

Statement of Household Member's Rights in Administrative Disqualification Hearing

Procedures for Administrative Disqualification Hearing

Legal Basis

The Food Stamp Act of 1977 states that an otherwise eligible member of a SNAP household may be disqualified from participating in the SNAP program if an intentional program violation is committed. This also applies to Temporary Assistance for Needy Families (TANF) under Sections 32.32 and 32.46 of the Texas Penal Code.

Federal and state laws and regulations give you the right to a hearing. The Texas Health and Human Services Commission (HHSC) may not administratively disqualify you from participating in the SNAP or TANF program because of intentional program violation without a hearing, unless you have specifically waived your right to the hearing.

A hearing does not prevent the state or federal government from prosecuting you for the intentional program violation in a civil or criminal court action, or from collecting any overpayment.

Your Responsibilities

Your hearing has been set for a reasonable time and date, either by telephone or at a specific location. If you cannot participate as scheduled, you may ask that the hearing be postponed for up to 30 days. If you wish to postpone your hearing, you must notify the hearing officer of your reason no later than five (5) days before your scheduled hearing. Enclosed are an envelope and Form H4856, Request for Another Appointment for Administrative Disqualification Hearing. Use Form H4856 to ask for a different date.

Unless you receive notice of a new appointment, you are expected to participate as scheduled. If you do not participate, the hearing decision will be based on information provided by HHSC staff.

Your Rights

You have the right to present your own case or you may bring a friend, relative or lawyer to present your case for you. If you bring a lawyer, HHSC does not pay the fees. If you need more time to obtain evidence to present your case, you may ask for a reasonable delay.

Before and during the hearing, you and your representative have the right to examine your case file, the agency policies, documents, records and evidence that HHSC will use. If you want to see the case file, please write to the hearing officer. You have the right to bring witnesses to the hearing and present facts and details about your case. You also have the right to question or disagree with any testimony or evidence against you. You may also confront and cross-examine adverse witnesses. You have the right to submit evidence to establish all the pertinent facts and circumstances, and to advance reasonable arguments.

You will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing.

Your rights are the same for both a telephone and face-to-face hearing. If you need a face-to-face hearing, call the hearing officer as soon as possible. You will be required to specify why you need a face-to-face hearing.

Agency Responsibility

The hearing officer will explain the hearing procedures. You have the right to know all the information that the hearing officer examines in making the decision about your case. The reasons for HHSC's action will be explained to you.

If you want more information about the hearing procedures, please contact the hearing officer.

An intentional program violation consists of intentionally committing any of the following actions:

- making a false and misleading statement;
- misrepresenting, concealing or withholding facts;
- violating any provision of the Food Stamp Act, the SNAP program regulations or state statutes relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP coupons or access devices; or
- any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.

The hearing to determine if an intentional program violation has been committed is informal. An impartial hearing officer conducts the hearing and makes the decision.

At the hearing, the hearing officer places the participants under oath. The hearing is not open to the public, but you have the rights explained in this notice.

HHSC must prove by clear and convincing evidence that you have committed a violation as defined above. If the hearing officer determines that you committed a violation, the following penalties would apply:

TANF

If the violation occurred before to Sept. 1, 2003, the length of disqualification is:

- one year for the first offense,
- two years for the second offense,
- permanent for the third offense, and
- 10 years when you are convicted of an offense in federal or state court or making a fraudulent statement or representation about residence to receive benefits simultaneously in more than one state.

If the violation occurred on or after Sept. 1, 2003, the length of a disqualification is:

- one year for the first offense, and
- permanent for the second offense.

If you are convicted of a state or federal offense for conduct that constitutes a violation or if you are granted deferred adjudication or placed on community supervision for the conduct, you are permanently disqualified from receiving financial assistance.

If you are not satisfied with the hearing officer's decision on a TANF case, you may file for judicial review of the decision in the district court of your county.

SNAP

The length of a disqualification is:

- one year for the first offense,
- two years for the second offense,
- permanent for the third offense, and
- 10 years if you are found guilty of an intentional program violation in federal or state court or in an administrative disqualification hearing for making a fraudulent statement or representation about residence or identity to receive multiple benefits simultaneously.

If you are convicted of an intentional program violation due to trafficking in SNAP benefits or program access devices, and the conviction is for an aggregate amount of \$500 or more, the disqualification is permanent.

If you are not satisfied with the hearing officer's decision, you may request an administrative review. A request for administrative review must be submitted in writing and postmarked within 30 days from the date of the decision.

Please send your written request to:

Hearings Administrator
HHSC Appeals Division, Mail Code W-613
P.O. Box 149030
Austin, TX 78714-9030

If you are not satisfied with the outcome of the administrative review of a SNAP case, you may file for judicial review of the decision in the district court of Travis County within 30 days from the date of the decision of the administrative review.