

Legal Assistance of Western New York, Inc. ®

We provide free legal aid to people with civil legal problems in western New York.

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Can My Boyfriend

Can My Boyfriend or Husband Live With Me If I Get Public Assistance?

Note: This article also applies to girlfriends and wives. The genders used in this web page are for convenience only.

Can my boyfriend or husband live with me if I receive welfare?

Your local Department of Social Services (DSS) cannot restrict who lives with you. However, who you live with may affect the amount of benefits that you receive.

For example, if you are married and your husband lives with you, you both must apply for public assistance. If either of you has income, it will be counted against both of you. The same is true for parents and children under age 21.

In addition, if your boyfriend lives with you and you have children together, you are both legally responsible for the children. This means that if your boyfriend lives with you and you have children together, both your income and your boyfriend's income will be used to determine your benefits.

Can my boyfriend's income be counted against me?

Your local DSS cannot count your boyfriend's income against you. However, if you have children together, you may not be able to apply for benefits without including your boyfriend. If your boyfriend is not the father of any of your children, his income cannot be counted against your children's public assistance case or counted against your case. This is true unless he tells the DSS office that he is supporting the children or supporting you.

What if my boyfriend doesn't live with us, but the DSS office believes that he does?

This generally happens as the result of a home visit by an investigator. Your local DSS has the right to make an unscheduled home visit to anyone who receives public assistance. If you are not home at the time of the unscheduled visit, the investigator may leave a card telling you when they will return. If you will not be there at the time they are returning, it is important that you call and reschedule the appointment.

What happens during an investigator visit?

During the visit, the investigator will ask to look around your home for evidence of who lives with you. The investigator will take special note of any items in your home that would most likely belong to someone you say is not living there. They may try to ask questions of your landlord or your neighbors. The investigator may also try to ask questions of anyone who happens to be visiting you at the time. Before going to your home, the investigator normally has already looked into whether or not your boyfriend lives with you. For example, they may check to see if your boyfriend receives mail at your address. They may also check to see if he has a car registered at your address, or if he uses your address with his employer. Your local DSS office may also ask the Child Support Enforcement Unit for information.

What if DSS decides to close my case because they think my boyfriend is living with me?

After the investigation, the investigator will give a report to the DSS office. Based upon his/her findings, the investigator will also recommend what action should be taken. If you receive a notice to discontinue your benefits as the result of an investigation, you can ask for a Fair Hearing immediately. This will allow you to keep getting your benefits until a Fair Hearing is held and a decision is issued. If you do not win your Fair Hearing, you may need to repay the benefits that you were receiving after you requested a Fair Hearing.

What can I do at my fair hearing to show my children's father does not live with us?

If your children's father is willing to help, ask him to give you as many documents as possible that show where he really lives. Examples: lease or landlord statements, rent receipts, utility bills, driver's license, statement from roommates, and so on.

If your children's father refuses to help, try to get a statement from your landlord. Also look for any other documents you can gather that show he does not live with you.

NOTE: Receiving Public Assistance cannot restrict your children's father from visiting you or the children. However, if he does not live with you, you can protect your benefits by taking several steps:

Do not let your children's father use your address for any purpose.

Do not sign for any registered mail that is sent to your children's father at your address.

Your children's father should avoid keeping any personal belongings in your home.

Legal Help

If you have a problem you cannot solve with your local DSS office, you can contact your local legal services office for help. If you get a notice from your local DSS office, it should have contact information for a legal assistance office.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of Legal Assistance of Western New York.

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