5. Appeals

5.1 Appeals Overview

5.1.1 GA Policy [120]

Appeal to Hearing Officer

An applicant or recipient who is dissatisfied with any action or inaction of the Agency may request an appeal to a Hearing Officer.

An appeal may be initiated by filing a written or oral request for a hearing which specifically states the basis of the appeal. This request must be filed with the Appeals Unit, Social Services Agency.

To be valid, an appeal must be filed personally, by telephone, or by mail within the following time frames:

- In situations in which the appeal involves an action by the agency, the request for an appeal must be filed within 30 days of the date on which the notice of action was personally handed or mailed to the applicant or recipient; or

- In situations in which the appeal involves inaction by the Agency, the request for an appeal must be filed within 30 days of the date on which the Agency should have taken action.

A recipient who, without good cause, fails to comply with the work-related provisions, and for whom a sanction is being proposed, shall be automatically scheduled for an appeal hearing as specified in GA policy 121.

Note:

The process is referred to as, “County Hearing”, “Appeal”, or “Fair Hearing.” The terms are interchangeable.

5.1.2 Definition

An appeal is a hearing that provides an applicant/recipient the opportunity to obtain a full, impartial review of any action or non-action taken by Social Services Agency. The hearing is conducted by an impartial Hearing Officer designated by the Director of Social Services Agency. The applicant/recipient may appear personally, through an authorized representative or through counsel, and may present any evidence relative to the disputed action.
5.2 Terms Unique to the Appeals Process

5.2.1 Claimant

A claimant is a person who requests an appeal. The request is technically a “claim” and the claim will either be granted (the claimant prevails) or denied (the County prevails).

5.2.2 Issue

The issue is the specific action or inaction to which the claimant is dissatisfied.

5.2.3 Authorized Representative

A claimant may appoint a person to represent him/her in the hearing. This can be anyone (a lawyer, a friend, a welfare rights advocate, or an organization).

After proper authorization, an authorized representative may make a request for a hearing on behalf of a claimant.

Exception:

By county policy, it is a conflict of interest for Social Services Agency personnel to represent a client in an Appeal. Refer to ["Role of the EW," page 37-8] of the Common Place Handbook for a further explanation of the role of the Eligibility Worker in the Appeal process.

5.2.4 Types of Hearings

There are two types of General Assistance (GA) Appeal Hearings:

1. AUTOMATIC HEARINGS are scheduled for any discontinuance and sanction, resulting from a GA Vocational Services (VS) non-compliance employable requirement, of the General Assistance Program (GA) regulations.

Example:

A person who is discontinued with a proposed sanction for failure to attend his/her work project, will be automatically scheduled for an Appeal Hearing.

2. NON-AUTOMATIC HEARINGS must be requested by the applicant/recipient if he/she wishes to appeal a proposed change, discontinuance or denial resulting from an adverse action.
Example:

A person who is discontinued for failure to send in a SAR 7 must request an appeal hearing if he/she wishes to have the issue scheduled.

5.2.5 Interpreters

The Appeals Clerk will arrange for an impartial interpreter to be present at the hearing, if one is needed. If an impartial interpreter is not available for the hearing, the hearing must be rescheduled OR the applicant/recipient may waive his/her right to an interpreter being present.

5.2.6 Hearing Schedule

Hearings are scheduled as follows:

- Automatic hearings are scheduled by the VSAS subsystem.
- Non-automatic hearings are scheduled by the Appeals Officer via CalWIN.

5.3 Automatic Hearings

5.3.1 Overview

A recipient who without good cause fails to comply with work participation provisions and for whom a sanction is being proposed, shall be automatically scheduled for an appeal hearing, as stated in GA policy GA 121.

Automatic hearings are scheduled in the Vocational Services and Appeals System (VSAS) for the following:

- Failure to keep an appointment for an Employability Assessment;
- Non-Compliance with EDD Work Registration requirement;
- Failure to attend Job Preparation Class(es);
- Failure to cooperate with Vocational Services;
- Failure to meet the requirement to accept any bona fide offer of employment;
- Failure to attend a Job Interview;
- Failure to complete Work Experience Requirements;
- Submission of apparently fraudulent documents from a Training Applicant/recipient;
- Termination of Work Experience Assignment for misconduct;
- Failure submit a completed Job Search form;
- Failure to accept a referral to Training.
An automatic hearing shall only be rescheduled if the recipient shows good cause (as defined in GA policy GA 231) for missing the initial hearing or if the Agency requests a new date. Aid pending such rescheduled hearing shall be continued.

5.3.2 Requirement

A notice of Proposed Action /Hearing Appointment Notice, form (GA 239), must be sent to the client ten (10) days before the hearing appointment date in order to give the client sufficient time to receive the notification and to prepare for the hearing. [Refer to “Automatic Hearing Process,” page 5-16]. GA 239 is generated by VSAS when a non-compliance is recorded.

5.4 Non-Automatic Hearings

5.4.1 Overview

A request for a hearing must be completed by the applicant/recipient for all hearings involving violations of non-work related regulations.

[Refer to “Non-Automatic Hearing Process,” page 5-18]

5.4.2 Methods of Filing

A request for a hearing may be oral or written.

**Oral Requests**

Individuals can contact the County Appeals Unit directly by calling (408) 817-6051. The County Appeals phone number is provided on the back of the Notice of Action (NOA).

**Written Requests**

An applicant/recipient may file a written hearing request by completing any of the following:

**Notice of Action**

The back of the Notice of Action (NOA) contains all information necessary to file a request for a hearing. The applicant/recipient should be encouraged to use the NOA because it describes the action with which they are dissatisfied.
“Request for General Assistance Hearing” (GA 20) Form

This form may be used to request any non-automatic General Assistance hearing. The original is date stamped by clerical and forwarded to the Appeals unit. A copy is also given to the applicant/recipient.

Any Other Form of Written Request

A hearing requested in this manner must include identifying information (e.g., date of birth or social security number) and information about the action which they are appealing.

Important:

Any request for hearing received by the EW shall be forwarded IMMEDIATELY to the Appeals Unit.

Where to File a Written Request

Written requests can be:

• Mailed to the Appeals Unit at 333 W. Julian St. San Jose, Ca 95110 or

• Hand-delivered to a Social Services District office

Note:

If a request is mailed to or dropped off at a district office, it must be:

• Date stamped immediately

• Scanned and mailed to the Appeals email in-box: asbappeals@ssa.sscgov.org (including the envelope stamped by the Postal Service), and

• Forwarded without delay (within 24 hours upon receipt) to the Appeals Unit.

Timely date-stamping, scanning and forwarding the request and envelope is critical to the determination of Aid Paid Pending and the right to the hearing itself, by establishing the filing date.
5.4.3 Time Limits for Request

Although all requests will result in a scheduled hearing, only those requests filed within certain time limits are within the jurisdiction of the hearing officer.

1. A request for a hearing on a discontinuance/change must be date stamped within 30 days after the date of the action with which the claimant is dissatisfied. This date shall be the date on which the notice was mailed to the claimant.

2. A request for a hearing on a denial must be date stamped within 30 days of the date of the denial NOA.

3. A request for a hearing on an inaction by the Agency must be filed within 30 days of the date the Agency should have taken action.

5.4.4 Time Limit for Aid Paid Pending

The recipient MAY be eligible to receive GA benefits pending the decision of the appeals hearing officer if the hearing request is date-stamped as received within seven days of the date of the NOA. [Refer to “Aid Paid Pending (APP) a Hearing Decision,” page 5-6].

Note:

Aid Paid Pending a Hearing does not apply to denials or new applications.

5.4.5 Scheduling the Hearing - Appeals Officer

Upon receipt of a request for a hearing, the Appeals Officer (AO) shall schedule the applicant/recipient for the next available hearing date.

5.5 Aid Paid Pending (APP) a Hearing Decision

5.5.1 APP Definition

Aid Paid Pending a hearing is the continuation of aid or services in the amount the claimant would have received if the proposed action was not taken.
5.5.2 APP Provisions

Non Automatically Scheduled Hearings

As specified in GA Policy [GA 123], if the request for an appeal hearing (other than an automatically scheduled hearing) is filed personally or by mail within seven (7) days of the notice of action, aid shall not be terminated or reduced pending the issuance of a written decision by the Hearing Officer. The request shall be filed with the Social Services Agency, Appeals Unit. If the request for a hearing is filed by mail, it must be sent by United States mail with the postage prepaid and with a postmark establishing that the date of mailing was within seven days (7) of the notice of action by the Agency. However, aid may be terminated or reduced immediately if the termination or reduction of aid is based on a change in state law, county policies, or agency regulations or procedures.

Automatically Scheduled Hearings

As specified in GA Policy [GA124], if the automatically scheduled hearing date is later than the date of the proposed discontinuance and sanction, aid shall be paid pending the hearing and decision.

5.5.3 Determination of Aid Paid Pending

Upon receipt of a hearing request, the AO will make an APP determination based on the following:

- Issuance of Notice of Action (NOA).
- Validity of the NOA
- Timely hearing request (within seven days from the date on the NOA).

The APP determination is documented in a “Notification Of Filing Of Fair Hearing” form (SCD 555).

5.5.4 Notification of Aid Paid Pending

The Appeals Clerk, upon receipt of an SCD 555 from the Appeals Officer (AO), must contact the GA/Appeals liaison to request for EW assignment.

Reminder:

Aid Paid Pending shall be processed by the assigned EW ONLY after the EW is notified in writing or by SCD 555 completed by the Appeals Officer.
Note:

No Aid Paid Pending shall be issued as a result of a change in:

- Board of Supervisors policies
- Agency regulations
- State law
- Federal law

5.5.5 Issuance of Aid Paid Pending (APP)

APP payments are to be issued on a monthly basis in the same amount as the original grant received PRIOR TO DISCONTINUANCE OR REDUCTION. APP will be issued as a continuing grant to both; the claimant and the landlord (if needed). The effective date of APP is the date immediately following the CORRECT effective date of the adverse action (i.e., timely NOA).

The assigned EW shall take the following steps to issue APP:

- Make changes in CalWIN Data Collection subsystem and change the amount the claimant would have received if the proposed action was not taken. The changes must be made effective the first of the month for which APP is to be issued.

- If the case has been discontinued, rescind the action and restore the continuing grant for BOTH the claimant and the landlord (if needed). If the grant has been reduced, increase the continuing grant to the amount received prior to the adverse action.

Note:

CalWIN calculates the first APP month’s payment by deducting the amount paid prior to the receipt of the SCD 555, from the total amount of APP the claimant is entitled to.

- Issue past due APP on an immediate need basis, as appropriate with Supervisor approval. Issue future APP as a continuing grant.

- Take action to change the case status upon receipt of the hearing decision.

<table>
<thead>
<tr>
<th>If Agency’s Proposed Action is:</th>
<th>Then the assigned EW Must:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upheld,</td>
<td>Discontinue/reduce the grant amount effective the first of the following month. A new NOA is NOT required.</td>
</tr>
<tr>
<td></td>
<td>Establish any resulting overpayments.</td>
</tr>
<tr>
<td>Overturned,</td>
<td>Continue the aid payment since the claim will be granted.</td>
</tr>
</tbody>
</table>
5.5.6 Example — Grant Reduction

1. On 11/20, a NOA is sent to the client to reduce the grant from ($312) to ($200) effective 12/01. On 11/26, the client files for a hearing (timely for APP). The Appeals Officer completes an SCD 555 to notify the assigned EW that the client has filed an appeal and that APP must be paid.

2. Prior to the grant reduction, the authorized payment to the landlord was ($300) and payment to the client was ($12).

3. The entire reduced grant ($200) for December has already been issued to the landlord. On 12/3, APP begins for December.

4. Calculate the initial APP amount for December, the reduced grant ($200) is deducted from the total grant received prior to the reduction ($312).

5. $100 of the remainder ($112) is issued to the landlord, and ($12) is issued to the client.

Note:
UNDER NO CIRCUMSTANCES SHOULD THE TOTAL PAYMENT FOR THE MONTH (reduced grant plus APP) EXCEED THE MAXIMUM MONTHLY GRANT AMOUNT.

6. If the hearing decision is not received by 1/1, the APP total amount ($312) will be paid the same as a regular continuing monthly grant, both to the client and to the landlord until a Hearing decision is received.

5.5.7 Changes During APP Period

Any changes occurring during the APP period require normal EW actions. Such changes include, but are not limited to:

- Processing SAR 7’s and the resulting changes.
- Processing reinvestigations.
- Making budget changes.
- Sending NOA’s.
- Discontinuing for reasons other than the one being appealed.
5.5.8 Cessation of APP

Eligibility for APP stops when:

• The client withdraws the hearing request.
• The client does not appear for the hearing.
• The client reschedules a hearing with no good cause.
• A hearing decision has been made.

Note:
The Appeals Supervisor is responsible for determining good cause.

It is NOT necessary to send a NOA when APP stops.

5.5.9 APP Automatic Hearings

APP shall be paid ONLY in the following circumstances:

• If the date of the hearing is later than the proposed discontinuance and sanction; or
• If the automatic hearing is rescheduled.

The hearing may only be rescheduled if:

- The client shows good cause for missing the original hearing date, or
- The Agency requests that it be rescheduled.

5.6 Pre-Hearing Procedures

5.6.1 Withdrawals

The applicant/recipient may, at any time, withdraw their request for a hearing. There are two types of withdrawals:

1. Conditional withdrawals, and
2. Non-conditional withdrawals.
Note:
No staff member may REQUEST an applicant/recipient to withdraw. Withdrawals are always voluntary.

5.6.2 Conditional Withdrawal

A conditional withdrawal is completed when applicants/recipients decide to withdraw their request for hearing IF the county agrees to a condition. Conditional withdrawals MAY ONLY be negotiated by the Appeals Officer.

Example:

Action: The NOA for a discontinuance was not timely. (The NOA must be dated ten (10) days prior to the effective date of the NOA). A new notice must be sent and a new hearing may be requested.

Conditional Withdrawal: The request for a hearing is withdrawn ON THE CONDITION THAT the NOA be rescinded and aid be restored.

5.6.3 Non-Conditional Withdrawal

A “non-conditional” or straight withdrawal is a withdrawal which has no conditions attached to it. A non-conditional withdrawal may be accepted by the assigned AO.

Example 1  Action: A client requests a hearing based on the fact that her GA grant is not enough money to rent her own apartment. Aid Paid Pending is not an issue because there has been no reduction or discontinuance. The Appeals Officer discusses the regulations and the grant amount with the client.

Non-conditional withdrawal: The client realizes that regulations do not permit her to receive a larger grant. The AO offers a non-conditional withdrawal. No action is required by the EW.

Example 2  Action: A client begins a job, earning minimum hourly wage. He reports this change and his GA grant is discontinued. He files a hearing request because he does not want the grant to stop until he gets enough money to move into his own apartment. Aid Paid Pending is established as his request was received within 7 days of the date of NOA. The AO explains the regulations to him.

Non-conditional withdrawal: The client realizes that the hearing will be a waste of time, and that he would have to take time off from his new job to come to the
hearing. The AO offers a non-conditional withdrawal of his request for a hearing. Aid Paid Pending stops as of the date he signs the non-conditional withdrawal, and the case is closed.

5.6.4 “Request for Withdrawal of GA Hearing” (GA 21)

The form “Request for Withdrawal of General Assistance Hearing” (GA 21) must be used for all conditional withdrawals. It may also be used for non-conditional withdrawals, but is not required. A copy may be given to the client upon request, and original must be scanned into IDM.

NOTE: Conditional withdrawals are established based on a promise to correct a county error. This error or issue must be corrected on the case without delay. There is no need to wait for the client to return the signed GA 21 in order to take action.

5.7 Hearing Procedures

5.7.1 GA Policy [125]

Conduct of Hearings by Hearing Officer

The hearing will be conducted by an impartial Hearing Officer designated by the Director of the Social Services Agency or his/her designee. An applicant/recipient may appear personally, through an authorized representative or through counsel, and may present any evidence relative to the disputed action.

The worker who initiated the disputed action shall be directed by the Agency to be present at the hearing if requested by the applicant/recipient, and, provided he or she is employed by the County of Santa Clara. If the worker is no longer employed by the County, the Agency shall direct an employee who is knowledgeable about the disputed action to be present at the hearing. If upon request of the applicant/recipient, a worker is not present at the hearing, the applicant or recipient, may be granted a continuance of the hearing for a period not to exceed 15 days in order to allow a worker to be present. The applicant/recipient may elect to proceed with the hearing in the absence of a worker.

The Hearing Officer shall administer an oath or affirmation to all witnesses. All testimony shall be tape-recorded. The Hearing Officer shall issue a written decision on the day of the hearing.

5.7.2 Presence Required at Hearing

The EW or VS Counselor who initiated the action which led to the applicant/recipient's request for hearing shall be present at the hearing when necessary, if that worker is still employed by the county. If that EW or VS Counselor is no longer employed by the county, or is not able to be present at the
hearing, some other knowledgeable employee shall be present. If the EW, VS Counselor or other knowledgeable employee cannot attend the hearing, the applicant/recipient may request and be granted a continuance of the hearing for up to 15 days.

5.7.3 Appeals Officer

At the hearing, the Appeals Officer shall assume full responsibility for the presentation of the county's case. The presentation shall include summarizing the written position statement, presenting the testimony of county witnesses, cross-examining the testimony of the claimant and the claimant's witness, and responding to any questions from the claimant or hearing officer concerning the case. The Appeals Officer shall have authority at the hearing to make binding agreements and stipulations on behalf of the Agency.

5.7.4 Testimony

The following are some basic rules for testifying at an appeal hearing:

- When testifying use common language and good grammar. Avoid the use of slang or agency jargon, unless necessary, in which case it should be followed by an explanation. Speak in a natural straightforward conversational tone, not stiff or monotonous.

- Listen carefully to each question. Do not answer a question until it is completely understood. If you do not understand, say so, and ask that the question be repeated or rephrased. DON'T GUESS. If a question is compound or calls for more than one answer, be careful to identify and answer each part separately.

- In the testimony, refer to a person by name rather than by the use of pronouns such as “he”, “she”, or “they”, so that all present will at all times know to whom you are referring.

- Take whatever time is necessary (within reason) to answer a question. Do not allow yourself to be rushed. Whenever there is an objection (regardless of who makes it) immediately stop testifying and do not resume until the objection has been ruled upon.

- Answers must be responsive to the questions. The best answer is the short answer. However, the answer must be clear and complete. If you are asked for a “yes” or “no” answer, but feel that such an answer would not be adequate, say so and ask permission of the Hearing Officer to explain the answer. Do not exaggerate. Do not volunteer testimony. If you do not know or cannot remember the answer to a question, say so with the same conviction as any other question that is answered.

- If you do something at all interviews (or on all occasions), but don’t remember the specific interview or occasion, you may still testify truthfully based on your habit and custom.
Example:

I always read the certification statement regarding penalty of perjury, then explain what it means, before I allow any applicant/recipient to sign the Statement of Facts.

This has always been my procedure.

Therefore, if this Statement of Facts was processed by ME and bears MY signature, the applicant/recipient was advised regarding certification under penalty of perjury before the Statement of Facts was signed.

• If you need to refer to a document (or narrative) before answering a question, ask for permission to do so (if necessary), examine the document (or narrative), and then answer the question.

• While everyone is nervous before testifying, you have nothing to fear. Simply tell the truth! Answer each question to the best of your ability, based upon your best knowledge.

• Opinions should not be given unless requested. When given, explain that it is your opinion. Avoid the use of conclusions. For example, rather than testify that the applicant/recipient was nervous, describe what it was about the applicant/recipient that led to your conclusion, such as trembling, stuttering, sweating, etc.

5.7.5 GA Policy [233]

Willfulness Determination by Hearing Officer

Willfulness, as determined by the Hearing Officer, is an intentional or deliberate act or omission by a GA client resulting in a violation of a sanctionable policy or regulation. Violations that are committed negligently, inadvertently, through good faith error in judgment, or because of mental or physical disability, are not considered to be willful.

Negligence or inadvertence are defined as carelessness, haste, lack of attention and/or forgetfulness.

5.7.6 Hearing Officer Willfulness Determination

The Hearing Officer shall make a determination of willfulness in accordance with GA Policy [233].

Willfulness is more than a single incidence of negligence or inadvertence. The determination of willfulness will be based on the facts in each specific case. In some cases there may be direct evidence of willfulness. In other cases, willfulness may be inferred from the client's actions.

Example 1  A series of failures (for which negligence is claimed), occurring periodically and with consistent regularity, may lead to a finding of willfulness.
Example 2  Poor attitude, coupled with misconduct, may result in a finding of willfulness.

Example 3  A failure after repeated warnings may result in a finding of willfulness.

5.7.7  Hearing Officer Decision

The Hearing Officer shall issue a written decision on the day of the hearing, using the “General Assistance Notice of Hearing Decision” (GA 3300).

For work-related violations:

<table>
<thead>
<tr>
<th>If the Hearing Officer Determines that the Violation:</th>
<th>Then:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Did not occur, or, occurred with “good cause,”</td>
<td>The proposed actions shall not be taken.</td>
</tr>
<tr>
<td>Occurred willfully and without “good cause,”</td>
<td>Both the discontinuance and the sanction shall be imposed.</td>
</tr>
<tr>
<td>Occurred not willfully and without “good cause” (More than 2 instances of negligence),</td>
<td>Both the discontinuance and the sanction shall be imposed.</td>
</tr>
</tbody>
</table>

The discontinuance and/or sanction shall take effect whether or not the client requests an administrative review.

5.8  Notification of Hearing Decision

The steps below are to be followed after the decision of the Hearing Officer is received.

<table>
<thead>
<tr>
<th>STEP</th>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Hearing Officer</td>
<td>• Forwards the Notification of Hearing Decision to the AO</td>
</tr>
<tr>
<td>2.</td>
<td>Appeals Officer</td>
<td>• Updates Maintain County Hearings window in CalWIN.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Request for clerical to create a Task Management Tool (TMT) ticket for District Office to make any appropriate corrections on granted hearings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Sends the original Decision Statement document to the client and submits a copy and all documents and forms to the Appeal clerk for IDM processing.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Documents all actions taken including Resolution of the Dispute in CalWIN Maintain Case Comments window.</td>
</tr>
<tr>
<td>3.</td>
<td>Appeals Clerk</td>
<td>• Scans case folder into IDM -F6.</td>
</tr>
</tbody>
</table>
## 5.9 Automatic Hearing Process

Clients who fail without good cause to comply with Vocational Services (VS) requirements are scheduled an automatic hearing through the VSAS system as follows:

<table>
<thead>
<tr>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>• Fails without good cause to comply with VS requirements.</td>
</tr>
<tr>
<td></td>
<td><strong>NOTE:</strong> On the first working day of the following month, the Vocational Services (VS) department generates a non-compliance list from VSAS.</td>
</tr>
<tr>
<td>Appeals Officer (AO)</td>
<td>• Reviews cases in the non-compliance list.</td>
</tr>
<tr>
<td></td>
<td>• If the non compliance is... Then...</td>
</tr>
<tr>
<td></td>
<td>• Invalid</td>
</tr>
<tr>
<td></td>
<td>• Changes the Hearing Status to “Cancel” in VSAS.</td>
</tr>
<tr>
<td></td>
<td>• If non-compliance is questionable, prior to canceling the hearing, follows the steps below:</td>
</tr>
</tbody>
</table>
|                         | • Emails the last Employment Counselor (EC) in record and copies the VS Supervisor and Lead(s) to clarify any confusion. The email Subject Line must read **“Urgent Administrative Error Review.”**  
  The first sentence in the email must read **“Please respond within 24 hours.”** |
|                         | • If an agreement between AO and EC is not reached, follows the escalation process (EC Supervisor - Appeals Supervisor). |
|                         | • Ensures that the client is scheduled for a VS appointment.           |
|                         | • Valid                                                                |
|                         | • Mails the Notice of Proposed Action/Hearing Appointment (GA 239) to the client. |
|                         | • Generates an “Appeals Position Statement and Notice of Hearing Decision” (GA 3300) after NOA review. |
|                         | • Returns valid Position Statement to Appeals Clerk, on the day of the scheduled hearing. |
### General Assistance 5. Appeals

<table>
<thead>
<tr>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
</table>
| **Client**           | • Receives a Notice of Proposed Action/Hearing Appointment (GA 239) with information on the Automatic Hearing appointment; date, time, and location.  
                        • Appears to the scheduled hearing appointment.                                                                                     |
| **Appeals Clerk**    | • Receives valid GA 3300 from AO and prepares copies for the client and the Hearing Officer, on the day of the scheduled hearing.    
                        • Checks-in client on Hearing Appointment list.                                                                                     
                        • Distributes materials to AO and client, and the original to Hearing Officer.                                                       
                        • Provides client a Hearing Ticket.                                                                                                 |
| **Appeals AO**       | • Greets and escorts the client to Hearing Room.                                                                                       |
| **Hearing Officer**  | • Conducts the Hearing.                                                                                                                  
                        • Completes the GA 3300 with his/her decision and returns it to the AO.                                                            |
| **Appeals AO**       | • Receives the GA 3300 from Hearing Officer and follows the steps below:                                                                |
|                      | **If decision is to...**                                                                                                                | **Then...**                                                                                                                                   |
|                      | Reverse county’s proposed action                                                                                                       | • Makes appropriate entries in VSAS and contacts the VS lead(s) to request that a VS appointment be scheduled and be sent to the client. |
|                      | Note:                                                                                                                                   | If a future VS appointment is already scheduled in VSAS, re-prints the appointment letter and provides it to the client.                   |
|                      | Upheld county’s proposed action                                                                                                        | • The client will be sanctioned and/or benefits will be discontinued.                                                                        |
|                      | **Note:**                                                                                                                              | CalWIN sanction entries will be done automatically by the system. Refer to [“Client No Show for Automatic Hearing,” page 5-18]              |
|                      | • Forwards all documents/forms to the Appeals Clerk.                                                                                     |
|                      | **Note:**                                                                                                                              | The client may request for an Administrative Review upon receipt of Position Statement.                                                     |
| **Appeals Clerk**    | • Forwards a copy of the GA 3300 to the client and all documents to IDM.                                                               |                                                                                                                                              |
5.9.1 Client No Show for Automatic Hearing

The client will be sanctioned and/or benefits will be discontinued for failure to show for an automatically scheduled hearing. A process has been developed for the system to automatically enter GA non-compliance sanctions based on the Hearing Officer’s decision. At the end of the county hearing day, the system will obtained information from the Vocational Services-Appeal System (VSAS) application to complete the Display Sanction/POI/Penalty Detail window and will enter system generated case comments. EBDC will automatically run in batch-overnight process.

After completion of the automatic sanction entries, the system will also generate a TMT for the case assigned EW to review GA and CF eligibility and budgets.

**REMINDER:** An automatic hearing shall only be rescheduled if the recipient shows good cause (as defined in GA policy 231) for missing the initial hearing or, if the Agency requests a new date.

5.10 Non-Automatic Hearing Process

The following steps must be followed when an applicant or recipient files a written request for a Fair Hearing:

<table>
<thead>
<tr>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>• Files a written request for a Fair Hearing.</td>
</tr>
<tr>
<td>Appeals Clerk</td>
<td>• Receives Fair Hearing request.</td>
</tr>
<tr>
<td></td>
<td>• Creates a case file with program, case details, and case members.</td>
</tr>
<tr>
<td></td>
<td>• Enters request in GA Fair Hearing log.</td>
</tr>
<tr>
<td></td>
<td>• Makes entries in the Maintain Filing Information for County Hearings Subsystem in CalWIN.</td>
</tr>
<tr>
<td></td>
<td>• Forwards case file to Appeals Supervisor.</td>
</tr>
<tr>
<td>Appeals Supervisor</td>
<td>• Receives case file from Appeals Clerk.</td>
</tr>
<tr>
<td></td>
<td>• Schedules the next available non-automatic hearing within the next 30 days. (not to exceed 60 days).</td>
</tr>
<tr>
<td></td>
<td>• Completes the “Non-automatic Hearing Appointment Slip” (GA 1123) and attaches to the case file.</td>
</tr>
<tr>
<td></td>
<td>• Assigns and forwards the case file with GA 1123 to the AO.</td>
</tr>
<tr>
<td></td>
<td>• Enters data in the GA-Fair Hearing log, including hearing, assignment information and appointment date.</td>
</tr>
<tr>
<td>WHO</td>
<td>ACTION</td>
</tr>
<tr>
<td>--------------</td>
<td>--------</td>
</tr>
<tr>
<td>Appeals AO</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Receives case file from Appeals Supervisor</td>
</tr>
<tr>
<td></td>
<td>• Reviews case to determine Aid Paid Pending (APP) and hearing issue.</td>
</tr>
<tr>
<td></td>
<td><strong>Note:</strong> If APP is granted, a request is sent to clerical to create a TMT for APP process at the GA office.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If this is a...</th>
<th>Then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>County error</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Requests clerical to create a TMT for correction of the error at GA office. Refer to Common Place Handbook [&quot;Compliance Request and Escalation Process,&quot; page 37-23]</td>
</tr>
<tr>
<td></td>
<td>• Contacts client to discuss the case and offer Conditional Withdrawal.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If client...</th>
<th>Then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accepts Conditional Withdrawal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Sends GA 21 to client.</td>
</tr>
<tr>
<td></td>
<td>• Documents in Maintain Filing Information for County Hearings Subsystem in CalWIN.</td>
</tr>
<tr>
<td></td>
<td>• Submits all documents for IDM.</td>
</tr>
<tr>
<td>Does NOT accept Conditional Withdrawal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Schedules a hearing date.</td>
</tr>
<tr>
<td></td>
<td>• Prepares Position Statement.</td>
</tr>
<tr>
<td></td>
<td>• Sends a copy of the Position Statement to clerical on the hearing date.</td>
</tr>
</tbody>
</table>

| NOT a county error |        |
|                   | • Contacts the client to discuss the case and offer withdrawal. |

<table>
<thead>
<tr>
<th>If client...</th>
<th>Then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accepts withdrawal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Sends GA 21 to client.</td>
</tr>
<tr>
<td></td>
<td>• Documents in Maintain Filing Information for County Hearings Subsystem in CalWIN.</td>
</tr>
<tr>
<td></td>
<td>• Submits all documents for IDM.</td>
</tr>
<tr>
<td>Does NOT accept the withdrawal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Prepares Position Statement.</td>
</tr>
<tr>
<td></td>
<td>• Mails the scheduled hearing appointment (Refers to GA hearing log for appointment date). Sends a copy of the Position Statement to clerical on the hearing date.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Client</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Appears for Hearing appointment.</td>
</tr>
</tbody>
</table>
### 5.10.1 Client No Show for Requested Hearing

The following steps are to be followed when the client does not appear to the scheduled non-automatic Hearing:

<table>
<thead>
<tr>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>Does not appear to the scheduled Hearing.</td>
</tr>
<tr>
<td>Appeals AO</td>
<td>• Collects the “Appeals Position Statement and Notice of Hearing Decision” (GA 3300) from clerical.</td>
</tr>
<tr>
<td></td>
<td>• Forwards the GA 3300s to the Hearing Officer for decision.</td>
</tr>
<tr>
<td>Hearing Officer</td>
<td>• Completes the GA 3300 for all no shows and returns these to the Appeals AO.</td>
</tr>
<tr>
<td>Appeals AO</td>
<td>• Receives the GA 3300s from Hearing Officer and forwards to clerical.</td>
</tr>
</tbody>
</table>
5.11 Administrative Review by Director

5.11.1 GA Policy [127]

Administrative Review by Director

If the applicant/recipient or the General Assistance Program Manager is dissatisfied with the decision of the Hearing Officer he/she may request an administrative review by the Director of the Social Services Agency or his/her designee. Such request must be filed in writing within 15 days after notification of the decision of the Hearing Officer, with the Director, Social Services Agency, 333 W. Julian Street, San Jose, CA 95110. The claimant may file a request for a review beyond the 15 days if good cause exists as specified in GA 231. The request must specifically state the reason or reasons why the applicant or recipient believes the Hearing Officer's decision was incorrect. The Director or the Director's designee shall review the Hearing Officer's decision.

Within 15 days after receiving the request for review, the Director or designee shall notify the applicant or recipient and the General Assistance Program Manager whether the Hearing Officer's decision was correct. The Hearing Officer's decision shall stand pending the Director's review.

5.11.2 Applicant/Recipient Request

An applicant/recipient who is dissatisfied with the decision of the Hearing Officer may request an administrative review by the Director of the Social Services Agency.

5.11.3 Supervisor or Worker's Request

If, after consultation with the EW Supervisor, a worker believes that the decision of the Hearing Officer does not comply with GA rules and regulations, s/he is to notify the GA Social Services Program Manager. The GA Social Services Program Manager may, at that point, request an administrative review by the Director of the Social Services Agency.
5.11.4 Request and Contents

The request for administrative review shall:

1. Be completed using the “General Assistance Administrative Review by Director” (GA 40). The form is Online on SSA Intranet -DEBS Forms Library.

2. State on the GA 40 specifically the reason(s) why it’s believed that the Hearing Officer’s decision is incorrect.

3. Be sent (the completed GA 40 request) by the District Office to the DEBS Director or the Director’s designee to complete the “Office Use Only” section of the form.

4. Be filed/completed within 15 days after the date of the notification of the decision of the Hearing Officer, unless good cause exists.

5.11.5 Director’s Review

The Director of the Social Services Agency or the Director’s designee shall:

- Review the Hearing Officer’s decision.

- Make a determination for correctness of the decision and complete the “Office Use Only” section of the GA 40.

Return the completed GA 40 to the Appeals unit within the 15 days allotted time to ensure the applicant/recipient or Agency staff is notified of the decision.

5.11.6 Administrative Review (A/R) Process

The process below must be followed for GA Administrative Reviews:

<table>
<thead>
<tr>
<th>ACTION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>• Submits a GA 40 request and supportive documents for Administrative Review.</td>
</tr>
<tr>
<td></td>
<td><strong>Note:</strong> Clients may also submit an A/R request in any other written statement. The statement must contain the specific reasons of why the client believes the Hearing Officer’s decision was incorrect.</td>
</tr>
<tr>
<td>GA/VS Clerk</td>
<td>• Receives and date stamps the GA 40 (or other form of AR request) submitted by the client.</td>
</tr>
<tr>
<td></td>
<td>• Scans the request and sends it to the Appeals e-mail: <a href="mailto:asbappeals@ssa.sccgov.org">asbappeals@ssa.sccgov.org</a>.</td>
</tr>
<tr>
<td></td>
<td>• Forwards the original GA 40 (or other form of AR request) to the Appeals clerk.</td>
</tr>
<tr>
<td>ACTION</td>
<td>ACTION</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Appeals Clerk                 | • Receives and date stamps the original GA 40 (or other form of AR request) received from GA/VS clerk or directly from the client.  
|                               | • Makes appropriate entries in the Clerical Administrative Review (A/R) log.  
|                               | • Creates a TMT request and assigns it to the Appeals Supervisor. |
| Appeals Supervisor            | • Receives the GA 40 from the Appeals Clerk.  
|                               | • Reviews the request and researches VSAS/CalWIN in order to make a recommendation.  
|                               | • Documents the recommendation in CalWIN/VSAS.  
|                               | • Generates an Approval or Denial Recommendation Letter (GA 1124 A or GA 1124D) and forwards it to the Director or Director’s designee.  
|                               | **NOTE:** If it is determined that there are other ineligibility factors not covered in the AR request, the Appeals Supervisor must notify the case EW for immediate action and must note also notify the client of these findings by noting them in any Approval Recommendation Letter as appropriate.  
| Director or Director’s designee | • Receives the GA 40 with Recommendation Letter from Appeals Supervisor.  
|                               | • Makes an Administrative Review determination.  
|                               | • Signs the Approval or Denial Recommendation Letter and forwards it back to the Appeals Supervisor.  
| Appeals Supervisor            | • Receives the Approval and Denial Recommendation Letters from the Director or Director’s designee and follows the process below:  
|                               | • Makes the appropriate entries in VSAS for the approved reviews to automatically generate a VS appointment letter (code H2).  
|                               | • Emails a list of all approvals to the VS Employment Counselor (EC) Lead(s).  
|                               | **NOTE:** Benefits should **NOT** be restored until client complies with Vocational Services  
|                               | • Forwards all Approval and Denial Recommendation Letters to the Appeals Clerk.  
| Appeals Clerk                 | • Receives all recommendation letters (approved and denied) from the Appeals Supervisor.  
|                               | • Mails the letter to clients and forwards a copy for IDM scanning. |
| VS Lead                       | • Receives the e-mail from the AO with the list of completed A/Rs  
|                               | • Ensures that appropriate entries are made in CalWIN and VSAS.  
|                               | **NOTE:** Benefits should **NOT** be restored until client complies with Vocational Services. |
5.11.7 Approved/Denied Administrative Reviews (GA 1124A and GA 1124D)

The process below is to be followed after AR letter is sent to the client:

<table>
<thead>
<tr>
<th>WHO</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>Receives the Denial or Approval AR Letter</td>
</tr>
<tr>
<td>If AR Review is...</td>
<td>Then...</td>
</tr>
<tr>
<td>Denied</td>
<td>No further Action is needed. Client must reapply for benefits after sanction end-date.</td>
</tr>
<tr>
<td>Approved</td>
<td>The client must comply with VS and must attend the scheduled VS appointment provided with the AR approval letter.</td>
</tr>
<tr>
<td></td>
<td><strong>NOTE</strong>: Benefits must NOT be restored until client complies with Vocational Services.</td>
</tr>
<tr>
<td>VS Employment Counselor</td>
<td>• Interviews the client and assigns activities.</td>
</tr>
<tr>
<td></td>
<td>• Deletes the sanction in CalWIN.</td>
</tr>
<tr>
<td></td>
<td>• Forwards an “Eligibility Worker/Vocational Services Communication” (GA 53), to clerical to create a TMT for the EW to request for benefits to be restored.</td>
</tr>
<tr>
<td></td>
<td>• Documents case actions in VSAS and CalWIN <strong>Case Comments</strong> window.</td>
</tr>
<tr>
<td>EW</td>
<td>• Receives GA 53 from VS clerk (TMT).</td>
</tr>
<tr>
<td></td>
<td>• Restores benefits as instructed.</td>
</tr>
</tbody>
</table>

5.12 Ineligibility due to Other Factors NOT Covered in the Hearing

The issues at the hearing shall be limited to those issues which are reasonably related to the request for hearing or those issues identified by either the county or the claimant which they have agreed, prior to or at the hearing to discuss.

Compliance means that the County has taken definitive action to issue the aid or services to which the claimant was found eligible. In many cases, the phrase “as otherwise eligible” is used in the decision order. This may result in a determination that the claimant is not eligible for aid because of some eligibility factors not covered in the appeal. In such cases, it is a requirement of compliance that an adequate notice of action be issued to the claimant advising him/her of the County’s decision. Further appeal may be possible, unless the claimant waives the right to an adequate NOA and the county and client agree to discuss the substantive issues.
5.13 Review of GA or SSI Repayment Amounts

5.13.1 Client Request

Any person may request a hearing for the purpose of reviewing the amount of GA or SSI repayable. An EW is not required to attend this hearing.

Note:
Potential overpayment may occur if benefits are restored/rescinded as a result of the Hearing or AR decision but there are other ineligibility factors not covered.