

# **A Guide to Social Security Appeals**

## **Scope of Social Security Appeal**

1. An appeal can be lodged with the Social Security Appeal Board (the Board) against the decision(s) of the Director of Social Welfare in respect of any of the following matters under the Comprehensive Social Security Assistance, Social Security Allowance and Traffic Accident Victims Assistance Schemes :-
  - (i) the refusal of any payment;
  - (ii) the amount of payment offered;
  - (iii) the date from which payment was offered;
  - (iv) the issuing of payment to a person other than the applicant.

## **Appellants**

2. The following categories of persons have the right of appeal:
  - (i) an applicant for or a recipient of a social security benefit under any one of the schemes mentioned above (who may delegate his/her next-of-kin through the power of attorney to lodge the appeal on his/her behalf);
  - (ii) an appointee acting on behalf of an applicant or a recipient who is aged below 18 or who has been medically certified to be unfit to make a statement on his/her own;
  - (iii) the executor or the administrator, as proven by the production of “probate” or “letters of administration” granted respectively by the Court as evidence that he/she is a lawfully appointed personal representative of a deceased applicant or recipient;
  - (iv) the Official Administrator (the Registrar of the Court) administering the estate of a deceased applicant or recipient in a summary manner.

## **Constitution of the Board**

3. The Chairperson and members of the Board are non-officials appointed by the Chief Executive. An official of the Social Welfare Department is appointed by that Department to serve as Secretary to the Board who is responsible for providing secretarial services to the Board. The Secretary to the Board will also attend hearings, but he/she will not take part in decision making since he/she is not a member of the Board.

## **Appeal Procedures**

4. An appeal by an applicant, a recipient (or his/her next-of-kin appointed through the power of attorney) or an appointee must be lodged within four weeks from the date of notification of the decision from the Director of Social Welfare. An appeal by the personal representative of a deceased applicant or recipient must be lodged within four weeks from the date of a grant of “probate” or “letters of administration” by the Court. In the case of summary administration by the Official Administrator, an appeal must be lodged within four weeks from the date of the getting in of the estate. The Chairperson of the Board may allow late appeals if he/she considers that there were acceptable reasons for the delay.
5. To lodge an appeal, the appellant is required to complete an appeal form (in either English or Chinese) and forward it to the office of the Social Security Appeal Board or the Social Welfare Department Headquarters or any of the Social Security Field Units or the Traffic Accident Victims Assistance Section of the Social Welfare Department. (The addresses and telephone numbers are given in the Appendix.) Appeal forms are available at these offices and can also be downloaded from the Social Welfare Department homepage (<http://www.swd.gov.hk>). Appellant can also lodge an appeal by using online form.
6. If the appellant wishes to withdraw his/her appeal, he/she should complete and sign a withdrawal form.

## **Departmental reviews**

7. When an appeal is received, the Secretary to the Board will examine the case. If it appears to him/her that there are sufficient grounds for a departmental

review before the case is submitted to the Board, he/she will ask the supervisor of the Social Security Field Unit concerned or the Traffic Accident Victims Assistance Section to review the case. If the supervisor decides to vary the decision, the appellant will be notified in writing of the new decision as well as his/her right to appeal against it. If the appellant is satisfied with the new decision, he/she may withdraw the appeal. If he/she remains dissatisfied, he/she may appeal against the new decision.

## **Processing of appeals**

### ***Appeals not involving the result of a medical assessment***

8. The Board will normally hear the case within one month from the date of receipt of the appeal.
9. Both the appellant and the Director of Social Welfare are given the opportunity to present their case in writing prior to the hearing.
10. At the hearing, the appellant may choose to put forward his/her case personally and, subject to the appellant's request in writing and the consent of the Board, a friend or relative may also speak on his/her behalf. The Director of Social Welfare may also be represented at the hearing. No other persons will be allowed to be present at the hearing, and there will be no legal representation.
11. Hearings are informal and conducted in a language convenient to the appellant.

### ***Appeals involving the result of a medical assessment***

12. The Board will arrange with the Hospital Authority for the applicant or recipient to undergo a medical assessment to be processed by the Medical Assessment Board for social security appeals.

### ***Decisions of the Board***

13. The Board will either confirm the decision appealed against or vary that decision provided that such a decision conforms to approved social security policy.

14. Except for appeals which require the decision of a medical assessment board, the Board will reach a decision on an appeal on the basis of the facts presented to the Board. Its decision on a particular case will not constitute a precedent either for the Director of Social Welfare or for other cases coming before the Board.
15. In respect of appeals which require the decision of a medical assessment board, the Board will give its decision on the basis of the decision of the Medical Assessment Board for social security appeals.
16. The decision of the Board is final and the appellant has no further right of appeal. The Board, however, has the right to review its own decision when necessary.

### ***Notification of Decisions***

17. In respect of appeals which do not require the decision of a medical assessment board, the appellant and the Director of Social Welfare will be notified in writing of the decision of the Board normally within three weeks after the hearing. The Chairperson of the Board may give reasons for the Board's decision if he/she so wishes, but is not obliged to do so.
18. In respect of appeals which require the decision of a medical assessment board, the appellant and the Director of Social Welfare will be notified in writing of the decision of the Board normally within three weeks after the receipt of the decision of the Medical Assessment Board for social security appeals.

### **Travelling Expenses incurred by Appellants**

19. Appellants may claim reimbursement of travelling expenses incurred in lodging appeals and in attending Board hearings at the office of the Social Security Appeal Board. The amount of fares they can claim is limited to that charged by the cheapest mode of transport. However, claims in respect of a more expensive form of transport may be allowed for disabled appellants or appellants with mobility difficulties.