

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

Argeo Paul Cellucci
Governor

Jane Swift
Lieutenant Governor

FAX 99-111

William D. O'Leary
Secretary

Claire McIntire
Commissioner

Field Operations Memo 99-10 I
August 4, 1999

To: Transitional Assistance Office Staff

From: Joyce Sampson
Assistant Commissioner for Field Operations

Re: *Smith v. McIntire* Lawsuit - Case Processing due to Additional Court Order

Background

Field Operations Memo 99-10 F informed Transitional Assistance Office Staff of an additional court order in the *Smith v. McIntire* lawsuit.

It also informed Transitional Assistance Office Staff of a July 21, 1999 mailing to recipients potentially impacted by this additional court order and that instructions for processing these cases would be issued shortly.

Field Operations Memo 99-10 G and H instructed Transitional Assistance Office Staff how to process cases potentially impacted by the additional court order.

Field Operations Memo 99-10 I clarifies instructions for processing cases potentially impacted by the additional court order.

Clarification for Processing Cases From the July 21 Mailing

*Any closed case in which a recipient responded to a **previous** Smith v. McIntire lawsuit mailing, was reinstated, and then responded to the July 21 mailing should have the new request for reinstatement denied, using Attachment A. The notice informs the recipient that another application for assistance can be made *at any time*. If another application is made within 30 days of the new request and the recipient is found eligible, the recipient's benefits will begin on the date the request form was stamped (the date the July 21 mailing was received by the Department). The date before which the recipient must apply to receive this retroactive grant must be entered on Attachment A by the Transitional Assistance Worker.*

Clarification for Processing Cases From the July 21 Mailing (continued)

Any closed case in which a recipient who responded to the July 21 mailing and whose grant was previously automatically adjusted with the earned income disregards should also have the new request for reinstatement denied using Attachment A.

*Any closed case in which a recipient who responded to the July 21 mailing and had responded to a **previous** Smith mailing but was found ineligible (e.g., excess income, verifications) should have the request reprocessed using the *current* income and verification.*

*A closed case in which a recipient who responded to the July 21 mailing and is now TAFDC eligible and had previously requested an extension, should have the case established retroactive to May 13, 1999 with *current* income entered on a PACES Worksheet. The exception to this is if information in the case record establishes eligibility for a later date, the Transitional Assistance Worker **must** establish case eligibility for that later date. If you have a case and are uncertain if this exception applies, have your Hotline Designee call the Policy Hotline.*

Any currently active case whose grant was previously adjusted or whose case was reinstated due to prior "Smith" Field Operations Memos and who responded to the July 21 mailing should also have the new request for reinstatement denied using Attachment A.

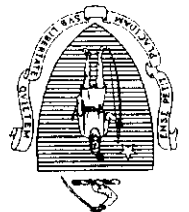
Because a supply of Attachment A will **not** be sent from Schraffts, copies must be made at each Transitional Assistance Office. Be sure to include the local Transitional Assistance Office address at the top of the notice.

Every denial notice (Attachment A) must be faxed to the Legal Division at (617) 348-5108, ATTN: Smith Lawsuit.

Questions

If you have any policy-related or procedurally-related questions, have your Hotline Designee call the Policy Hotline at (617) 348-8478.

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(Date)

(Name)

(Address)

Your request of _____(date) for reinstatement of your TAFDC benefits is denied.

The reason for this denial is that you received all the benefits you are entitled to under the court's order in the SMITH lawsuit when you were reinstated and/or had your benefits increased earlier. (Smith v. McIntire, Suffolk Superior Court, Civil Action No. 99-1044C).

If your case has closed since you (1) were reinstated and/or (2) had your benefits increased, you can apply for assistance at any time. If you apply for assistance, the Department will use the above request date as your application date, if you apply before _____. Please contact your local office to apply or if you have any questions.

If you do not agree 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 this notice.

(Worker)
TP-Smith-1 (8/99)
02-430-0899-05

(Telephone)

(Supervisor)



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 taken by the Department of Transitional Assistance, you have the right to appeal and receive a fair hearing before an independent referee. The Department must receive your request for a fair hearing no later than 90 days from the date on this notice if you are appealing a Transitional Aid to Families with Dependent Children (TAFDC); Emergency Aid to the Elderly, Disabled and Children (EAEDC); Emergency Assistance (EA) or Food Stamp (FS) case action. Exceptions to the 90-day time limits for requesting a fair hearing are: (1) requests for a fair hearing on EA shelter benefits must be received by the Division of Hearings within 10 days, (2) requests for a fair hearing regarding the intercept of your state tax refund must be received by the Division of Hearings within 30 days from the date of mailing of the notice by the Department of Revenue, and (3) you may appeal the amount of your Food Stamp benefits at any time during your certification period, if you think you are not receiving the correct amount.

How To Appeal

If you wish to request a fair hearing, send this notice with the bottom section completed to the Department of Transitional Assistance, Division of Hearings, P.O. Box 167, Boston, Massachusetts 02112 or Fax (617) 241-2535. Please keep the second copy for your own information.

If You Are Currently Receiving Assistance, Read This Block

Your benefits will be continued until a decision is made on your appeal if the Division of Hearings receives your appeal request within 10 days from the date on this notice. If you are appealing a Food Stamp issue, and your Food Stamp certification period ends before your appeal is decided, you will continue to receive the same Food Stamp benefits only until the end of your certification period. If you receive assistance during your appeal, but lose your appeal, the Department can recover from you the amount of 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, please check Box A below. If you do not receive benefits during your appeal, and you win your appeal, the Department will promptly correct any underpayment.

You will be given at least 10 days' notice prior to the fair hearing of the date, time and place of the fair hearing to permit you time to prepare your case. Fair hearings on EA shelter benefits will be expedited. You will be given at least two days' notice prior to a fair hearing on EA shelter benefits of the date, time and place of the fair hearing. 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 the Division of Hearings at (617) 241-2500 or 1-800-882-2017 before the hearing date, so that your fair hearing can be rescheduled. Failure to appear at the fair hearing without good cause may result in the dismissal of your appeal, except for initial scheduled hearings involving any aspect of the Food Stamp Program where good cause for rescheduling need not be demonstrated.

Your Right To Be Assisted At The Hearing

If you are not fluent in English or if you are hearing impaired 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 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 files before the fair hearing if you so desire. If you want to review your case files, schedule an appointment with your worker before the fair 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 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.

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 _____

Name _____ SSN _____
Address _____ Telephone (_____) _____
City/ZIP _____ Date _____
Signature _____

My authorized representative is: Name _____ Title _____
Address _____ City/ZIP _____
Telephone (_____) _____



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Fecha

Nombre

Dirección

Su solicitud de fecha _____ para la rehabilitación de sus beneficios de TAFDC ha sido negada.

La razón por la cual fue negada es que usted recibió todos los beneficios a los cuales tiene derecho bajo la orden judicial en la demanda SMITH cuando se le rehabilitaron y/o se le aumentaron sus beneficios anteriormente. (*Smith v. McIntire*, Tribunal Superior de Suffolk, Acción Civil No. 99-1044C).

Si su caso se ha cerrado desde que se le rehabilitaron y/o se le aumentaron sus beneficios anteriormente, usted puede solicitar asistencia en cualquier momento. Si solicita asistencia, el Departamento usará la fecha de solicitud arriba mencionada como su fecha de aplicación, si usted aplica antes de _____. Por favor llame a su oficina local para aplicar o si tiene cualquier pregunta.

Si usted no está de acuerdo con esta decisión tiene el derecho a una audiencia justa. El dorso de esta notificación tiene información importante acerca de sus derechos a una audiencia. Para solicitar una audiencia, complete el dorso de esta notificación.

Trabajador social

Teléfono

Supervisor

TP-Smith-1(S) (8/99)
02-431-0899-05



Aviso para solicitar una audiencia

Departamento de Asistencia Transicional de Massachusetts

División de Audiencias (Division of Hearings)

P.O. Box 167, Boston, Massachusetts 02112

Su derecho a apelar

Si usted no está de acuerdo con ninguna de las medidas tomadas por el Departamento de Asistencia Transicional, usted tiene derecho a apelar y solicitar una audiencia ante un árbitro independiente. El Departamento debe recibir su solicitud de una audiencia antes de 90 días a partir de la fecha del presente aviso si está apelando una medida tomada por el programa de Ayuda Transicional a Familias con Niños Dependientes (TAFDC); Ayuda de Emergencia para Ancianos Incapacitados y Niños (EAEDC); Asistencia de Emergencia (EA); o Cupones de Alimentos (FS). Las excepciones del plazo de 90 días para solicitar una audiencia son: (1) la División de Audiencias debe recibir la solicitud de una audiencia respecto a beneficios de albergue de Asistencia de Emergencia (EA) en un plazo de diez días, (2) la División de Audiencias debe recibir la solicitud de una audiencia respecto de la intercepción de la devolución de sus impuestos estatales en un plazo de 30 días a partir de la fecha en que el Departamento Fiscal le envió la notificación y (3) usted puede apelar la cantidad de sus beneficios de cupones de alimentos en cualquier momento de su período de certificación, si usted considera que no está recibiendo la cantidad correcta.

Cómo apelar

Si usted desea solicitar una audiencia, llene la sección al final de este aviso y envíela a: Department of Transitional Assistance, Division of Hearings, P.O. Box 167, Boston, Massachusetts 02112 o envíe un facsímil (fax) al (617) 241-2535. Por favor, retenga la segunda copia para sus archivos.

Si actualmente recibe asistencia, lea esta sección

Sus beneficios serán continuados hasta que se tome una decisión en relación si la División de Audiencias recibe su solicitud de apelación dentro de 10 días de la fecha de este aviso. Si usted está apelando un asunto relacionado a Cupones de Alimentos, y su período de certificación termina antes de que se decida su apelación, usted continuará recibiendo la misma cantidad de beneficios de Cupones de Alimentos solamente hasta la terminación del período de certificación. Si usted recibe asistencia durante su apelación, pero pierde la apelación, el Departamento puede recuperar la cantidad de asistencia a la cual usted no tenía derecho. Si usted recibe beneficios de tiempo limitado durante una apelación cual entonces pierde, los meses por cual recibió asistencia contarán en el total de su límite de tiempo. Si usted no desea seguir recibiendo asistencia durante su apelación, por favor marque la casilla A al final de la página. Si usted no recibe beneficios durante su apelación, y usted gana la apelación, el Departamento prontamente corregirá cualquier pago necesario.

Usted debe ser notificado de la fecha, hora y lugar de la audiencia dentro de 10 días antes de la misma para que tenga tiempo a preparar su caso. Las audiencias referentes a beneficios de albergue de Asistencia de Emergencia (EA) serán aceleradas. A usted se le informará por lo menos dos días antes de la audiencia referente a beneficios de albergue de Asistencia de Emergencia (EA), de la fecha, hora y lugar de la audiencia. Si usted desea tener su audiencia fijada en una lo antes posible, marque la casilla B al final de esta página. Si usted tiene una razón justificada para no atender la audiencia, por favor comuníquese con la División de Audiencias al teléfono (617) 241-2500 o al teléfono 1-800-882-2017 antes de la fecha de la audiencia, para que otra audiencia pueda ser programada. Si falla en aparecer a la audiencia sin una razón justificada, esto pudiera resultar en el rechazo de su apelación, excepto en audiencias iniciales que envuelven cualquier aspecto del Programa de Cupones para Alimentos donde la razón justificada para programar una nueva cita no tiene que ser demostrada.

Derecho a asistencia durante la audiencia

Si usted no domina muy bien el inglés o si tiene problemas de audición y desea que la División de Audiencias le facilite un intérprete, sírvase indicarlo en esta solicitud de apelación o llamar a la División de Audiencias al (617) 241-2500 o al 1-800-882-2017, por lo menos una semana antes de la fecha de su audiencia. Usted podrá estar acompañado por un intérprete, abogado u otro representante por su propia cuenta. Quizás desee ponerse en contacto con una oficina de servicios de consejo jurídico de su zona o una agencia de servicios comunitarios para solicitar ayuda. Su oficina local le puede suministrar información acerca de oficinas de servicios jurídicos y otros servicios ofrecidos por agencias comunitarias de su zona. Estas agencias pueden ofrecer asesoramiento jurídico o representación sin ningún costo.

Usted o su representante puede citar a testigos, presentar evidencia y contrainterrogar a los testigos. El árbitro debe dictar un fallo teniendo en cuenta toda la evidencia presentada en la audiencia. Usted o su representante podrá revisar los expedientes de su caso antes de la audiencia si así lo desea. Si desea revisar los expedientes de su caso, haga una cita con su trabajador antes del día de la audiencia.

Aviso a los recipientes sobre la política anti discriminatoria

Bajo las leyes federales y estatales, el Departamento de Transicional Asistencia de Massachusetts no puede discriminar basado en la raza, color, sexo, preferencial sexual, nacionalidad de origen, religion, credo, edad, o incapacidad. Para ayuda con cualquier asunto pertinente a esta política, le alentamos a que se comunique con el Director de Oportunidad Igual, Departamento de Asistencia Transicional, 600 Washington Street, Room 4039, Boston, MA 02111, o llame al (617) 348-8490, o para sordomudos, TYY (617) 348-5599.

Yo, _____ solicito por la presente una audiencia ante un árbitro de la División de Audiencias.

- A. No deseo seguir recibiendo la cantidad de asistencia en disputa durante el proceso de apelación.
- B. Solicito una audiencia lo más pronto posible. El motivo por el cual deseo solicitar una audiencia es _____

Nombre _____ SSN _____
 Dirección _____ Teléfono () _____
 Ciudad/Código Postal _____ Fecha _____
 Firma _____

El nombre de mi representante autorizado es: _____
 Dirección _____ Cargo _____
 Ciudad/Código Postal _____ Teléfono () _____