



**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE APPEAL
PROCEDURES HANDBOOK**

October 2017

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
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APPEAL PROCEDURES HANDBOOK**

INTRODUCTION

General Assistance and Emergency Aid are programs established by Resolution of the Monterey County Board of Supervisors in accordance with Section 17000-17409 of the Welfare and Institutions Code. Assistance is to be granted to needy persons in accordance with rules and regulations adopted by the Board of Supervisors and policies and procedures established by the Director of the Department of Social and Employment Services.

Program costs, including assistance granted and costs of administration are entirely County Funds. There is no State or Federal Participation. Reimbursement may be obtained for those cases granted Interim Assistance from the recipient when approved SSI. Federal reimbursement may be obtained for certain legal permanent residents under the Immigration Reform and Control Act of 1986.

PURPOSE OF THE GENERAL ASSISTANCE PROGRAM

The General Assistance program is by nature a residual assistance program for those persons who are ineligible for aid under any federal or state program which is designed to meet all of the applicant/recipient's needs, such as CalWORKs, CalFresh or Supplement Security Income (SSI). It is in large part an emergency assistance program to be used when other resources are not available or cannot be developed to meet the needs of the applicant(s).

The Eligibility Worker is responsible for securing, verifying and evaluating information and evidence to determine the amount of need and eligibility, and for explaining the applicant/recipient's rights and requirements under the program. Respect for the integrity and self-esteem of the applicant/recipient is essential in promoting and encouraging self-reliance and independence during the determination of initial and continuing eligibility, each applicant/recipient shall assume as much responsibility as possible within their physical, emotional, educational, or other limitations.

GENERAL INFORMATION ON APPLYING FOR GENERAL ASSISTANCE

Any person who believes they are eligible for General Assistance or emergency aid has the right to apply and shall be allowed to complete an application. Applicant/recipient responsibilities include but are not limited to:

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

- a. Completing or participating in the completion of all documents required in the application process or in the determination of continuing eligibility.
- b. Making available to the County all documents that are in their possession or available to them which are needed to determine eligibility and the amount of grant.
- c. Reporting all facts which they believe to be material to their eligibility or which the County has identified to them as affecting eligibility.
- d. Reporting any change in any of these facts within ten (10) calendar days of the occurrence.

The applicant/recipient has the right to determine his/her own living situation and make his/her own arrangements.

Eligibility must be determined and action taken to grant or deny assistance within thirty (30) days of the date of application.

Denial action may be taken sooner if the applicant fails to cooperate, withdraws the application, is ineligible to General Assistance or fails to keep an appointment.

The eligibility worker is available to help guide the claimant through the process and to answer questions.

NOTICES OF ACTION

A written Notice of Action is a document that informs an applicant/recipient of any action that affects their eligibility, duration of benefits, including termination of benefits or benefit levels (amount received). For example, an applicant/recipient might receive a notice of action when their aid has been changed in some way, denied, or terminated.

Written Notices of Action shall be issued and mailed or handed to applicants/recipients whenever any action affecting eligibility, duration of benefits or benefit levels regarding an applicant or recipient is taken by the Department of Social Services.

All written notices shall be made available in alternative formats (e.g., large print, audio, Braille, as provided in HHS Americans with Disability Act policy and CDSS Civil Rights Plan provisions) to applicants/recipients who need them for effective communication. Determination of particular alternative formats will be made at the time of application and as needed. All written notices shall be provided in the applicant/recipient's preferred language.

Applicants who are denied assistance will be provided a Notice of Action. Advance notice is not required when aid is denied to first time applicants. The "effective date" (date when assistance

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

was denied) is listed on the Notice of Action, but is typically the date the Notice of Action is issued for this type of denial.

When an application is approved for continuing benefits, an approval Notice of Action must be provided. The Notice of Action must specify the amount of the grant and how the grant was calculated.

When an application is approved for a specific period of time, an approval notice will be issued identifying the period of eligibility.

The Notice of Action in cases of discontinuance, grant reduction or program status change, must be provided 10-day-notice prior to the effective date of action. The effective date will be stated in the Notice of Action.

CONFERENCE

The applicant/recipient may request a conference with a unit supervisor, to discuss a Notice of Action, in writing, by phone or in person.

At the conference, the unit supervisor shall explain the reason for the action and shall permit the applicant/recipient to show that the action is incorrect.

If the applicant/recipient is able to show the action is incorrect, or is able to establish a good cause for the failure, the action shall be rescinded within three (3) working days.

If the unit supervisor does not change the Notice of Action, the applicant/recipient may file for an appeal to have the decision reviewed again.

Requesting a conference with a Unit Supervisor does not affect the applicant/recipient's right to appeal. Applicants/recipients do not need to have a conference before filing an appeal.

Applicant/recipients have only 30 days to ask for an appeal hearing. The 30 days starts on the effective date on the Notice of Action. If the applicant/recipient has good cause as to why they were not able to file for a hearing within the 30 days, they may still file for a hearing. If the applicant/recipient provides good cause, a hearing may still be scheduled.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

APPEAL HEARING

Applicants/recipients may appeal an action directly to the Department of Social Services. The request for an appeal must be in writing (by completely filling out and returning the original Notice of Action form requesting an appeal), within the 30-day window (or show good cause for failure to do so), including, but not limited to, reasonable accommodations for persons with disabilities. A hearing will be scheduled where applicants/recipients can present their case. The hearing will be heard in front of a hearing officer. The Department of Social Services, through the hearing officer, will record the hearing. Applicants/Recipients are allowed to present written evidence or witness testimony on their behalf. Applicants/Recipients are allowed to have someone represent them (stand in their shoes) at the hearing, if the representative is authorized by the Applicant/Recipient.

The Appeal Request Must:

- (1) Be requested in writing (and include the case number) or by filling out the back side of the Notice of Action notifying of intent to appeal and return the form.
- (2) State the reasons for disagreement with the action and include the case number.
- (3) Be signed and dated.
- (4) Be filed within thirty (30) calendar days of the effective date on the Notice of Action.
 - a. Applicants/Recipients have the right to ask for an appeal if they disagree with any county action. Applicants/Recipients have only 30 calendar days to request an appeal. The 30 calendar days' appeal request period starts from the date marked as the "Effective Date" on the Notice of Action and ends on the date the appeal is date stamped as received at the Department of Social Services, or the postmark date on the envelope, if the request is mailed. If the postmark date cannot be determined, the date the request was received can be used. All requests for an appeal shall be date stamped on the day the request is received at the Department of Social Services.
 - b. **Last Date to File:** If the last date to file the request for an appeal falls on a day when the Department of Social Services offices are closed, then the Applicants/Recipients shall have until the next working day to file the request.
 - c. **Claimants:** Applicants/Recipients will be referred to as the claimant after they have filed the appeal request.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

d. **Good Cause:** If Applicants/Recipients have good cause as to why they were not able to request an appeal within the 30 calendar days, they may still request an appeal and include evidence in their request that shows good cause. An appeal hearing may still be scheduled, if they are found to have shown good cause. Examples of good cause are; if the Applicant/Recipient was in jail or in the hospital during the 30 calendar days when they should have requested the appeal and have documentation of it; an Applicant's/Recipient's family member died during this time frame and they have a copy of the obituary or death certificate, etc.

(5) **Claimants may represent themselves at the Hearing:** The claimant may represent themselves during all aspects of the hearing process, *or* they may be represented by an attorney, an authorized representative, or any other person they designate, by signing a written statement to notify all parties of the claimant's intent to have a representative speak on their behalf during the appeal hearing. The claimant must authorize the person to be their representative in writing *prior to* the hearing if they do not attend the hearing.

(6) **Overview of Appeal Hearing:** Claimants will receive a notice explaining the date, time and location of the appeal hearing. At the hearing, they will have an opportunity to present evidence (written and witnesses) and may be asked questions about the facts of their case. The Department of Social Services will record the appeal hearing. A decision will not be made at the appeal hearing. The appeal hearing officer will mail the claimant the decision within 30 days after the appeal hearing. If the claimant still disagrees with the decision of the hearing officer, they may file a written request for review by the Director of Monterey County Department of Social Services or their designee. The Director, or their designee, will review the decision and the case file and make a final decision. For more details on each of these steps, please continue to read the information below.

(7) **Appeal Hearing Rules:**

(a) The claimant and/or authorized representative shall have the right to review the relevant sections of the case record, including any documents submitted by claimant and/or any other evidence used in making a determination of eligibility. Such review and copies of the relevant sections of the file shall be made available prior to the hearing.

(b) Appeals shall be conducted in accordance with departmental procedures. All testimony shall be given under oath or by affirmation.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

- (c) Witnesses may only testify at the hearing in the claimant's or authorized representative's presence. Witnesses for the Department of Social Services or for claimant may submit a written declaration if they are unable to testify. For an acceptable format for such written declaration, see your eligibility worker.
 - (d) The claimant or authorized representative shall have the right to testify, present witnesses, present written documentation and cross/examine witnesses.
 - (e) Decisions by the Appeals Hearing Officer are adopted by the Department of Social Services.
 - (f) Claimants may file a petition for administrative mandamus in the Monterey County Superior Court within 90 days after the date the decision becomes final.
- (8) **Denial of a Request for a Hearing:** A claimant's request for an appeal hearing (or any portion of the request), may be denied in writing by sending a letter to them when:
- (a) The issue is not within the jurisdiction of the Department of Social Services appeals process.
 - (b) The request for hearing is filed beyond the 30-calendar day time limit (with no good cause found).
 - (c) The Appeals Hearing Officer determines at the hearing that the claimant or authorized representative is unwilling to present the case.
 - (d) The Appeals Hearing Officer determines that the identical facts have been the subject of a previous hearing involving the claimant, within the previous twelve months (such as the same excuse for non-compliance) and are not part of recurring issue.
 - (e) The requestor of the hearing does not have standing to request the hearing.
 - (f) The claimant abandons the hearing by failing to confirm or appear at the hearing without good cause.
 - (g) If the appeal is denied or dismissed, the claimant may file a written request for a review by the Director of the Monterey County Department of Social Services or their designee within ten (10) calendar days of the date the decision was adopted. The filing date shall be determined by the date the written request is received and date stamped by the Department of Social Services. Claimants will be informed within fourteen (14) calendar days if a request for review is granted.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

AID PAID PENDING

- a. When the recipient filed an appeal prior to the effective date of the Notice of Action, aid shall be continued in the amount that the recipient would have been paid according to Department of Social Services procedures.

Recipients who file an appeal and receive aid paid pending shall be required to comply with and cooperate with all General Assistance eligibility and program requirements including participation in Job Search/Work Experience Program, pending the appeal decision.

- b. Any aid paid pending the appeal decision becomes part of the repayable General Assistance amount. Aid paid pending an appeal is adjustable from future General Assistant grants when the decision supports the Department of Social Services' action.

- c. **Exceptions:** Aid paid pending shall not be paid or shall cease when:

- (1) The appeal hearing is withdrawn or abandoned.
- (2) The appeal hearing is denied or dismissed.
- (3) The Appeal Hearing Officer determines that the issue is one of law or regulation or change in law or regulation and not of incorrect application of the law or regulation.
- (4) The claimant, without good cause, requests that the appeal hearing be postponed.
- (5) The appeal hearing is rescheduled after the claimant and/or the authorized representative failed to appear without good cause.
- (6) A final decision has been adopted.
- (7) Negative action unrelated to the hearing issues is proposed after an appeal has been filed and the claimant does not file a timely appeal on the new issue.
- (8) The eligibility renewal period expires.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

RECOVERY OF ASSISTANCE

The Welfare & Institutions Code permits counties to request repayment of General Assistance benefits made from county funds. Each application for General Assistance shall include the applicant's agreement to repay assistance issued under the program from after acquired property.

When an applicant/recipient has a claim for Workers' Compensation, lawsuit, or other similar claim pending, a lien shall be signed against that claim for any aid extended.

Applicants/recipients shall sign a form authorizing payment to the County of Monterey for General Assistance received while an SSI application is pending from any lump sum retroactive SSI payments for the period for which the County provided General Assistance.

Failure of the applicant/recipient to sign a repayment agreement and/or a lien shall result in denial or discontinuance of General Assistance benefits.

The total aid granted, either continuously or intermittently including any aid paid pending an appeal is repayable. Repayment of all aid paid is expected. The County shall also pursue recovery from the legal sponsor of a non-citizen for aid paid to the non-citizen during the time in which the sponsor has agreed, in writing, to provide for the non-citizen. The County may require the legal sponsor of the non-citizen applicant/recipient to sign a written agreement to repay any aid provided to the non-citizen pursuant to the Welfare & Institutions Code 17001.6(a).

The applicant/recipient shall be provided a Notice of Action specifying the amount of repayment and the right to appeal.

OVERPAYMENTS

An overpayment occurs when an applicant/recipient receives General Assistance benefits for which he or she was not entitled due to either administrative or applicant/recipient error.

Overpayments may be recovered by decreasing the grant payment to an otherwise eligible applicant/recipient. The grant amount to be adjusted shall be established in accordance with agency procedures.

Overpayments due to suspected fraud or misrepresentation shall be referred for investigation and possible criminal prosecution.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

UNDERPAYMENTS

When an applicant/recipient of General Assistance is underpaid, a supplement will be issued promptly upon discovery of the underpayment. Recipients should bring underpayments to the attention of the department as soon as possible. Administrative underpayments which occur more than sixty (60) days prior to the date of discovery are not correctable *unless* good cause for the delay can be shown or subject to an appeal hearing/decision.

The date of discovery is the earlier of the following dates: (1) the date the Department of Social Services is notified of or discovers the underpayment or (2) the date the claimant requests the correction. If the agency has lost contact with the applicant/recipient and is unable to issue a supplement within sixty (60) days from the date of discovery, no supplemental payment shall be made unless ordered by an appeal decision.

The amount of an underpayment shall be established in accordance with the regulations and grant amounts in effect at the time the underpayment occurred. An underpayment may be used to offset an overpayment. Supplemental payments issued to correct an underpayment are not to be considered a resource or currently available in the month paid or the following month.

GLOSSARY OF TERMS

The following list of definitions includes the terms as used in this Handbook:

AID PAID PENDING

Aid paid pending an appeal when the request for appeal is filed within thirty (30) calendar days of the date of the notice of adverse action to reduce or discontinue aid and before the effective date of the Notice of Action.

APPEAL

A written request by an applicant/recipient for a hearing on an action that is related to their application or continuing aid.

AUTHORIZED REPRESENTATIVE

During an appeal hearing, claimant may designate someone else to be their representative at the appeal hearing. This must be done in writing, by signing a written statement that designates the name of the person that will be their authorized representative at the appeal hearing. If a claimant cannot attend the appeal hearing, the authorized representative must be authorized in writing, signed by the claimant, prior to the hearing.

**MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
GENERAL ASSISTANCE
APPEAL PROCEDURES HANDBOOK**

CALENDAR DAYS

A calendar day is one day. Calendar days include weekends and holidays as well as regular working days. Essentially all days are counted.

CONFERENCE

A conference is where an applicant/recipient meets with a representative from the Department of Social Services to review and discuss a notice of action in order to determine the accuracy of an action taken. A conference may (not mandatory) be requested by an applicant/recipient prior to an appeal but does not affect the individual's right to appeal.

COUNTY

As used in this manual of regulations, the term County shall refer to the County of Monterey, Salinas, California.

GOOD CAUSE

Claimant must show good cause if they fail to confirm or appear at an appeal hearing or to request to postpone or fails to appear at an aid-pending hearing. Examples of good cause include, but are not limited to: (a) Claimant was in jail (incarcerated), (b) Claimant was in the hospital. Documentation of good cause events are required.

STANDING

A request for hearing or portion thereof shall be dismissed by a written letter when the requestor of the hearing does not have standing to request the hearing. Standing is defined as: Having a protectable interest in the dispute that entitles them to a hearing on the issue. A claimant will not have standing if the issue does not directly affect their receipt of general assistance or aid pending. An individual who is merely interested in the dispute as a member of the public would not have standing.

WORKING DAYS

A working day is Monday through Friday, except for County Holidays when the Department of Social Services is closed and except for weekends.