

2017 3SquaresVT Regional Conference

How to be an advocate for your client and 3SquaresVT



Presented by

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Our Topics for Today



- What we do at VLH, LSSL, and VLA
- Advocating for the program
- What laws apply?
- Application tips
- Common problems with some quick fixes
- Appeal rights & fair hearing process
- Overpayments: Agency/HH errors, IPV's
- Other issues

What we do at Law Line and Legal Aid



- **Vermont Law Help: Quick advice and intake for LSL and VLA**
 - 1-800-889-2047
 - Hours:
 - M, W, F, 8:30-1:30
 - T, Th, 11:30-4
- **Legal Services Law Line:**
 - Extensive service for self-represented petitioners, limited representation.
- **Vermont Legal Aid:**
 - Full representation or telephone advice.

Advocating for 3SquaresVT



- **Legislative Purpose:** “To promote the general welfare, to safeguard the health and well-being of the Nation’s population by raising nutrition levels among low-income households.”
- **Getting benefits helps everyone:**
 - People with adequate nutritious food are healthier.
 - Every \$1 spent on 3SquaresVT almost double that in local economic activity.
 - 3SquaresVT spending creates farm jobs, grocery jobs, and supports our farmers markets.
 - SNAP is less than 2% of the federal budget.

What laws and rules apply?



- Federal statute: 7 U.S.C. § 2011 et seq.
- Federal regulations: 7 CFR Part 271-283
- Vermont Rules: 271.1-280.1
- Vermont Procedures: P2500
 - Many of these are out-of-date.
- U.S. Constitution:
 - 14th Amendment due process and equal protection protections
 - 5th Amendment protection from self-incrimination
- American with Disabilities Act (ADA), 42 U.S.C. § 12132 & Section 504 of the Rehab Act, 29 U.S.C § 794.
 - Alternative communications: Call 202-720-2600.
- Title VI, Civil Rights Act of 1964, 42 U.S.C. § 2000d: Limited English Proficiency requirements

Applying for 3SquaresVT



- **Office operations:**
 - Must service people with special needs: Elderly, disabled, rural areas, LEP, & HHs with earned income.
 - Basics: Timely, accurate, fair service.
- **Processing deadlines:**
 - 30 day deadline for issuance (7 days expedited)
- **Application:**
 - Get it in as quickly as possible. Recording date is date received with name, address, signature (included recorded telephonic).
 - Should be accepted both on paper and telephonically.
- **Verifications:**
 - Notice must be clear & simple, provide examples.
 - DCF has responsibility to assist HH in obtaining verifications.
 - 10 days to comply.
- **Interview: In person or telephonic. ADA/LEP/special needs.**

Common Problems with Quick Fixes



- **Verification problems / notice of expiration:**
 - Provide missing documents / reapply or ask DCF for help.
- **Income & HH Information:**
 - Validate info provided on application or in interview, correct as necessary, provide supporting documents.
- **Doing Math: Check amount of benefits.**
 - Benefits call center can help: 1-800-479-6151.
- **Mass changes:**
 - Verify the change in the law (cannot be appealed).
 - Verify applicability of change to the client (can be appealed).
- **Quality Control Reviews:**
 - Complete the paperwork, seek assistance from QC reviewer.

Appeal Rights



- **Almost any agency action can be appealed (not mass change).**
 - When the quick fix doesn't work, anything can be appealed.
 - In addition: Request an “agency conference,” Rule 273.15(d).
 - Mandatory for expedited denials; discretionary for other issues.
 - Eligibility worker & supervisor, HH/rep, may lead to informal resolution.
- **When: 90 days of action.**
 - To receive aid continuing, request appeal prior to effective date of adverse action (usually 10 days).
- **How:**
 - By phone: 1-800-479-6151 (Call Center)
 - By letter: Local district office or HSB
 - <http://humanservices.vermont.gov/boards-committees/hsb/request-for-a-fair-hearing>
 - Fax: 802-828-3068 (HSB)
 - E-mail: Contact.HSB@Vermont.gov

Notice of Hearing and Hearing Rights



- Basics: Notice includes time, date, place of hearing, name of AAG representing DCF.
- Scheduling: At least 10 days, no more than 60 days.
 - HH can request postponement of up to 30 days one time. Notice will include contact to call to reschedule.
 - If HH no shows & doesn't call, appeal withdrawn.
- Right to review Department evidence
- Right to bring an attorney/representative to hearing.
- Notification of hearing process/procedures.
- Right to have DCF-provided interpreter to explain the evidence, process, and at the hearing.

The Hearing



- **Who's there:**
 - Hearing Official: Kind of like a judge.
 - AAG: Represents DCF and presents their evidence/arguments.
 - DCF staff or supervisor: To testify to facts, present documents.
 - HH member, witnesses: To present HH's side of the facts.
 - Advocate/rep for HH: Present facts, make legal arguments.
- **Process:**
 - Hearing official records the hearing and commences.
 - DCF presents its case first.
 - Right of HH to review evidence introduced.
 - Right to cross-examine state witnesses.
 - HH presents testimony, documents, legal arguments.
- **Follow-Up:** If HH has additional evidence/arguments to present post-hearing, request keeping record open.

Post-Hearing



- **DCF changes its decision at hearing:**
 - Based on evidence presented, DCF may choose to reinstate/commence benefits. If goal is satisfied, process is over.
- **Notice of recommended decision from H.O.:**
 - Summarizes facts of case, specifies reason for decision, points to supporting evidence, applicable federal regulations.
- **Human Services Board hearing:**
 - Notice of time and date of hearing.
 - Right to review record (incl. audio) from administrative hearing.
 - Right to make arguments as to why hearing officer was correct or incorrect. Not the time to present new evidence.
- **Written decision from HSB.**
 - Right to appeal to Vermont Supreme Court.

Overpayments: Agency Errors



- **What is an agency error?**
 - DCF failed to act on reported change
 - Incorrect computations
 - Benefits post-certification period or during IPV disqualification
- **Limits: 12 months; \$600 threshold.**
- **Calculation: Includes all deductions.**
 - Get chart of actual received v. eligibility.
- **Compromise: Automatic 50% compromise; 100% for client over 65 or terminally ill.**
- **Repayment: Allotment reduction, repayment plan, TOP.**

Overpayments: Inadvertent HH Error



- **What is an IHE?**
 - Inadvertent HH failure to provide correct/complete info or timely report a change.
 - Got aid continuing pending hearing decision, DCF affirmed.
- **Limits: 12 months; \$125 threshold.**
- **Calculation: From date change should have taken effect if reported correctly. No earned income deduction.**
 - if simplified reporter, not until next certification!
- **Compromise: Notice must be provided of availability.**
 - Economic circumstances for inability to pay within 3 years.
 - 100% compromise for 65 or older or terminally ill.
- **Repayment: Reduction in benefits, repay plan, TOP.**

Overpayments: Intentional Program Violation



- **What is it?**
 - False statement/misrepresentations/withholding facts, intentionally
 - Other acts that violate fed/state law/regs (like selling benefits).
- **Limits: 6 years; threshold of \$35.**
- **Results:**
 - Repayment of overpayment, no deductions.
 - Disqualification from SNAP for 1 year for 1st offense; 2 years for 2nd offense; lifetime for 3rd; 10 years for getting benefits by misrepresenting state of residency to get double.
 - Disqualifications uploaded to federal FNS

Overpayments: IPV's



- **Changes in investigations**
 - May commence with contact from investigator.
 - Seek written notification. Communication will not help. Don't engage.
- **Notices:**
 - Notice of Intentional Program Violation, 1st & Final
 - Minimal information on overpayment, lacks evidence of intent.
 - No deadline. Worst that can happen is that a hearing is scheduled.
 - Administrative disqualification hearing waiver: By signing, accept disqualification and repayment, admit or not. No benefit to signing.
- **Call Vermont Legal Aid: 800-889-2047.**
 - Do not sign waiver. Do not speak to investigator.

Other Issues



- **Accessibility accommodation, e.g.:**
 - Large font documents, braille, TYY.
 - Meetings in accessible locations, in-house meetings or telephonic.
- **Program accommodations, e.g.:**
 - Telephonic reminders
 - Department assistance in verifications.
- **LEP rights:**
 - Interpretation of documents, interpreters for interviews and hearings. DCF required to provide interpreter, use of child/relative disfavored.