

Can My Partner Live With Me If I Get Public Assistance?

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Your local Department of Social Services (DSS) cannot restrict who lives with you. However, who you live with may affect the amount of benefits that you receive.

For example, if you are married and your partner lives with you, you both must apply for public assistance. If either of you has income, it will be counted against both of you. The same is true for parents and children under age 21.

In addition, if your partner lives with you and you have children together, you are both legally responsible for the children. This means that if your partner lives with you and you have children together, both your income and your partner's income will be used to determine your benefits.

Can my partner's income be counted against me?

Your local DSS cannot count your partner's income against you. However, if you have children together, you may not be able to apply for benefits without including your boyfriend. If your partner is not the biological parent of any of your children, their income cannot be counted against your children's public assistance case or counted against your case. This is true unless he tells the DSS office that he is supporting the children or supporting you.

What if my partner doesn't live with us, but the DSS office believes that they do?

This generally happens as the result of a home visit by an investigator. Your local DSS has the right to make an unscheduled home visit to anyone who receives public assistance. If you are not home at the time of the unscheduled visit, the investigator may leave a card telling you when they will return. If you will not be there at the time they are returning, it is important that you call and reschedule the appointment.

What happens during an investigator visit?

During the visit, the investigator will ask to look around your home for evidence of who lives with you. The investigator will take special note of any items in your home that would most likely belong to someone you say is not living there. They may try to ask questions of your landlord or your neighbors. The investigator may also try to ask questions of anyone who happens to be visiting you at the time. Before going to your home, the investigator normally has already looked into whether or not your boyfriend lives with you. For example, they may check to see if your boyfriend receives mail at your address. They may also check to see if he has a car registered at your address, or if he uses your address with his employer. Your local DSS office may also ask the Child Support Enforcement Unit for information.

What if DSS decides to close my case because they think my partner is living with me?

After the investigation, the investigator will give a report to the DSS office. Based upon his/her findings, the investigator will also recommend what action should be taken. If you receive a notice to discontinue your benefits as the result of an investigation, you can ask for a Fair Hearing immediately. This will allow you to keep getting your benefits until a Fair Hearing is held and a decision is issued. If you do not win your Fair Hearing, you may need to repay the benefits that you were receiving after you requested a Fair Hearing.

What can I do at my fair hearing to show my children's biological parent does not live with us?

If your children's parent is willing to help, ask them to give you as many documents as possible that show where he really lives. Examples: lease or landlord statements, rent receipts, utility bills, driver's license, statement from roommates, and so on.

If your children's parent refuses to help, try to get a statement from your landlord. Also look for any other documents you can gather that show they do not live with you.

NOTE: Receiving Public Assistance cannot restrict your children's parent from visiting you or the children. However, if your child's parent does not live with you, you can protect your benefits by taking several steps:

Do not let your children's parent use your address for any purpose.

Do not sign for any registered mail that is sent to your children's parent at your address.

Your children's parent should avoid keeping any personal belongings in your home.

Legal Help

If you have a problem you cannot solve with your local DSS office, you can contact your local legal services office for help. If you get a notice from your local DSS office, it should have contact information for a legal assistance office.

Legal Assistance of Western New York, Inc. ®

This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of Legal Assistance of Western New York.

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