



JANE SWIFT  
Governor


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

ROBERT P. GITTENS  
Secretary

JOHN A. WAGNER  
Commissioner

**Field Operations Memo 2002-14**  
**June 19, 2002**

**To:** Transitional Assistance Office Staff

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

**Re:** Emergency Assistance - Court Order - 90 Days to Appeal

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**Overview**

This memo is to inform you of a court-ordered change to the EA appeal timeframes. In another decision in *Massachusetts Coalition for the Homeless et al. v. McIntire*, Superior Court Judge Cratsley has enjoined the Department from using the 10-day appeal period as specified in 106 CMR 309.070(B)(2) relating to EA actions. Until the Department promulgates new regulations establishing new EA appeal timeframes, **the Department must use the 90-day appeal time limit in 106 CMR 343.140(B)(1) for any EA action: denials, terminations, transfers and noncompliance decisions.**

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**Revised Notices** To meet the requirements of the court order, the following four EA notices have been revised:

- *Warning Notice of Noncompliance* TES-WN-1 (Rev.6/2002) (Attachment A);
- *Warning Notice of Noncompliance/Temporary Emergency Shelter Placement* TES-WN-2 (Rev. 6/2002) (Attachment B);
- *Notice of Shelter Transfer* TES-TR-1 (Rev. 6/2002) (Attachment C); and
- *Notice of Transfer Due to Shelter Termination* TES-TR-3 (Rev. 6/2002) (Attachment D).

The NFL-9 (8/2001 with DOH 1/2002) and NFL-ST (12/2001 with DOH 1/2002) were revised with the 90-day appeal time limit language.

**Important: Because of the court order, make sure all old versions of the six EA notices mentioned above have been discarded and only the versions that state 90 days to appeal are being issued to applicants and recipients.**

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**Questions**

If you have any questions related to this court order, please have your Hotline designee call the Policy Hotline at 617-348-8478.

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Massachusetts Department of Transitional Assistance  
**Warning Notice of Noncompliance**

**Attachment A**

\_\_\_\_\_  
Date  
 \_\_\_\_\_  
TAO  
 \_\_\_\_\_  
Address

\_\_\_\_\_  
Name  
 \_\_\_\_\_  
Address

\_\_\_\_\_  
SSN  
 \_\_\_\_\_  
City/Town ZIP

This Warning Notice explains how you have failed to comply with your responsibilities while in a temporary emergency shelter.

You have failed to comply with the temporary emergency shelter requirements in one or more of the following ways:

You have:

- a. failed to attend scheduled interview(s) for the family shelter(s) listed below without good cause. EA 106 CMR 309.040(E)(1)(a)
- b. behaved unreasonably at the interview(s) for the family shelter(s) listed below resulting in your not being accepted for placement in the shelter(s). EA 106 CMR 309.040(E)(1)(b)
- c. not made all reasonable efforts to obtain safe permanent housing. EA 106 CMR 309.040(E)(1)(c)
- d. not met at least weekly with your Housing Assistance Program worker. EA 106 CMR 309.040(E)(1)(c)
- e. not agreed to a self-sufficiency plan. EA 106 CMR 309.040(E)(1)(c)
- f. not cooperated in developing one or more parts of the self-sufficiency plan. EA 106 CMR 309.040(E)(1)(c)
- g. not participated in the activities in one or more parts of the self-sufficiency plan. EA 106 CMR 309.040(E)(1)(c)
- h. rejected one opportunity for safe permanent housing EA 106 CMR 309.040(E)(1)(d)

Name of shelter/permanent housing \_\_\_\_\_

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 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 fail to comply with the temporary emergency shelter requirements another time for one or more of the following reasons, **your Temporary Emergency Shelter benefits will be stopped:**

- (1) one or more of the above reasons (a. through h.); or
- (2) you are asked to leave a temporary emergency shelter because of three or more shelter rules violations, one hotel rule violation as specified on the *Notice To Recipients of EA Staying in Hotels/Motels* form or being a threat to the health and/or safety of yourself, other guests and/or the staff of the temporary emergency shelter; or
- (3) one of your current reason(s) for noncompliance is that you have already rejected one opportunity for safe permanent housing **and** you reject one more opportunity for safe permanent housing.

You will receive a separate notice if your temporary emergency shelter benefits are going to stop.

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

\_\_\_\_\_  
Telephone Number





**Massachusetts Department of Transitional Assistance**

**Division of Hearings**

P.O. Box 167, Boston, Massachusetts 02112-0167

**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 the above address or fax it to (617) 348-5311. It must be received by the Division of Hearings within 90 calendar days from the date of this notice.

**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. 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 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) 348-5321 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) 348-5321 or 1-800-882-2017, or if you are hearing impaired please call (TTY (617) 348-5337 or 1-800-532-6238) at least a week before the hearing. At the hearing, you may appear personally and be accompanied by an attorney or other representative at your expense. You may wish to contact a local legal service 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 the evidence presented at the hearing and only on 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**

You may stay in your temporary emergency shelter placement only with the shelter provider's approval, or another temporary emergency shelter 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.

I, \_\_\_\_\_ 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 \_\_\_\_\_ City/ZIP \_\_\_\_\_  
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.



Massachusetts Department of Transitional Assistance  
**Warning Notice of Noncompliance/  
 Temporary Emergency  
 Shelter Placement**

**Attachment B**

\_\_\_\_\_  
Date  
 \_\_\_\_\_  
TAO  
 \_\_\_\_\_  
Address

\_\_\_\_\_  
Name

\_\_\_\_\_  
SSN

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/Town ZIP

This Warning Notice explains how you did not comply with your responsibilities while in a temporary emergency shelter. You have failed to comply with the temporary emergency shelter requirements and have been asked to leave the

\_\_\_\_\_ shelter because of:

- a. three or more shelter rules violations;
- b. being a threat to the health and/or safety of yourself, other shelter guests and/or the staff of the temporary emergency shelter; as found in EA 106 CMR 309.040 (E)(1)(e)
- c. one hotel rule violation as specified on the *Notice To Recipients of EA Staying in Hotels/Motels* form.

As a result of this noncompliance, on or after \_\_\_\_\_, the \_\_\_\_\_ will become your designated shelter and you are subject to all the rules of this shelter.

If you disagree with the decision to transfer you to a designated shelter, 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 fail to comply with the temporary emergency shelter requirements another time for one or more of the following reasons, **your temporary emergency shelter benefits will be stopped:**

- a. failing to attend scheduled interview(s) for the family shelter(s) without good cause. EA 106 CMR 309.040(E) (1) (a)
- b. behaving unreasonably at the interview(s) for the family shelter(s) listed below resulting in your not being accepted for placement in the shelter(s). EA 106 CMR 309.040(E) (1) (b)
- c. not making all reasonable efforts to obtain safe permanent housing. EA 106 CMR 309.040(E) (1) (c)
- d. not meeting at least weekly with your Housing Assistance Program worker. EA 106 CMR 309.040(E) (1) (c)
- e. not agreeing to a self-sufficiency plan. EA 106 CMR 309.040(E) (1) (c)
- f. not cooperating in developing one or more parts of a self-sufficiency plan. EA 106 CMR 309.040(E) (1) (c)
- g. not participating in the activities in one or more parts in the self-sufficiency plan. EA 106 CMR 309.040(E) (1) (c)
- h. rejecting one opportunity for safe permanent housing.
- i. are asked to leave temporary shelter because of three or more shelter rules violations or one hotel rule violation as specified on the *Notice To Recipients of EA Staying in Hotels/Motels* form. EA 106 CMR 309.040(E) (1) (e)
- j. are asked to leave temporary shelter because of being a threat to the health and/or safety of yourself, other guests and/or the staff of the temporary emergency shelter. EA 106 CMR 309.040(E) (1) (e)

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

\_\_\_\_\_  
Telephone Number





**Massachusetts Department of Transitional Assistance**

**Division of Hearings**

P.O. Box 167, Boston, Massachusetts 02112-0167

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

**How To Appeal**

If you wish to appeal, complete the information below and mail it to the above address or fax it to (617) 348-5311. It must be received by the Division of Hearings within 90 calendar days from the date of this notice.

**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. 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 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) 348-5321 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) 348-5321 or 1-800-882-2017, if you are hearing impaired please call (TTY (617) 348-5337 or 1-800-532-6238) at least a week before the hearing. At the hearing, you may appear personally and be accompanied by an attorney or other representative at your expense. You may wish to contact a local legal service 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 the evidence presented at the hearing and only on 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**

You may stay in your temporary emergency shelter placement only with the shelter provider's approval, or another temporary emergency shelter 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.

I, \_\_\_\_\_ 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 _____	City/ZIP _____
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.



Massachusetts Department of Transitional Assistance

Notice of Shelter Transfer

Date \_\_\_\_\_

TAO \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_

The Department of Transitional Assistance is informing you and the eligible members of your EA assistance unit of a transfer to another temporary emergency shelter. Your EA shelter benefits are being continued at \_\_\_\_\_ effective \_\_\_\_\_ Shelter Name

Your last night at \_\_\_\_\_ Shelter Name is \_\_\_\_\_

This transfer is made pursuant to 106 CMR 309.070(A) and subject to the terms of 106 CMR 309.040(C). All shelter placements and transfers are made for the efficient administration of the EA program and in the best interests of needy EA families. G.L. c.18, section 2.

You have the right to appeal this transfer **only** if you believe the Department has failed to comply with its requirement of making all reasonable efforts to locate temporary emergency shelter that will accommodate your entire EA assistance unit and to place you within 20 miles of your home community. (See 106 CMR 309.040(C)(1) and (3).) See the reverse side of this notice for information about your appeal rights.

Failure to accept this temporary emergency shelter placement may result in termination of your EA benefits. 106 CMR 309.040(F)(1)(c).

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

\_\_\_\_\_  
Telephone Number

# Appeal Rights

You may appeal your proposed placement in a temporary emergency shelter only if you believe that the Department has not made reasonable efforts to find temporary emergency shelter to accommodate all eligible members of your household and to place you within 20 miles of your home community.

You may not appeal the type, location or a particular temporary emergency shelter or the Department's decision to change the temporary emergency shelter.

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) 348-5311**. It must be received by the Division of Hearings within 90 calendar days of the date of this notice.

A 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. 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) 348-5321 or 1-800-882-2017.

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. 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) 348-5321 or 1-800-882-2017. If you are hearing impaired, please call (TTY (617) 348-5337 or 1-800-532-6238) at least a week before the hearing.

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.

You may stay in your current temporary emergency shelter placement only with the shelter provider's approval, or another temporary emergency shelter determined by the Department, while you are waiting for a hearing and decision.

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.

I wish to appeal the proposed placement in \_\_\_\_\_ shelter because:

\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_ Print Name \_\_\_\_\_

Address \_\_\_\_\_ Telephone No. \_\_\_\_\_ Social Security Number \_\_\_\_\_

My authorized representative is:

Name \_\_\_\_\_ Title \_\_\_\_\_

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

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





# Notice of Transfer Due to Shelter Termination

Date \_\_\_\_\_

TAO \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_

The Department of Transitional Assistance is informing you and the eligible members of your EA assistance unit of a transfer to another temporary emergency shelter. Your EA shelter benefits are being continued at \_\_\_\_\_ effective \_\_\_\_\_.  
Shelter Name

Your last night at \_\_\_\_\_ is \_\_\_\_\_.  
Shelter Name

This transfer is authorized pursuant to 106 CMR 309.040(E)(3) because your present shelter placement has been terminated by your current shelter provider. You will receive separate notice of any noncompliance finding pursuant to 106 CMR 309.040(E).

You have the right to appeal this transfer **only** if you disagree that the events specified by the Department as the reason for the transfer occurred. (See 106 CMR 309.070 (B)(1)(b).) See the reverse side of this notice for information about your appeal rights.

Failure to accept this temporary emergency shelter placement may result in termination of your EA benefits. 106 CMR 309.040(F)(1)(c).

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

\_\_\_\_\_  
Telephone Number

## Appeal Rights

You may appeal your proposed placement in a temporary emergency shelter only if you believe that the Department has not made reasonable efforts to find temporary emergency shelter to accommodate all eligible members of your household and to place you within 20 miles of your home community.

You may not appeal the type, location or a particular temporary emergency shelter or the Department's decision to change the temporary emergency shelter.

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) 348-5311. It must be received by the Division of Hearings within 90 calendar days of the date of this notice.

A 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. 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) 348-5321 or 1-800-882-2017.

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. 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) 348-5321 or 1-800-882-2017. If you are hearing impaired, please call (TTY (617) 348-5337 or 1-800-532-6238) at least a week before the hearing.

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.

You may stay in your current temporary emergency shelter placement only with the shelter provider's approval, or another temporary emergency shelter determined by the Department, while you are waiting for a hearing and decision.

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.

I wish to appeal the proposed placement in \_\_\_\_\_ shelter because:

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Signature

Date

Print Name

Address

Telephone No.

Social Security Number

My authorized representative is:

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

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

Telephone (     ) \_\_\_\_\_