

Part 5

EA Appeals

21 What are your EA appeal rights?

- You can appeal the following to the EOHLC Hearings Division:
 - an EOHLC decision that you are not eligible for EA
 - EOHLC's failure to provide shelter or a denial of EA shelter
 - termination of your EA benefits
 - a noncompliance (an EOHLC finding that you have not complied with the requirements for staying in shelter)
 - EOHLC's failure to make reasonable efforts to locate EA shelter that accommodates the size or composition of your family
 - EOHLC's failure to place your family within 20 miles of your home community, or to transfer your family back within 20 miles at the earliest opportunity
 - EOHLC's failure to make every effort to ensure that a child can continue in school in their home community; and/or
 - EOHLC's refusal to accommodate a disability (*see Question 18*).

760 CMR 67.09.

- In these cases, you have 21 days to appeal.

Important: A termination notice should be appealed within **10 days**. If EOHLC's Division of Hearings receives your appeal on a shelter

termination notice within 10 days of the date on the termination notice, you can stay in shelter until a decision is made on your appeal.

Otherwise, you will have to leave shelter and wait for your appeal.

- You can appeal by faxing or emailing both the notice and the appeal form on the back of your notice to EOHLC's Division of Hearings. The fax number is 617-573-1515. You can email the appeal to DHCDEAhearings@mass.gov.
- You can also mail the appeal form to EOHLC, Hearings Division, 100 Cambridge Street, Boston, MA 02114, but the appeal must be received by EOHLC by the deadlines discussed above, so it is safer to email or fax it. If you fax it, keep a copy of the fax report as proof. If you mail the form, keep a copy for your records and note the date you mailed it or get proof of mailing.
- If you are denied shelter and you file an appeal, the hearing is supposed to happen quickly but often takes a long time to be scheduled. This is the case even though a law mandates that denials of an EA benefit should be resolved by a decision after a hearing within 45 days of the application. *See* G.L. c. 23B, section 30(F). If your hearing date seems too far away and you have no place to stay, call the Hearings Division at 617-573-1528 or call the Division of Housing Stabilization (toll free: 1-877-418-3308) and ask for a faster hearing, or contact an advocate. You can also reapply for EA, which may get a faster result than waiting for the appeal to be decided.
- Even if your shelter benefits have been continued during the appeal, EOHLC may transfer you to another shelter during the appeal.
- You have a right to see your file as well as the evidence EOHLC plans to use in the hearing. If there is evidence you believe may be helpful to your appeal but is held by a different agency, such as F.O.R. Families or DCF, you can ask for those documents directly from the other agency or ask EOHLC to help you get them. *See* G.L. c. 66A.
- Unless you gave them a different address in writing, EOHLC will send notice to you at the shelter even if you are not there anymore.

- If possible, try to get an advocate to help you with your appeal. *See Appendix C* for a list of local legal services offices. If you are appealing a shelter termination and you lose the appeal, EOHLC may ask you to leave shelter in as few as two days.

Advocacy Tips:

- ✓ If your EA application has been denied you can file a new application and ask for a new decision. This may help you get into shelter faster than waiting for an appeal to be decided. This is especially true if you were denied for not meeting an eligibility category, since the denial may have forced you to experience homelessness in a way that now qualifies you for EA shelter. *See Question 8.*
- ✓ If you are being transferred from one EA shelter to another and you appeal the transfer, you should go to the new shelter while your appeal is being decided. If you win your appeal, you can transfer back. Refusing to transfer before your appeal is decided could cause your shelter benefits to be terminated.
- ✓ You should consider appealing a notice of noncompliance even if your shelter benefits are not being terminated. If you do not appeal a noncompliance finding when it is made, EOHLC later can rely on the finding as part of the reason for terminating your shelter benefits.
- ✓ In appeals that are filed on time, EOHLC has the burden of proving, by a “preponderance of the evidence” (more likely than not), that the allegations in the notice are true and warranted the proposed action. It is worth reminding Hearing Officers of this since EOHLC often cannot meet its burden of proof.
- ✓ As a result of the Hayes lawsuit, a family being terminated for three noncompliances may appeal the noncompliances at the time the notice of termination is issued. However, the family will have the burden of proof on the noncompliances if they were not appealed within 21 days after they were issued. 760 CMR 67.09(2)(a)2.a.