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MAKING HUMAN RIGHTS REAL



072-66 33 739
help@blacksash.org.za

Black Sash – You and Your Rights (Issue 4)

Social Grant Applications and Right to Appeal

Did you know that the Social Assistance Act (2004) as amended provides for the establishment of the Independent Tribunal for Social Assistance Appeals (ITSAA) which is located within the Department of Social Development in Pretoria?

The tribunal is a specialist committee which was formally established in May 2008. Its purpose is to resolve social grant appeals received from dissatisfied social grant applicants who want to challenge adverse administrative decisions. The tribunal is based in Kwa-Zulu Natal and Eastern Cape and operates from the SASSA offices in Limpopo.

The right to appeal South African Social Security Agency (SASSA) decisions is covered section 33 of the Constitution which enshrines the right to Just Administrative Action which states that –

- “Everyone has the right to administrative action that is lawful, reasonable and procedurally fair; and
- Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.”

The above-mentioned constitutional right is enforced by the Promotion of Administrative Justice Act (2000) which provides for the review of adverse administrative decisions.

If the SASSA rejects your application for an older person's grant, disability grant, child support grant, care-dependency grant, foster grant, grant-in-aid or war veterans grant, you have a right to appeal the decision within a period of 90 days (3 months) from the date you receive the rejection letter.

The SASSA cannot communicate its decisions orally or through unofficial communication channels. Regarding the 'Notification of Outcomes', SASSA is required by its regulations to communicate its decisions in the following manner –

- The Agency must, within three months of the date of the application for a social grant notify the applicant of the approval or rejection of the application for the social grant;
- A notification must be delivered to the applicant by hand, against signature by the applicant, or at the address furnished by the applicant at the time of application; or pre-paid registered post to the address furnished by the applicant at the time of application;
- Upon approval of an application for a social grant, the Agency must inform the applicant in writing of such approval and (a) of the payment details; (b) of the obligations of the applicant to notify the Agency of a change in circumstances; (c) in the case of refugees, the date of lapsing of the social grant; and (d) in the case of a temporary disability grant, the reasons therefor, the duration of the social grant and the date upon which it lapses; and
- Upon refusal of a social grant application, the Agency must inform the applicant in writing of such refusal and of (a) the reasons for such refusal; and (b) the applicant's right to appeal the decision and the (c) mechanism and procedure to lodge an appeal.

Before submitting an appeal to the Independent Tribunal for Social Assistance Appeals, the dissatisfied person must submit a written 'Application for Reconsideration' to SASSA. This is an internal appeal mechanism which is regulated by the 'Regulations relating to the Lodging and Consideration of

Applications for Reconsideration of Social Assistance Appeals by the Independent Tribunal.’

For example, when a dissatisfied person prepares to submit an appeal to the Tribunal, the dissatisfied person must submit (a) proof of the social grant application; (b) previous or current medical reports for disability grants; (c) proof of income and assets; (d) SASSA rejection letter; and any other helpful information.

If the appeal is outside the 90-day period, the dissatisfied person may submit to the Tribunal an ‘Application for Condonation for Late Appeal’. The Tribunal must finalise the application for condonation within 90-days. In the condonation application, the dissatisfied person must give reasons for the lateness.

If the Tribunal rejects the appeal without any lawful and reasonable grounds, the dissatisfied person can approach a court of law to overturn the Tribunal’s decision.

For further information and assistance, dissatisfied person can contact –

- **Mr John Mokoale – 083 489 1918 / (Tel. 012) 741 6868 / Tel. (012) 741 6854/6864 (Director, ITSAA, Private Bag X901, Dept of Social Development, Pretoria, 0001 / email: grantappeals@dsd.gov.za**
- **Advocate George Ngwato – 082 308 7401 (ITSAA, Dept of Social Development, Eastern Cape)**
- **Public Protector, Eastern Cape – 0800 11 20 40 / (040) 635 1286/7**
- **SA Human Rights Commission – (043) 722 7821/25/28**