

S.I. No. 108/1998:

SOCIAL WELFARE (APPEALS) REGULATIONS, 1998

The Minister for Social, Community and Family Affairs, in exercise of the powers conferred on him by section 298, as applied and modified by the Social Welfare (Rent Allowance) (Amendment) (No. 2) Regulations, 1990 (S.I. No. 302 of 1990), of the Social Welfare (Consolidation) Act, 1981 (No. 1 of 1981), and by section 4 , 188 , 250 , 256 , 257 , 257A (inserted by section 30 of the Social Welfare Act, 1996 (No. 7 of 1996) and 273A (inserted by section 31 of the Social Welfare Act, 1996) of the Social Welfare (Consolidation) Act, 1993 , (No. 27 of 1993), hereby makes the following Regulations:

PART I General

Citation

1. These Regulations may be cited as the Social Welfare (Appeals) Regulations, 1998.

Commencement

2. These Regulations shall come into operation on the 6th day of April, 1998.

Definitions

3. In these Regulations—

~~—"designated officer" means an officer of the health board appointed or designated under section 267 of the Principal Act for the purposes of determining an appeal against a determination by an officer of the health board of a claim for supplementary welfare allowance;~~¹

“designated person” has the meaning assigned to it in section 2(1);²

"hearing" means oral hearing;

"the Principal Act" means the Social Welfare (Consolidation) Act, 1993 .

Interpretation

4. In these Regulations any reference to a section refers to a section of the Principal Act.

Revocation of Regulations

5. The Social Welfare (Appeals) Regulations, 1990 (S.I. No. 344 of 1990) are hereby revoked.

PART II Functions of Chief Appeals Officer

Distribution of references to appeals officers

6. The Chief Appeals Officer shall be responsible for the distribution amongst the appeals officers of the references to them under sections 257 and 257A and for the prompt consideration of such references.

Convening of meetings

7. The Chief Appeals Officer may convene meetings of appeals officers for the purpose of discussing matters relating to the discharge of the functions of appeals officers including in particular consistency in the application of the statutory provisions.

¹ Deleted by Art 4(a) S.I. 505 of 2011

² Inserted by Art 4(b) S.I. 505 of 2011

Reference by a deciding officer to appeals officer

8. (1) A reference to an appeals officer by a deciding officer under section 250 shall be in the form, for the time being, approved by the Chief Appeals Officer or in any other such manner as the Chief Appeals Officer may accept as sufficient in the circumstances.

(2) Where a reference to an appeals officer is made by a deciding officer under section 250, the manner for dealing with it shall, with any necessary modifications, be the same as if the reference were an appeal made under section 257 of the said Act.

PART III Procedure on Appeal

Submission of appeal and information to be supplied by appellant

~~9. (1) Any person (in these Regulations referred to as the appellant) who is dissatisfied with the decision of a deciding officer or the determination of a designated officer and who wishes to appeal against such decision or determination, as the case may be, shall give notice in that behalf, in writing, to—~~

~~—(a) in the case of an appeal against a decision of a deciding officer, the Chief Appeals Officer, or~~

~~—(b) in the case of an appeal against a determination by a designated officer, the health board.~~

~~—(2) The time within which an appeal may be made shall be any time up to the expiration of 21 days from the date of the notification of the decision of a deciding officer or determination of a designated officer, as the case may be, to the appellant:~~

~~—Provided that notice of appeal given after the end of that period may, with the approval of the Chief Appeals Officer or the health board, as the case may be, be accepted.~~

~~–(3) The notice of appeal shall contain a statement of the facts and contentions upon which the appellant intends to rely.~~

~~–(4) The appellant shall send to the Chief Appeals Officer or to the health board, as the case may be, along with the notice of appeal, such documentary evidence as the appellant wishes to submit in support of his or her appeal, and the notice shall contain a list of any such documents.~~

~~–(5) Any person wishing to withdraw an appeal may do so by sending a written notice to that effect to the Chief Appeals Officer or the health board, as the case may be.³~~

Submission of appeal and information to be supplied by appellant.

9. (1) Any person (in these Regulations referred to as the appellant) who is dissatisfied with the decision of a deciding officer or the determination of a designated person and who wishes to appeal against such decision or determination, as the case may be, shall give notice in that behalf, in writing, to the Chief Appeals Officer.

(2) The time within which an appeal may be made shall be any time up to the expiration of 21 days from the date of the notification of the decision of a deciding officer or determination of a designated person, as the case may be, to the appellant.

(3) Notwithstanding sub-article (2), notice of an appeal given after the expiration of 21 days from the date of the notification of the decision of a deciding officer or determination of a designated person to the appellant may, with the approval of the Chief Appeals Officer, be accepted.

(4) The notice of appeal shall contain a statement of the facts and contentions upon which the appellant intends to rely.

(5) The appellant shall send to the Chief Appeals Officer along with the notice of appeal, such documentary evidence as the appellant wishes to submit in support of his or her appeal, and the notice shall contain a list of any such documents.

(6) Any person wishing to withdraw an appeal may do so by sending a written notice to that effect to the Chief Appeals Officer.⁴

~~**Notification of appeal and information to be supplied**~~

³ Substituted by Art 5(a) S.I. 505/2011

⁴ Substituted by Art 5(a) S.I. 505/2011

~~10. (1) In the case of an appeal against the decision of a deciding officer under section 257, the Chief Appeals Officer shall cause notice of the appeal to be sent to the Minister who shall, as soon as may be, furnish to the Chief Appeals Officer —~~

~~(a) a statement from the deciding officer or on his or her behalf showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and~~

~~(b) any information, document or item in the power or control of the deciding officer that is relevant to the appeal.~~

~~(2) In the case of an appeal against a determination of a designated officer under section 257A, the health board shall furnish to the Chief Appeals Officer, in the form, for the time being, approved by him or her or in such other form as he or she may accept as sufficient in the circumstances —~~

~~(a) the notice of the appeal together with any documentary evidence submitted by the appellant in connection with such appeal,~~

~~(b) a statement from the designated officer or on his or her behalf showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and~~

~~(c) any information, document or item in the power or control of the designated officer that is relevant to the appeal.⁵~~

Notification of appeal and information to be supplied.

10. In the case of an appeal against the decision of a deciding officer or the determination of a designated person under section 311, the Chief Appeals Officer shall cause notice of the appeal to be sent to the Minister who shall, as soon as may be, furnish to the Chief Appeals Officer—

⁵ Substituted by Art 5(a) S.I. 505/2011

(a) a statement from the deciding officer or the designated person or on his or her behalf showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and

(b) any information, document or item in the power or control of the deciding officer or the designated person, as the case may be, that is relevant to the appeal.⁶

Notice of appeal

11. The Chief Appeals Officer shall cause notice that an appeal has been submitted to be furnished to any other person appearing to be concerned.

Further information to be supplied and amendment of pleadings

12. The appeals officer to whom an appeal is referred may at any time—

~~—(a) require the appellant, the deciding officer or the designated officer, as the case may be, or any other person appearing to the appeals officer to be concerned, to furnish to him or her, in writing, further particulars regarding the appeal,⁷~~

(a) require the appellant, the deciding officer or the designated person, as the case may be, or any other person appearing to the appeals officer to be concerned, to furnish to him or her, in writing, further particulars regarding the appeal,⁸

(b) allow the amendment of any notice of appeal, statement, or particulars at any stage of the proceedings, and

(c) fix the time for furnishing any such statement or particulars upon such terms as he or she may think fit.

Summary appeals

13. Save as provided in section 270, where the appeals officer is of the opinion that the case is of such a nature that it can properly be determined without a hearing, he or she may determine the appeal summarily.

⁶ Substituted by Art 5(a) S.I. 505/2011

⁷ Substituted by Art 5(b) S.I. 505/2011

⁸ Substituted by Art 5(b) S.I. 505/2011

Hearings

~~14. Where, in the opinion of the appeals officer, a hearing is required he or she shall, as soon as may be, fix a date and place for the hearing, and give reasonable notice of the said hearing to the appellant, the deciding officer or designated officer, as the case may be, and any other person appearing to the appeals officer to be concerned in the appeal.⁹~~

Hearings.

14. Where, in the opinion of the appeals officer, a hearing is required he or she shall, as soon as may be, fix a date and place for the hearing, and give reasonable notice of the said hearing to the appellant, the deciding officer or designated person, as the case may be, and any other person appearing to the appeals officer to be concerned in the appeal.

Attendance at a hearing

15. (1) The appellant shall ordinarily appear at the hearing in person and he or she may be accompanied by any member of his or her family, or, with the consent of the appeals officer, by any other person.

(2) The appellant may, with the consent of the appeals officer, be represented at the hearing by any member of his or her family or by any other person.

~~(3) The deciding officer or designated officer, as the case may be, may appear at the hearing in person or he or she may be represented by another officer of the Minister or the health board, as the case may be.¹⁰~~

(3) The deciding officer or designated person, as the case may be, may appear at the hearing in person or he or she may be represented by another officer of the Minister.¹¹

(4) Any other person appearing to the appeals officer to be concerned may also attend at the hearing.

⁹ Substituted by Art 5(c) S.I. 505/2011

¹⁰ Substituted by Art 5(d) S.I. 505/2011

¹¹ Substituted by Art 5(d) S.I. 505/2011

Failure to attend hearing

16. Where, after notice of a hearing has been duly given, any of the parties fails to appear at the hearing, such order or decision may be made, and such steps may be taken with a view to the determination of, or in reference to, the appeal as the appeals officer may think appropriate.

Failure to comply with Regulations

17. The appeals officer may decide any question duly referred to him or her, notwithstanding the failure or neglect of any person to comply with any requirement of these Regulations.

Procedure at hearing

18. (1) The procedure at the hearing shall be such as the appeals officer may determine.

(2) The appeals officer may postpone or adjourn the hearing as he or she may think fit.

(3) The appeals officer may admit any duly authenticated written statement or other material as prima facie evidence of any fact or facts in any case in which he or she thinks it appropriate.

Decision of appeals officer

19. (1) The decision of the appeals officer shall be in writing signed by him or her and shall be sent, as soon as may be, to the Chief Appeals Officer.

(2) In any case where the decision of the appeals officer is not in favour of the appellant, the appeals officer shall attach to his or her decision a note of the reasons for the said decision.

~~(3) The Chief Appeals Officer shall, as soon as may be after the receipt of the decision of the appeals officer, cause a memorandum of —~~

~~—(a) the decision, and~~

~~—(b) where in accordance with sub-article (2) of this article the decision is not in favour of the appellant, the reasons therefor,~~

~~—to be sent to—~~

~~—(i) the appellant and to any other person concerned,~~

~~—(ii) the Minister, in the case of an appeal against the decision of a deciding officer, and~~

~~—(iii) the health board, in the case of an appeal against a determination by a designated officer.¹²~~

(3) The Chief Appeals Officer shall, as soon as may be after the receipt of the decision of the appeals officer, cause a memorandum of—

(a) the decision, and

(b) where in accordance with sub-article (2) of this article the decision is not in favour of the appellant, the reasons for that decision, to be sent to—

(i) the appellant and to any other person concerned, and

(ii) the Minister.¹³

Method of sending documents

20. Any notice or other document required or authorised to be sent to any person for the purpose of these Regulations shall be deemed to be duly sent if sent by post addressed to him or her at his or her ordinary address or at his or her place of business.

¹² Substituted by Art 5(e) S.I. 505 of 2011

¹³ Substituted by Art 5(e) S.I. 505 of 2011

GIVEN under the Official Seal of the Minister for Social, Community and Family Affairs, this
3rd day of April, 1998.

DERMOT AHERN,

Minister for Social, Community and Family Affairs.

EXPLANATORY NOTE.

These Regulations, which come into effect on 6 April, 1998, prescribe the functions of the Chief Appeals Officer and set out the procedures to be followed in social welfare appeals.
