

## Rights and duties relating to social assistance

### 1. What rights do I have?

If you submit a signed application for social assistance benefits to your local welfare centre, **this application must be answered by the City Winterthur Social Services.**

You may file an **objection** to a written decision to dismiss or reject your application **within 30 days to** "Stadt Winterthur, Hauptabteilung Sozialhilfe / Hauptabteilung Asyl, Pionierstrasse 5, 8403 Winterthur."

Your details and information are deemed to be **personal details which particularly deserve protection** in pursuance of the Data Protection Act. Social Services employees may only process the data which is necessary to fulfil their statutory duty in pursuance of the Cantonal Social Assistance Act (SHG) and in pursuance of the Asylum Assistance enactment (AfV) <sup>1</sup> as well as in pursuance of the Federal Law regarding the Responsibility for Assisting Those in Need (ZUG). As a person receiving benefits, you are entitled to view your data.

### 2. What obligations do I have?

#### 2.1 Duty of disclosure and obligation to notify the authorities

If you apply for social assistance, you must **prove your identity**. You must **answer** the questions about yourself as well as questions about your spouse or your registered partner or the partner with whom you are cohabiting as well as your underage children and the respective personal and financial circumstances **completely and truthfully**

Based on Section 18 SHG and Section 28 of the Social Assistance Ordinance (SHV), you must inform your social worker of **any changes** in your income and asset situation, your personal and family circumstances as well as your housing conditions **immediately and without being asked** (e.g. changes of residence, other persons moving in or out, marriage). Any changes to your residence permit or permanent residence permit must also be reported. If you receive any kind of pensions or daily allowances, insurance benefits or financial assistance from third parties, you must also disclose this immediately. This obligation to notify the authorities also applies in the event of any changes in the income and asset situation, as well as the personal and family circumstances of your spouse, your registered partner, the partner with whom you are cohabiting and your underage children, if they are registered in the same household as you. In particular, you must also disclose any **inheritances** during and after the time you receive

financial support (up to 15 years after the last time you received social assistance).

You must inform your social worker of any holidays or visits abroad in advance and have these approved. You do not have a fundamental right to holidays or visits abroad. **Non-authorised** absences or absences lasting **longer** than approved may result in your benefits **being reduced or reclaimed** or **your benefits being stopped**.

#### 2.2 Reducing the need for support

Anyone who is unable to pay his/her living expenses sufficiently or who cannot do so in a timely manner from his/her own funds is entitled to claim social assistance benefits (Section 14 SHG). Based on this principle of subsidiarity, social assistance benefits are therefore only to be paid, if someone is **unable to free himself/herself** from an emergency or **cannot do so with the aid of third parties**.

You are therefore obliged to do **everything possible to improve your personal and financial situation**. This includes using your own working capacity. The person receiving benefits is expected to actively contribute to his/her rapid social and professional integration (including taking part in reasonable integration measures). In addition, you are obliged to assert all financial claims which take precedence over the entitlement to social assistance benefits (e.g. claims for daily allowances and pensions, claims for family allowances and alimony advances, claims for training contributions). These claims are to be assigned to Social Services to the extent permitted.

#### 2.3. Complying with conditions and reductions in benefits

Based on Section 21 SHG and Section 23 SHV (paragraph 17 section 4 AfV) Social Services are allowed to **impose conditions** on you in writing, for example that you take up reasonable gainful employment or you take part in an integration measure. If you do not satisfy these conditions, despite being informed that your benefits might be reduced or stopped, your benefits may be reduced by an amount totalling up to 30 % of the basic requirements for living expenses, or may be stopped. In addition, any integration allowances or income allowances may be reduced or no longer paid out (Sections 24 and 24a SHG and paragraph 17 section 1AfV)

<sup>1</sup> According to AfV, Asylum Seekers with permit N, vulnerable people with Permit S, provisionally admitted foreigners with permit F. According to AfV supported people, the Social Assistance Act (SHG) and the Social Assistance Enactment (SHV) is applicable subsidiary.

## 2.4 Duty to support relatives

Your relatives in the ascending and descending line (children, parents, grandchildren and grandparents) are fundamentally **obliged to support you** (Articles 328 and 329 of the Swiss Civil Code). If you are in receipt of financial social assistance benefits, Social Services will examine whether these relatives are obliged to contribute at all, in accordance with their financial capabilities.

## 2.5 Duties to repay benefits if you draw benefits lawfully

Based on Section 27 SHG you are obliged, as a person receiving benefits, **to repay** the social assistance benefits you have lawfully received for yourself and your spouse or registered partner and underage children, the Social Services verify

- if you or the aforementioned persons are **retroactively** awarded benefits from social or private insurance policies (e.g. daily allowances from unemployment insurance or benefits from disability insurance, accident insurance, the Pension Fund (BVG) or the office for additional benefits) or from third parties (Section 27 (1) (a) SHG paragraph 18 section 2AfV) The maximum sum you will have to repay is the social assistance benefits which were paid out during the period for which you subsequently receive insurance benefits,
- if circumstances improve for you or one of the aforementioned persons due to an **inheritance, lottery win** or for other reasons which cannot be attributed to your/their own work performance (Section 27 (1) (b) SHG paragraph 18 section 2 b AfV)
- if financial circumstances improve for you or one of the aforementioned persons due to your/their **own work performance** to such an extent that a repayment is appropriate (Section 27 (1) (b) SHG),
- if existing assets, which are non-liquid (illiquid) assets for the time being (e.g. real estate, home ownership or condominium ownership, shares in inheritances or other assets), **subsequently become available** (Section 27 (1) (c) in conjunction with Section 20 SHG).

In the event of the **death of the person receiving benefits**, the repayment of the social assistance benefits paid out may be claimed against the estate (Section 28 SHG).

Social assistance benefits which were paid out more than 15 years ago **will not be reclaimed**.

This excludes those benefits for which a repayment obligation has been signed, or - in the case of real estate ownership - a mortgage has been registered (Section 30 SHG).

## 2.6 Duty of repayment in the case of benefits being drawn unlawfully and sanctions

If social assistance benefits are drawn on the basis of **false or incomplete information**, these are to be repaid based on Section 26 (a) SHG paragraph 17 section 2 lit.cAfV) The same applies if you use the social assistance benefits paid out for other purposes than those specified by Social Services and, as a result, cause Social Services to pay these again (Section 26 (b) SHG). Such **misuse may also result in your benefits being reduced based on** Section 24 (1) (a) (5) SHG paragraph 17 section 1 lit aAfV) If benefits are drawn, to which the recipient was not entitled, the beneficiary will be obliged to repay these due to **unjust enrichment** (similar application of Art. 62 et seq. of the Swiss Code of Obligations). You are required to immediately inform Social Services of such extraordinary remittances and to repay them.

**Note:** Social Services are required to verify your eligibility for benefits and any claims which you have against third parties. For this purpose, your individual AHV account statement will generally be obtained when you start receiving benefits and while you are receiving benefits from the Zurich social security institution. In addition, an enquiry is usually made to the cantonal road traffic office.

If it is **suspected that benefits are being drawn unlawfully**, Social Services are also entitled, based on Section 18 (4), Section 47 lit c and Section 48 (2) SHG and Section 27 SHV, to check the information provided by the person receiving benefits, for example with the relevant offices, with employers or landlords and to obtain information from third parties.

In addition, City of Winterthur Social Services are obliged to file a criminal complaint, based on paragraph 148a of the Swiss Criminal Code (StGB), against anyone who unlawfully obtains benefits for himself/herself or others **by providing false or incomplete information, by concealing changes in circumstances** or by any other form of deception in pursuance of this law. If you act maliciously, you must expect a criminal charge of fraud to be brought against you in pursuance of Article 146 of the Swiss Criminal Code (StGB). A conviction in pursuance of Article 148a or Article 146 StGB for foreigners may result in them being expelled from Switzerland.

## 3. Duty to notify the migration office

City of Winterthur Social Services are legally obliged to notify the payment of financial social assistance benefits to foreigners to the Migration Office of the Canton of Zurich. There is no obligation to notify the Migration Office in the case of temporarily admitted and recognised refugees. The drawing of financial social assistance benefits may result in **the withdrawal of your residence permit or permanent residence permit and downgrading of your permanent residence permit** by the Migration Office.