

Legal Assistance of Western New York, Inc. ®

Protecting Your Benefits

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

www.lawny.org

Protecting Your Benefits

Each year many people have problems with their public assistance benefits. If you know your rights and plan in advance, some of these problems can be prevented. Below are some steps you can take to do this.

If it is important, do it in Writing

You should not depend on what you say by telephone or in-person when it comes to your benefits. This is true even if what you said was in a telephone message. If you need to give important information to the Department of Social Services, give it in writing. When you give it in writing try to get a receipt and keep a copy of what you gave. This does not mean that you should not talk to DSS in person or by telephone. This just means that you should also submit things in writing when they are important. Examples of important things include: a change in your address, adding someone to your benefit case, and asking for more time to get documents.

This can be important for a few reasons. First, it can be difficult to remember exactly what was said in person or during a telephone call. You also don't know if the other person might have misheard you or wrote down the wrong thing. You should not assume that your caseworker will remember what you or they said on the phone or in person. Second, if a problem comes up later you may not have the same worker or your worker may be unavailable.

Keep Track of What and When

You should keep track of your interactions with DSS. This means that you should keep notes on:

1. When you give DSS paperwork and what that paperwork was.
2. When DSS gives you paperwork and what that paperwork was.
3. When you contact DSS and what you told them.
4. When DSS contacts you, which worker contacted you, and what they told you.

You may want to use your calendar for this. For example, you call your worker to report that you started a job and you leave them a voicemail. You would want to write down on your calendar the time you called, what number you called, and what you said in your voicemail. This can be very

important if you have to go to a Fair Hearing later. You can use your notes as evidence to show what you did.

Be Prepared to Produce Copies

If you can, try to keep a copy of every piece of paper that you give to your caseworker or receive from the Department of Social Services (DSS). Also keep the envelope it came in. The envelope is important because it can prove when the paperwork was actually sent out to you. You should pick a way of doing this that will work for you. For example, some people get a large envelope and keep everything about their case inside of it. Other people get a folder with pockets and do the same thing. By keeping a copy of all the paperwork, you will be better able to show your side of the story.

Get a Receipt If you can

When you give paperwork to your worker or anyone else from DSS, keep a copy AND get a receipt. The receipt is to prove what you dropped off and when. That way, if DSS loses your paperwork, you can show that you did drop it off. Also, by keeping a copy, you can provide the paperwork again with no problem.

DSS may lose your paperwork or say that you did not turn it in on time. A receipt will let you show what you did give them and when. This can be very important if you need to ask for a Fair Hearing.

Take Dates and Deadlines Seriously

As part of your case, DSS will regularly ask you to give them paperwork and information. They will normally ask you to submit it by a certain date. You should pay close attention to that date. Write it down on your calendar or however you keep track of important deadlines.

If you cannot provide what they ask for by the deadline, you should tell DSS in writing and by phone. You have the right to request an extension of time so you can get what they are asking for. You also have the right to ask DSS for assistance if you have tried to get the document, but cannot. DSS has an obligation to assist you if you need help getting what they have asked you for.

Try to keep any appointment you have with DSS. If you need to reschedule the appointment, you should call DSS as soon as you can. Then follow up your call with something in writing. What you write should explain why you need to reschedule and it should ask for a new appointment.

When should I ask for a Fair Hearing?

If a problem comes up in your case and you cannot resolve it by talking with DSS, you should request a Fair Hearing. Requesting a Fair Hearing can protect your benefits and give you the opportunity to explain your side of the story to a judge. You should request a Fair Hearing even if DSS tells you something like "Don't bother, you are going to lose anyway." If the problem is fixed by the date the Fair Hearing is scheduled, you should still go to the Fair Hearing. Then at the Fair

Hearing you should try to get written proof that the problem has been resolved. There is a deadline to request a hearing, so request it right away.

If you change your mind later, you can always withdraw your request for a Fair Hearing.

You can request a Fair Hearing by mail, telephone, fax, or by using the Internet. Your request goes through a New York State agency called the Office of Temporary and Disability Assistance (OTDA).

MAIL:

You can mail your request to:

**New York State Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O. Box 1930
Albany, New York 12201-1930.**

FAX:

You can fax your request to (518) 473-6735.

TELEPHONE:

You can request a hearing by telephone by calling **1-800-342-3334**

INTERNET:

To request a hearing using the Internet, you should go to <http://www.otda.state.ny.us/> and then click on the "Programs and Services" button on the left side. From there, follow the options to request a Fair Hearing online.

How to Handle Problems with Department of Social Service Workers

If someone at DSS has been unprofessional in how they have handled your case, you have the right to make a complaint. You should make the complaint in writing. Your complaint should have a brief description of what happened. It should also have when this happened and where. Try to be as specific as you can.

Send your complaint to the local commissioner of DSS. Be sure to keep a copy.

Filing a complaint should not affect your eligibility for benefits. If you have filed a complaint and believe you are being punished for making a complaint, you should contact an attorney.

For example, someone might write a complaint like this:

"My name is John Doe and I am writing to complain about my worker, John Smith. I have made four calls to Mr. Smith because my Medicaid card is not working. Because my card is not working I cannot fill my prescriptions. I left a voicemail on March 1st, March 3rd, and March 7th. Mr. Smith

never returned my call. I called again on March 12th and finally spoke to Mr. Smith. I told him that my card was not working. He told me he doesn't know what's wrong with it and can't deal with it now. . I asked him how I could get my prescription filled and he told me "that's your problem" and then he hung up on me."

Besides submitting a complaint, there are two other tips that might help if you have a problem with a DSS worker:

- Don't be rude back. - You have a right to be treated with courtesy. If your worker is rude or treating you badly, it's easy to feel angry. However, if you are rude in return, it will do nothing to help you resolve your problem and could make it worse.
- Don't assume your worker knows. - Public assistance caseworkers handle many, many cases each month. Laws change. Your worker can make mistakes. If you have a question or problem with what your worker told you, you may want to double-check with someone else, like a supervisor.

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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 our office.

Last Review Date: January 2016

Printed: April 23, 2019

<http://www.lawny.org/node/35/protecting-your-benefits>

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