

INFORMATION SHEET for beneficiaries according to the Social Security Code [SGB] XII (social assistance)

1. Duties and responsibilities of social assistance

People who are in an emergency situation with which they cannot cope on their own and who do not receive the necessary help from relatives or others can claim social assistance benefits. According to one of the elementary basic principles of social assistance, it is its duty to ensure a decent life (Section 1 SGB XII). Assistance provided according to the Social Security Code XII is part of a state system of social security for the citizens. This system also includes statutory social insurance (unemployment insurance, health insurance, accident insurance, pension insurance), rehabilitation and participation services for people with disabilities, care for war victims, as well as housing and child benefits. Social assistance is subordinate to these benefits. Accordingly, there is no entitlement to social assistance if a person receives the necessary assistance from other social service providers (Section 2 SGB XII). The bodies, institutions and authorities named in the Social Security Code (SGB) are responsible for providing social benefits; they are referred to as service providers. The rural districts and urban districts are regularly responsible for providing social assistance. In individual cases it is provided by the so-called supra-local providers (Section 3 SGB XII). In principle, the social assistance provider in the area in which the person making the inquiry is actually staying during his or her time of need is locally responsible (Section 98 Subsection 1 Sentence 1 SGB XII). In the case of residents of a home or residents of special types of housing provided for integration assistance, the person's habitual residence before entering the home or before moving into the special type of housing provided for integration assistance is important (Section 98 Subsection 2 SGB XII or Section 98 Subsection 6 SGB XII, Section 98 SGB IX). The employees of the administrative authorities (municipal administration, city administration, district administration) provide more detailed information regarding the duties and help offered by the individual service providers. They also advise on the rights and obligations of citizens towards the individual service providers (Section 11 Subsection 1, 2 SGB XII, Section 14 - SGB I).

- The legal basis for the granting of benefits is provided by SGB XII. If assistance is to be granted according to this law, the beneficiary or person requesting the assistance has a legal right to such assistance (Section 17 Subsection 1 Sentence 1 SGB XII, Section 39 SGB I). The social assistance office decides on the form and amount of social assistance at its own discretion, insofar as the law does not exclude discretion (Sections 9; 10; 17 Subsection 2 SGB XII).

3. Duties of the administration

The employees of the administrative authority determine the best means for dealing with the respective emergency situation, as well as what assistance may be available in individual cases. The authority must officially determine the facts. The authority determines the nature and scope of the investigation. In doing so, the authority must take into account all circumstances that are significant with respect to the individual case, including those that are favorable for the applicant or beneficiary (Section 20 Subsections 1 and 2 SGB X). The authority uses the evidence it considers necessary to determine the facts at its best discretion (Section 21 Subsection 1 SGB X). Due to the subordinate status of social assistance, the employees of the administrative authority also determine whether the person making the inquiry is required to use his or her own income and assets, whether there are claims against other social service providers, or whether relatives can assist them. The subordinate principle of social assistance (Section 2 SGB XII) also requires an examination as to whether family members who are responsible for providing support are meeting their obligations. If this is not the case, the social assistance office pays and makes a claim against those who are under an obligation to provide support – insofar as these persons are able to do so without jeopardizing their own livelihood. Whether and to what extent this occurs is decided by the social assistance office according to the situation in each individual case.

- In principle, before claiming or receiving social assistance benefits, every person must draw upon his or her available **work capacity, income** and **assets** (Section 2 SGB XII) as well as his or her **claims** against those obligated to pay support and other third parties (e.g. insurance carriers and similar bodies), provided these are also realizable at the time of his or her existing needs, and apply these resources for the purpose of procuring his or her own needs as well as those of any respective dependents.

- In particular, anyone who applies for or receives social assistance benefits must

- state all facts that are relevant to the service, agree to the provision of the necessary information by third parties at the request of the responsible service provider, designate evidence and, at the request of the responsible service provider, submit documentary evidence or agree to its submission (Section 60 Subsection 1 No. 1 SGB I);
- provide immediate notification regarding changes in the circumstances that are significant for the service or for which a declaration has been made in connection with the service (Section 60 Subsection 1 No. 2 SGB I).

This obligation to provide notification relates primarily to the changes that have occurred in the domestic and economic circumstances of the recipient of social assistance. This obligation to provide notification applies, in particular, if

- the person making the inquiry and his or her relatives living in the household earn **income** that is not yet known to the social assistance office - even if only temporarily -, e.g. by taking up work (also marginal employment or secondary employment), by renting rooms, approving retirement pensions, pensions, fiduciary payments, severance payments, compensation, loans, due to receipt of arrears, lottery winnings, inheritance, etc.). The social assistance office must also be informed of the receipt of benefits in kind (accommodation, food) as well as a claim or the emergence of a claim against someone else;
- the existence of existing **assets** changes (e.g. due to purchase, sale, donation, inheritance, divorce, property division);
- a family member who is being supported leaves the household, even if only temporarily (e.g. during a hospital stay, rehabilitation stay, visit or trip, death of a household member, etc.);
- a relative is taken into the household;
- the apartment or accommodation in a special type of housing is changed; before signing a contract for a new accommodation, the beneficiary must inform the social assistance office responsible there about the relevant circumstances of the move;
- an application for the payment of another social benefit is made or has been made earlier (e.g. pension from social security, benefits for integration assistance according to SGB IX, annuity, accident pension, pension for war injuries, support assistance, unemployment benefit, citizens' income, sickness benefit, child benefit, etc.);
- legal action (e.g. objection, lawsuit, appeal) against decisions by other social service providers (see f) is lodged;
- the beneficiary has suffered pecuniary or physical damage from third parties;
- the beneficiary asserts a claim under private law in court.

This obligation to cooperate is incumbent on the legal representatives of persons who are incapacitated or whose legal capacity is limited.

6. Anyone who applies for or receives social assistance benefits should, at the request of the responsible service provider
 - a) appear in person at the authority to **discuss** the application **orally** – upon request, the social assistance office will reimburse the expenses (travel expenses, etc.) – or take other necessary measures (Section 61 SGB I);
 - b) undergo a medical examination, insofar as this is necessary for the decision regarding benefits (Section 62 SGB I).
7. There are, however, limits to the citizen's obligation to cooperate. Cooperation must, for example, be proportionate to the social benefit claimed. On the other hand, cooperation cannot be demanded if it is not reasonable for the citizen for good reason or if the authority can obtain the necessary knowledge itself with less effort than would be required by the person concerned (Section 65 SGB I).

Consequences of lack of cooperation

8. If the person who applies for or receives social assistance does not comply with his or her obligation to cooperate and this renders it considerably more difficult to clarify the facts, the service provider may refuse or withdraw the service in whole or in part without further investigation until the cooperation is provided, insofar as the requirements for the service are not proven. This applies accordingly if the applicant or beneficiary intentionally renders clarification of the facts considerably more difficult in another fashion (Section 66 Subsection 1 SGB I).
9. If the person who applies for or receives social assistance due to a need for care, due to inability to work, due to a risk or reduction in earning capacity or due to unemployment, does not comply with his/her obligations to cooperate and, after considering all the circumstances, it can be assumed with probability that the ability to work, to earn or find a job is consequently impaired or cannot be improved, the service provider can refuse or withdraw the service in whole or in part until cooperation is provided (Section 66 Subsection 2 SGB I).
10. Anyone who falsely states their domestic or economic circumstances or fails to notify the social assistance office as required jeopardizes the lawful execution of social assistance. Apart from the fact that any assistance provided on the basis of missing, insufficient or incorrect information can be reclaimed, the person making the request or the beneficiary is subject to criminal prosecution for fraud (Section 263 [StGB] Penal Code).
11. Those entitled to benefits under SGB XII must also accept reasonable work within the scope of the options available to them and take part in appropriate preparations (Section 11 Subsection 3 Sentences 3, 4 SGB XII).
If those entitled to benefits refuse to take up an activity contrary to their obligation, the relevant standard rate is reduced after prior notification by up to 25 percent in a first stage, and in the event of repeated refusal in subsequent stages by up to 25 percent each (Section 39a Subsection 1 SGB XII).

12. The health insurance card, which was issued by a health insurance company upon registration by the social assistance office/ an authority commissioned by the social assistance office, must be handled with due care. Loss of such must be reported immediately to the responsible health insurance company/social assistance office or the authority commissioned by it. The cost of a replacement card is to be borne by the beneficiary. Misuse is to be ruled out. **If assistance granted is discontinued in accordance with SGB XII, this health insurance card may no longer be used from the day the benefit was discontinued.** You and your family members are **obligated to immediately return** the health insurance card(s) in question to the social assistance office/the authority commissioned by the social assistance office after the need has ceased. This also applies if you move to the area of another social assistance office. Costs arising from misuse will be charged. If the health insurance card is misused, this amounts to fraud and can be prosecuted.

Reimbursement of costs

13. Anyone who, after having reached the age of 18 has created the conditions for social assistance benefits for themselves or others through intentional or grossly negligent behavior is obligated to reimburse the costs of social assistance. The obligation to reimburse costs also exists for those who, as the person entitled to the service or as their representative, knew that the approval decision on which the service is based was illegal or did not know it due to gross negligence.
14. The heir of the person entitled to benefits or his or her spouse or life partner is also obligated to reimburse the costs of social assistance. The obligation to reimburse only relates to the costs of social assistance that have been spent within a period of ten years before inheritance. This obligation to reimburse is one of the estate liabilities. However, the heir is only liable with the value of the estate. Benefits according to Chapter 4 SGB XII (basic security) are not to be reimbursed by the heir.

15. Protection of social information

Information from the inquiring person about his or her personal and economic circumstances will be treated as a social secret and will not be disclosed to others without authorization. Disclosure is only permissible if the person concerned consents in the individual case or if disclosure is permitted by law (Section 67b SGB X).

The automatic data comparison made possible in Section 118 SGB XII may take place without the consent of the beneficiary.

I/We hereby confirm receipt of the "Information sheet for beneficiaries according to the Social Security Code [SGB] XII (social assistance)." One **copy** is in my/our possession.

Signature of the inquiring person/beneficiary

Place and date

Signature of the spouse/life partner