

Chapter Fourteen Questions

1. Benefits Counselors providing services in an administrative law matter such as Medicare, Medicaid, food stamps, Social Security, Supplemental Security Income (SSI), or Veterans Benefits, can call the Legal Hotline for Texans at 1-800-880-9797, for back-up and support.

T _____ F _____

2. There is no limit to the number of times that a Benefits Counselor can call the Legal Hotline for Texans for back-up and support in serving a client of the Area Agency on Aging, either for the same client or for different clients.

T _____ F _____

3. Which one law provides a “special right of access,” so that Texans have a right to access confidential information about their own case, in administrative agency files?

- A. _____ The Freedom of Information Act.
B. _____ The Texas Public Information Act.
C. _____ Texas Government Code Section 81.1011.
D. _____ Texas Government Code Section 2001.223(1).

4. In Texas, if a person has a claim pending before an administrative agency for benefits based on disability (such as for Social Security, SSI, Temporary Assistance for Needy Families, or Veterans Benefits), the person must pay for a copy of the person’s medical records; there is no law that requires a copy of the medical records to be provided free of charge in such cases.

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5. In an administrative hearing, an appellant (the person applying for benefits) has a right to be informed of the issues which the hearing will concern.

T _____ F _____

6. In an administrative hearing, normally the party who has the burden of proof is permitted by the hearing officer to proceed first.

T _____ F _____

7. In Social Security, SSI, Medicare, Medicaid, food stamp (SNAP), and Temporary Assistance for Needy Family cases, the rules of evidence apply strictly in administrative hearings, just like in court.

T _____ F _____

8. Because of the concept of “unauthorized practice of law,” a nonlawyer is never permitted to represent a person at the administrative level (such as in an Administrative Law Judge hearing or an Texas Health and Human Services Commission fair hearing) in Social Security, SSI, Medicaid, Medicare, and food stamp (SNAP) cases.

T _____ F _____

9. Under Texas Human Resources Code Section 12.001, how much can a nonlawyer charge for representing a person in obtaining services from the Texas Health and Human Services Commission? (Choose the one correct answer.)

- A. _____ A flat fee of \$100.
- B. _____ \$75 per hour.
- C. _____ 33% of the value of the benefits obtained.
- D. _____ Zero.

10. Which agency conducts the administrative law hearings for persons denied Supplemental Security Income (SSI), in regard to eligibility for that benefit? (Choose the one correct answer.)

- A. _____ The Texas Department of Banking.
- B. _____ The Texas Department of Information Resources.
- C. _____ The General Assistance Office in the person’s county.
- D. _____ The Social Security Administration.

11. What first triggers the right of appeal in the SSI administrative process? (Choose the one correct answer.)

- A. _____ A notice of hearing.
- B. _____ An appointment of representative.
- C. _____ A decision of the Appeals Council.

- D. _____ An initial determination.
12. What three stages are part of the Social Security Administration's administrative review process? (Choose the one correct answer.)
- A. _____ Petition for writ of mandamus, petition for writ of certiorari, petition for writ of prohibition.
- B. _____ Motion for temporary restraining order, motion for preliminary injunction, motion for permanent injunction.
- C. _____ Reconsideration, Administrative Law Judge hearing, Appeals Council review.
- D. _____ Petition for writ of assistance, petition for writ of error, petition for writ of review.
13. Of the four possibilities listed next, which is the best stage for getting into the record new evidence of disability in an SSI case?
- A. _____ The Petition for a Writ of Certiorari to the U.S. Supreme Court.
- B. _____ The Appeal to the U.S. Court of Appeals.
- C. _____ The Complaint to the U.S. District Court.
- D. _____ The Administrative Law Judge Hearing.
14. If a person misses a deadline for requesting review in the Social Security administrative process, there is no way to show good cause to have the matter reviewed, despite the deadline having passed.
- T _____ F _____
15. Which one statement below is correct?
- A. _____ A Social Security Administrative Law Judge can issue a subpoena for witnesses or documents, but the process to obtain a subpoena is cumbersome.
- B. _____ A Social Security Administrative Law Judge has no authority to issue subpoenas.
- C. _____ A Social Security Administrative Law Judge can issue a subpoena for witnesses, but not for documents.
- D. _____ A Social Security Administrative Law Judge can issue a subpoena

for documents, but not for witnesses.

16. The Social Security Appeals Council is required to grant every request it receives, for review of an Administrative Law Judge decision.

T _____ F _____

17. Arguments before the Social Security Appeals Council are usually oral rather than written.

T _____ F _____

18. Federal law and Texas law are similar in that, under federal law, there is a right to judicial review of decisions denying Social Security or SSI, and there is a right to judicial review in Texas of decisions denying Medicaid, food stamps (SNAP), or Temporary Assistance for Needy Families (TANF).

T _____ F _____

19. An individual who has been denied entitlement to Medicare or the payment of Medicare benefits has a right to appeal.

T _____ F _____

20. Under Medicare Part A, a person dissatisfied with an initial determination has a right to request a redetermination.

T _____ F _____

21. Under Medicare Part A, if a person has received a reconsideration decision and if the amount in controversy is \$130 or more, the person can request an Administrative Law Judge hearing, if the person wants further review (if the person wants to appeal further).

T _____ F _____

22. Under Medicare Part A, if the person is dissatisfied with the decision of the Administrative Law Judge, the person can request review by the Medicare Appeals Council.

T _____ F _____

23. Under Medicare Part A, if the person is dissatisfied with the decision of the Medicare Appeals Council, and if the amount in controversy is \$1350 or more, the person can request the U.S. District Court to review the decision.

T _____ F _____

24. Under Medicare Part B, if a person is dissatisfied with the initial determination, the person can request a redetermination.

T _____ F _____

25. Under Medicare Part B, if the person is dissatisfied with the reconsideration decision, the person can request an Administrative Law Judge hearing, if the amount in controversy is \$130 or more.

T _____ F _____

26. Under Medicare Part B, if the person is dissatisfied with the decision of the Administrative Law Judge, the person can request review by the Medicare Appeals Council.

T _____ F _____

27. Under Medicare Part B, the Medicare Appeals Council can grant review of the decision of the Administrative Law Judge.

T _____ F _____

28. Under Medicare Part B, if the person is dissatisfied with the decision of the Medicare Appeals Council, the person can request review by the U.S. District Court, if the amount in controversy is \$1350 or more.

T _____ F _____

29. Initial reviews of Medicare eligibility determinations – of whether a person can even enroll in Medicare – are conducted by the Social Security Administration.

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30. Medicaid, food stamp (SNAP), and Temporary Assistance for Needy Families appeals and hearings are conducted pursuant to rules of the Texas Health and Human Services Commission.

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31. How much time does a person have in which to file an appeal, from the date of the Texas Health and Human Services Commission decision or notice of adverse action? (Choose the one correct answer.)

A. _____ 30 days.

- B. _____ 60 days.
- C. _____ 90 days.
- D. _____ 180 days.

32. If a person has been receiving Medicaid in Texas and receives a notice stating that the Medicaid will be terminated, and the person wants to appeal the termination but have benefits continue while the appeal is pending, how soon should the person file the request for fair hearing, asking for benefits to continue pending the appeal? (Choose the one correct answer.)

- A. _____ Within ten days of the date that the agency mailed the decision or notice of adverse action.
- B. _____ Within 30 days of the date that the agency mailed the decision or notice of adverse action.
- C. _____ Within 45 days of the date that the agency mailed the decision or notice of adverse action.
- D. _____ Within 90 days of the date that the agency mailed the decision or notice of adverse action.

33. Under the hearing procedures of the Texas Health and Human Services Commission, the appellant does not have the right to confront evidence used against the appellant; the hearing officer can use secret evidence against the appellant, even if it is not shared with the appellant.

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34. If a person does not speak English, the Texas Health and Human Services Commission must arrange for an interpreter for the person's fair hearing, if necessary.

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35. A hearing officer of the Texas Health and Human Services Commission has the authority to reschedule a fair hearing if the appellant requests; postponements may be more difficult to obtain in cases in which assistance has been continued pending the appeal, than in cases in which assistance has not been continued pending the appeal.

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36. In Texas Health and Human Services Commission appeal cases, if assistance was not continued pending the appeal and the client should not have been denied assistance, the client can receive retroactive assistance.

T _____ F _____

37. In Texas Health and Human Services Commission appeals, if benefits were continued pending the hearing officer decision, and if the hearing officer sustains the denial of benefits, the Texas Health and Human Services Commission can seek to recover the amount of assistance or benefits that the client received in excess of what was due.

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38. Under Texas Health and Human Services Commission procedures, if a person is dissatisfied with a decision affecting eligibility for Medicaid, food stamps (SNAP), or Temporary Assistance for Needy Families (TANF), and if the person has gone through a fair hearing, the person can request review of the fair hearing decision by an attorney of the Texas Health and Human Services Commission within 30 days of the hearing officer's decision; this review is called "administrative review."

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Answer Key

Chapter Fourteen Questions

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| 1. | T | 21. | T |
| 2. | T | 22. | T |
| 3. | B | 23. | T |
| 4. | F | 24. | T |
| 5. | T | 25. | T |
| 6. | T | 26. | T |
| 7. | F | 27. | T |
| 8. | F | 28. | T |
| 9. | D | 29. | T |
| 10. | D | 30. | T |
| 11. | D | 31. | C |
| 12. | C | 32. | A |
| 13. | D | 33. | F |
| 14. | F | 34. | T |
| 15. | A | 35. | T |
| 16. | F | 36. | T |
| 17. | F | 37. | T |
| 18. | T | 38. | T |
| 19. | T | | |
| 20. | T | | |