



## **HPA CONSORTIUM POLICIES & PROCEDURES**

### **APPEAL OF DENIAL**

**POLICY:** It shall be the policy of all Homelessness Prevention Assistance Consortium staff members to ensure that every decision made about providing financial assistance with rent or utilities is correct and based upon accurate and thorough review of all documentation and eligibility factors. All information will be carefully considered before any decisions are made that affect a household's eligibility or assistance amount.

All decisions regarding eligibility shall be communicated in writing. When a household is eligible, the applicant shall enter into an Applicant Contract with the HPA Consortium Member Agency and a Promissory Note to the affected Landlord will be issued. When a household is determined to be ineligible, the household will be notified in writing and given the opportunity to appeal the decision to a person who was not part of the original decision.

To ensure impartiality and fairness to each household, there are four levels of appeal: Reconsideration by Lead Agency; Case Review by Clark County Social Service; Fair Hearing by the Clark County Manager, or designee; and finally, Appeal to the local representative of the U.S. Department of Housing and Urban Development (HUD). The decision by the local representative of HUD is final.

#### **FOUR LEVELS OF APPEAL:**

##### **1. RECONSIDERATION BY LEAD AGENCY**

Applicants denied financial assistance with their rent or utilities will be provided a written denial notification by the Lead Agency. This notification will state the denial reason and explain the appeal procedure and time limitations on filing an appeal.

A reconsideration is a complete review of your application by someone who did not take part in the first decision. This designated staff person at the Lead



Agency will look at all the evidence submitted when the original decision was made, plus any new evidence presented by the applicant household.

Many reconsiderations involve a review of applicant's HMIS and hard-copy files, without the need for the applicant to be present, if scheduling an in-person review is burdensome or not possible due to time restraints. However, if an in-person reconsideration is preferred, the applicant has the right to bring a representative such as a friend, relative, advocate, attorney, etc. to the reconsideration review.

The applicant will be provided with written notification of the outcome of the reconsideration review. If the outcome is a continued denial of financial assistance with rent or utilities, the written notification is to include an explanation of the appeal procedure and time limitations on filing an appeal.

## **2. CASE REVIEW BY CLARK COUNTY SOCIAL SERVICE**

Applicants who disagree with the reconsideration review may appeal for a Case Review to the Director of Clark County Social Service (CCSS) within five (5) business days of the reconsideration denial. The purpose of the Case Review is to resolve the issue, if possible, without going through a formal hearing. The Case Review is conducted informally with the opportunity being given to the household or their representative to present the reasons why they feel assistance should be granted.

The household may be represented by an advisor on the Case Review, if they so desire. If the household or representative fails to report for a scheduled Case Review within thirty (30) minutes, the denial decision of the Lead Agency will be upheld, and a letter will be sent to the applicant advising that the original decision stands, due to non-appearance. While an in-person Case Review is preferred, the applicant household may authorize a review of the HMIS and hard copy files to expedite a review by the CCSS.

The outcome of the Case Review will be communicated to the household in writing, within five (5) working days following the Case Review.

## **3. FAIR HEARING**

Applicant households who disagree with the decision made by CCSS during the Case Review may ask for a Hearing before the County Manager or her designee. Any request for a Hearing before the County Manager must be made in writing within five (5) working days following the receipt of the written notification.



The County Manager, or designee, will schedule an in-person Fair Hearing with the applicant household within ten (10) working days from receipt of the request for the appeal and Fair Hearing. Before the Hearing, the applicant may review the case file. During the Hearing, the applicant may be asked to provide more evidence and/or to clarify information about the claim for assistance.

The outcome of the Fair Hearing will be communicated to the household in writing, within five (5) working days following the Hearing.

#### **4. APPEAL TO THE LOCAL REPRESENTATIVE OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Applicant households dissatisfied with the outcome of the Fair Hearing may request that a representative of the Las Vegas Regional Office of the U.S. Department of Housing and Urban Development (HUD) review the Hearing records, by contacting the local office at (702) 366-2100, and requesting to appeal a decision concerning HPRP funds.

HUD shall consider all requests for review, but it may deny a request if it believes the Hearing decision was correct. If HUD decides to review the case, it will either decide the case itself, or return it to an administrative law judge for review. The costs associated with a review by an administrative law judge will be borne by Clark County Social Service and the HPRP program.

The outcome of the Appeal to the HUD representative will be communicated to the household in writing, within thirty (30) days of receipt of written request for appeal. HUD's decision is final.

#### **PROCEDURE:**

Applicants denied HPRP assistance will be provided a written denial notification by the Lead Agency. This notification will state the reason for denial and explain the appeal procedure and time limitations on filing an appeal.

1. A household denied financial assistance with rent or utilities must first contact the Lead Agency of the Homelessness Prevention Assistance Consortium to request a **Reconsideration of their case**, in accordance with the Lead Agency's Grievance/Appeals procedures.
2. The Lead Agency shall reconsider the application within five (5) days of request, and communicate the outcome of the reconsideration in writing within five (5) days after the review. When requested by the applicant household, the reconsideration review shall occur during a face-to-face meeting with the applicant in the office of the Lead Agency. In such an



incident, a second person shall be present, to act as an observer and participant for the Lead Agency.

3. The Lead Agency shall notify the applicant household about the outcome of the reconsideration and review of the case within five (5) working days of the review, and shall upload a copy of the letter into the applicant's HMIS Verifications screen.
4. If the applicant is unsatisfied with the outcome of the reconsideration review, the household may appeal to the Director of Clark County Social Service (CCSS) or the Nevada State Housing Division and request a **Case Review**.
  - a. To schedule a Case Review/Appeal with Clark County Social Service, applicants should call 455-5722 and request a Case Review.
  - b. To schedule a Case Review/Appeal with the State of Nevada's Housing Division, applicants should call (775) 687-2040.
5. Designated staff at CCSS will schedule an appointment for the Case Review. Notice of the appointment will be mailed to the applicant within three (3) working days, and a copy will be kept in the HPRP Appeals Book in CCSS Administration.
  - a. The Case Review appointment will include the applicant household and/or his/her representative, a CCSS staff person designated to hear reviews, and a second person to act as an observer and participant for CCSS.
  - b. The Case Review meeting will be recorded and transcribed to written minutes within five (5) working days after the Case Review.
  - c. If the decision must be delayed, the extension must be mutually agreed upon in writing by the CCSS representative and the applicant. The agreed-upon extension will then be filed in the HPRP Appeals Book in CCSS Administration.
6. The decision of the Case Review will be issued in writing, within five (5) days of the Case Review, and uploaded into the applicant's HMIS Verifications screen.
7. If the applicant is unsatisfied with the outcome of the Case Review by CCSS or the State, the household may appeal for a **Fair Hearing** to the Clark County Manager within five (5) days from the Case Review denial.
  - a. Applicant household must request a Fair Hearing in writing, and deliver or mail to: Clark County Manager, 500 Grand Central Pkwy, 6<sup>th</sup> floor, Las Vegas, NV 89106, within five (5) business days after being notified of the Case Review denial.



- b. The Clark County Manager may personally conduct the hearing or designate a qualified hearing officer to obtain evidence from the applicant, the HPRP Front Door Agency, HPRP Lead Agency, CCSS department and such witnesses as CCSS or the household may wish to supply.
8. The Clark County Manager or her designee shall schedule a Fair Hearing within ten (10) business days from receipt of appeal from the applicant. Notice of the Fair Hearing will be mailed within three (3) business days from then to the applicant. Reasonable requests for delay should be granted.
  - a. The Fair Hearing will be an in-person meeting and include the applicant household and/or his/her representative, a CCSS staff person familiar with federal rules and regulations concerning the HPRP funds, and a Deputy District Attorney to clarify any legal issues.
  - b. The Fair Hearing meeting will be recorded and transcribed to written minutes within five (5) working days after the Fair Hearing. The written minutes may be either in summary form or verbatim.
  - c. At least three (3) days prior to the scheduled Fair Hearing, CCSS staff shall provide to the hearing officer the household's application for assistance, results of the case review and any other pertinent information regarding the household's request for assistance.
  - d. The Deputy District Attorney and the CCSS representative shall form an **Advisory Board** to assist the hearing officer in fully developing the pertinent facts and understanding the federal regulations governing the funding stream(s) and eligible activities. This **Advisory Board** may make such suggestions as may be helpful to the hearing officer in conducting the hearing; however, these two Clark County representatives shall act in an advisory capacity only, with the primary purpose to furnish technical/legal advice.
9. **Conduct of the Fair Hearing:** the hearing officer will:
  - a. Open the Hearing: call the hearing to order; determine who is present in the room and ask anyone not a party to the hearing to leave the room. The hearing officer shall also state the purpose of the hearing and introduce the persons in attendance.
  - b. Determine Attendance: If the individual or representative fails to report for a scheduled Fair Hearing within thirty minutes of the prescribed time, a letter will be sent to the household advising that the original decision stands due to non-appearance. However, if the household has a representative present, and the representative elects to proceed with the hearing, the hearing may be held.



- c. Explain Functions: Explain the functions and responsibilities of the hearing.
- d. Secure Stipulations: Secure stipulations, if there is no disagreement among the parties, on certain facts of the case. If stipulations are made, dictate them into the record and secure the agreement of both parties that the stipulations have been stated correctly.
- e. Opening Statements: Allow each party to make an opening statement that indicates what each expects to prove. The CCSS Director's designee shall proceed first.
- f. Testimony: Arrange for testimony by affirmation.
- g. Evidence: Keep evidence relevant and material.
- h. Admissibility Rulings: Decide on admissibility of evidence. Each ruling that evidence is not admissible should be recorded with the reason for the ruling.
- i. Prevent Delays : Prevent delaying tactics by either party.

#### **10. Procedures of the Fair Hearing**

The CCSS Director or designee presents the CCSS case first, followed by applicant household. Each shall adhere to the following guidelines when presenting evidence and testimony:

- a. Relevance of Information: The technical rules of evidence do not apply. However, evidence should be relevant and material, and not unduly repetitious. Evidence is relevant when it has a bearing on the issues in the case. Evidence is material when it will have some weight in the disposition of the case.
- b. Burden of Proof: It is the responsibility of CCSS to support the allegation of ineligibility of the applicant. However, it is the responsibility of the applicant to present evidence or testimony if they contend the CCSS decision of a particular eligibility factor is incorrect.
- c. Examination and Cross-Examination: Witnesses who testify are subject to cross-examination, although formal judicial procedures will not be followed.
- d. Objections: No technical objections to testimony as used in a court of law will be entertained, but parties may object to clearly irrelevant material. The household or their representative may be present throughout the hearing, but not during deliberations of the Board before or after the hearing.

#### **11. Closing the Hearing**

- a. Final Questions: The hearing officer will ask for the closing statements.



- b. Closing Statements: before closing the hearing, the CCSS Director or designee and the household or their representative may each be permitted to make a closing statement.
- c. Final Announcement: the hearing officer will:
  - i. Inform Applicant Concerning Written Decision: inform the household that a decision will be furnished, in writing, by the Clark County manager within five (5) working days.
  - ii. Inform Applicant and CCSS Director Concerning Hearing Report: inform the household and the CCSS Director that they will be given a copy of the hearing report. The records of the hearing will be maintained for not less than six (6) months subsequent to the hearing, and for five (5) years in the applicant household's hard copy file. In the case of an adverse decision, if the household desires to appeal the case to a higher authority, they will be furnished a copy of the hearing report.

## 12. Action After the Hearing

- a. Evaluation of Evidence: the hearing officer will consider and evaluate all the evidence presented and decide whether there was substantial evidence presented to support each finding or conclusion s/he makes.
- b. Prepared Statement: the Clark County Manager or designee will prepare a statement of finding setting forth reasons for either upholding or denying the applicant's claim. The findings of the hearing must adhere to the standards of eligibility and amounts of assistance as approved by the Board of County Commissioners.

13. A household still unsatisfied with the outcome of the fair hearing by the Clark County Manager may request that the **Las Vegas Regional Office of the U.S. Department of Housing and Urban Development (HUD)** review the hearing record and recommendations of the Clark County Manager. The representative from the local HUD office will issue a decision as to whether it will sustain the results of the Clark County Manager's hearing.

- a. To request an appeal of the Fair Hearing decision, the household must submit a written request to the Las Vegas Regional HUD office at 300 Las Vegas Blvd, Suite 2900, Las Vegas, NV 89101 or by calling (702) 366-2100, detailing reasons for appeal within five (5) days of the Fair Hearing Decision.