporary shelter because of three or more shelter rules violations or being 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)(e)

This notice informs you that while the termination of your shelter benefits effective \_\_\_\_\_ is pending, you have again failed to comply 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.

You may want to contact your local Department of Social Services office directly.

The address is: \_\_\_\_\_  
 \_\_\_\_\_

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

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

cc: DSS local office

# Appeal Rights

## Your Right To Appeal

Massachusetts law provides that if you disagree with an action by the Department of Transitional Assistance, you have the right to appeal and receive a fair hearing before a referee of the Division of Hearings (DOH).

## How To Appeal

If you wish to appeal, complete the information below and mail it to: Department of Transitional Assistance, Division of Hearings, P.O. Box 167, Boston, MA 02112 or fax to (617) 241-2535. It must be received by the Division of Hearings within 90 calendar days of the date of this notice. If DOH receives your appeal request within 10 days from the date of this notice, your benefits will continue until a decision is made on your appeal.

## When the Hearing Will Be Held

An expedited hearing will be held on your appeal before a referee from the Division of Hearings. You will be notified of the date, place, and time of the hearing at least two days in advance. The Department will schedule the hearing as soon as possible after you receive this notice. You may not change the date of this hearing without good cause. Failure to appear at a fair hearing without good cause may result in the dismissal of your appeal. If you believe that you have good cause to change the date of this hearing, contact the Division of Hearings at (617) 241-2500 or 1-800-882-2017.

## Your Right To Be Assisted At The Hearing

If you are not fluent in English and wish to have the Division of Hearings provide an interpreter, please write that on this appeal request or call the Division of Hearings at (617) 241-2500 or 1-800-882-2017, at least a week before the hearing. At the hearing, you may appear personally and may be accompanied by an attorney or other representative at your own expense. You may wish to contact a local legal services office or community agency that may provide advice or representation at no charge. Information about these services, if available in your area, can be obtained by contacting the local office. You or your representative may bring witnesses, present evidence, and cross-examine witnesses. The referee must make a decision based on all of the evidence presented. You or your representative will be permitted to see your written record prior to the hearing if you so desire.

## Placement Pending the Fair Hearing Decision

If DOH receives your appeal request within 10 days from the date of this notice, you may stay in your temporary emergency shelter placement or another temporary emergency shelter only with the shelter provider's approval, determined by the Department while you are waiting for a hearing and decision.

## 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 handicap. For help with any matter pertaining to this policy, 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.

\_\_\_\_\_, hereby request a fair hearing before a referee 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 ( \_\_\_\_\_ ) \_\_\_\_\_

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