

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. R. 40

25 JANUARY 2021

**CALL FOR COMMENTS RELATING TO THE REGULATIONS ON LODGING
AND ADJUDICATION OF APPEALS FOR SOCIAL ASSISTANCE AS WELL
AS THE APPOINTMENT OF THE INDEPENDENT TRIBUNAL IN TERMS OF
THE SOCIAL ASSISTANCE ACT, 2004 (ACT NO.13 OF 2004)**

I, Lindiwe Zulu, Minister responsible for Social Development, under Section 32(1) and (2) of the Social Assistance Act, 2004 (Act No.13 of 2004) intend to make amendments on the Regulations to the Social Assistance Act, 2004 as set out in the Schedule.

Interested persons or organisations are hereby invited to submit written comments on the draft regulations within 30 calendar days from the date of publication. Comments shall be forwarded to Mr. Brenton van Vrede, Chief Director: Social Assistance by:

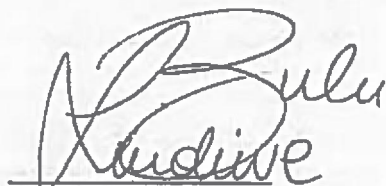
(a) Post to:

The Department of Social Development
Private Bag X901,
Pretoria
0001;

(b) Hand to:

The Department of Social Development
Chief Directorate: Social Assistance
164 Totius Street
Harlequins Office Park
Groenkloof
PRETORIA
0184;

(c) by email to: SAREGS@dsd.gov.za

A handwritten signature in black ink, appearing to read 'L. Zulu', is written over a horizontal line.

L ZULU (MP)
MINISTER OF SOCIAL DEVELOPMENT
DATE: 08/01/2021

**Regulations relating to the Lodging [and Consideration of Applications
for Reconsideration of Social Assistance Application by the Agency and
Social Assistance Appeals by the Independent Tribunal]**

**APPLICATIONS FOR SOCIAL ASSISTANCE APPEALS AND THE
CONSIDERATION AND ADJUDICATION OF APPEALS BY THE
INDEPENDENT TRIBUNAL**

Published under GN R746 in GG 34618 of 19 September 2011 [with effect from
3 October 2011] The Minister of Social Development has, in terms of section 32
of the Social Assistance Act, 2004 (Act 13 of 2004), as amended, made
regulations set out in the Schedule hereto.

SCHEDULE

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CHAPTER 1

DEFINITIONS (reg. 1)

1. Definitions and interpretation

In these Regulations, any word or expression to which a meaning has been assigned in the

Act shall have the meaning so assigned and unless the context otherwise indicates

"critical documentation" means the documentation or information which is legible and complete required by the Independent Tribunal to consider and adjudicate an appeal which must be legible and complete;

"electronic communication" means electronic communication as defined in section 1 of the No. 25 of 2002: Electronic Communications and Transactions Act, 2002;

"health practitioner" means health practitioner as defined in section 1 of the Health Professions Act 56 of 1974;

"legal practitioner" means legal practitioner as defined in section 1 of the definition section of the Legal Practice Act, Act No. 28 of 2014;

"medical officer" means a medical practitioner, or health practitioner, or health professional in the service of the State;

'medical practitioner' means 'medical practitioner' as defined in the Health Professions Act, 1974 (Act 56 of 1974) as amended;

'the Act' means the Social Assistance Act, 2004 (Act 13 of 2004) as amended from time to time;

'2008 Regulations' means the Regulations made in terms of section 32 of the Social Assistance Act, 2004, relating to the application for and payment of social assistance and the requirements or conditions in respect of eligibility for social assistance, published in Government Gazette 31356 dated 22 August 2008, Government Notice R898 in Government Gazette 8948, as amended.

CHAPTER 2 [APPLICATION FOR RECONSIDERATION AND CONSIDERATION OF THE APPLICATION (regs 23) [Section 18(1)]

2. Application for reconsideration

- (1) An applicant, beneficiary or a person acting on his or her behalf, who disagrees with the decision by the Agency as contemplated in section 18(1) may apply to the Agency in terms of section 18(1) of the Act requesting the Agency to reconsider its decision in a form similar to Form 1 in Annexure A to these Regulations.**
- (2) A reconsideration contemplated in subregulation (1):**
 - (a) must be lodged with the Agency;**
 - (b) may be delivered by hand, post, fax or electronic mail; and**
 - (c) must be accompanied by all documents indicated in Form 1.**
- (3) An application contemplated in subregulation (1) must, subject to subregulation (4)(a)(i) or (ii), be based on the same information which was supplied to the Agency.**
- (4) (a) The information contemplated in subregulation (3) must, in the case of**
 - (i) an applicant, be the same information which was provided to the Agency when the application on which the request for reconsideration is based was made; and**
 - (ii) a beneficiary, be the same information which was provided to the Agency when the review contemplated in regulations [sic] 27 of the 2008 Regulations was made; and be based on the information provided by the social worker to the Agency as contemplated in regulation 28(3)(d) and (e) of the 2008 Regulations when the Agency refused to authorise the continuation of the payment of the foster child grant;**

(b) The information contemplated in subregulation (3) may be accompanied by:

- (i) any document provided by the Agency as proof of receipt of an application for social assistance;**
- (ii) a copy of a letter of rejection or approval, by the Agency, of an application for social assistance;**
- (iii) any other relevant document in relation to the application; and**
- (iv) in the case of a person applying on behalf of the beneficiary or applicant, a copy of the power of attorney or proof of his or her appointment by the applicant or beneficiary to act on his or her behalf.**

3. Consideration of an application for reconsideration

- (1) The Chief Executive Officer of the Agency or his or her delegate must, subject to subregulation (3), assign such number of officials as may be necessary to consider applications contemplated in regulation 2.**
- (2) An official contemplated in subregulation (1) must occupy a position that is higher in rank to that of the official or officials who considered the application in respect of which the applicant or beneficiary or a person acting on his or her behalf is requesting reconsideration.**
- (3) An official contemplated in subregulation (1) shall consider an application contemplated in regulation 2 sitting alone.**
- (4) The Agency must, within 90 days of receipt of an application contemplated in regulation 2 and after consideration of the application**
 - (a) uphold the application;**
 - (b) dismiss the application and provide reasons thereof in a form contemplated in subregulation (5); or**
 - (c) vary the Agency's decision.**
- (5) The decision and reasons thereof contemplated in subregulation (4) must be communicated, within the period stipulated in subregulation (4), to the person referred to in regulation 2(1) in a form similar to Form 2 in Annexure A to these Regulations.**
- (6) In the case where the Agency fails to reconsider its decision within the stipulated period of receipt of such an application for reconsideration, the Agency is regarded to have confirmed the decision leading to the application for reconsideration by the applicant, beneficiary or person acting on his or her behalf.**

(7) An applicant, beneficiary or a person acting on his or her behalf, may, by means of a written notice, at any time prior to the finalisation of the reconsideration by the Agency, withdraw such application for reconsideration in a form similar to Form 12 in Annexure A to these Regulations.]

Lodging of appeal through an office of the Agency

2. If an applicant or beneficiary does not qualify for social assistance in terms of the Act, the Agency must-

(a) inform the applicant or beneficiary, by any means of communication including electronic communication, that he or she may lodge an appeal with the Independent Tribunal within a period of 90 days from the date of the decision by the Agency and the appeal processes which need to be followed;

(b) where the applicant or beneficiary indicates that he or she wants to lodge an appeal, assist the applicant or beneficiary to complete the Appeal Form;

(c) where an applicant or beneficiary has failed to lodge an appeal within the 90 day period from the date of the Agency's decision, assist the applicant or beneficiary to complete a Condonation Form;

(d) where an applicant or beneficiary indicates that he or she wants to lodge an appeal directly to the Independent Tribunal and not through the Agency, provide the applicant or beneficiary with the necessary forms and contact details of the Independent Tribunal to enable the applicant or beneficiary to lodge an appeal; and

(e) ensure that the Appeal Form and Condonation Form, if applicable, together with all the critical documentation required in the Appeal Form and Condonation Form, are submitted to the Independent Tribunal within a period of 14 days from the date of lodging of the appeal.

Request for critical documentation from the Independent Tribunal

3. Where the Agency receives a request for critical documentation from the Independent Tribunal, the Agency must:

(a) retrieve the critical documentation and ensure that all critical documentation is scanned (or copied) and forwarded to the Independent Tribunal within a period of 15 days [but not more than 30 days] from date of receipt of request; or

(b) where the critical documentation is not available, reconstruct the file of the applicant or beneficiary and ensure that all the critical documentation is scanned or copied and forwarded to the Independent Tribunal within a period of not more than 30 days from date of receipt of request.

CHAPTER 3 APPOINTMENT AND COMPOSITION OF INDEPENDENT TRIBUNAL (regs 48)

[4.] Appointment

[The appointment of members to the Independent Tribunal, to consider appeals as contemplated in section 18(1A) of the Act, must be done in accordance with the terms and conditions as the Minister may determine.]

4(1) The Minister must appoint members of the Independent Tribunal, as contemplated in section 18(1) of the Act, by publishing a notice in the Gazette and three national newspapers, with due regard to the Use of Official Languages Act, 2012 (Act No. 12 of 2012) inviting written applications from persons who comply with the criteria contemplated in regulations 6 and 7, to be appointed as members of the Independent Tribunal;

(2) The notice referred to under subsection (1) must set out the-

(a) place where the Independent Tribunal will be sitting when considering appeals;

(b) powers and functions of the Independent Tribunal;

(c) time commitments reasonably expected from members of the Independent Tribunal;

(d) the term of office of members of the Independent Tribunal;

(e) whether the members of the Independent Tribunal are appointed on a full-time or part-time basis

(f) criteria for disqualification as a member of the Independent Tribunal;

(g) requirements for appointment as a member of the Independent Tribunal;

(h) closing date for applications; and

(i) the address to which applications must be delivered.

(3) The Minister must appoint a selection panel to consider all applications contemplated in subregulation (1).

(4) The selection panel must compile a list of suitable candidates recommended for appointment as members of the Independent Tribunal together with their curriculum vitae and submit it to the Minister.

(5) The Minister must upon receipt of the list together with the curriculum vitae contemplated in subregulation (4), approve the appoint of the recommended candidates subject to the provisions of subregulation (5).

(6) The Minister must ensure that, before approving the appointment of the recommended candidates, she or he has consulted Parliament as contemplated in section 18(1) of the Act.

(7) The Minister must, after consultation with Parliament as contemplated in subregulation (6) issue each candidate with a letter of appointment stating the term of appointment of each member of the Independent Tribunal.

(8) The Minister may appoint as many members of the Independent Tribunal as he or she may deem necessary.

(9) If the list compiled in terms of subsection (1) does not contain suitably qualified persons or does not contain the required number of suitably qualified persons, the Minister must, after consultation with the panel referred to under subsection (3), published a notice in the Gazette as contemplated in subregulation (1).

(10) The publication of the notice as contemplated in subregulation (8) may be in respect of the entire candidates or for those candidates who were found

not to have been suitably qualified for appointment as members of the Independent Tribunal, whichever is applicable.

(11) The procedure for the shortlisting, recommendation, and appointment of the members of the Independent Tribunal must be in accordance with the provisions of subregulations (2) to (7).

(12) A member of the Independent Tribunal may be appointed for a period not exceeding five years subject to such conditions as the Minister may determine.

(13) A member of the Independent Tribunal whose period of appointment has expired may be eligible for re-appointment for a further period not exceeding five years subject to subregulation (12).

5. Composition

(1) The Independent Tribunal considering an appeal, subject to subregulation (2) and (3) is constituted by:

- (a) a legal practitioner, who shall be [as the] a chairperson; and
- (b) a medical practitioner who shall be [as] an assessor. [; and]
- [(c) a member of civil society.]**

(2) A medical practitioner may only form part of the Independent Tribunal in respect of an appeal relating to [on] a disability, care dependency, war veteran's or grant in aid grant where the dispute relates to the medical assessment of the applicant or beneficiary.

[(3) A member of civil society may only form part of the Independent Tribunal in respect of an appeal against the decision of the Agency relating to a social relief of distress grant.]

Qualifications and experience of members of Independent Tribunal

6. Legal practitioner

(1) The legal practitioner as contemplated in regulation 5(1)(a) must be a person:

- [(a) who is an admitted attorney, advocate of the High Court of South Africa or a person with experience in the administration of law;]**
- (b) who has at least five years post admission experience in the practice of law [or at least five years post graduate experience in the administration of law];**
- [(c) who, in the case of an Advocate or Attorney, has not been struck off the roll of Attorneys or Advocates;]**
- (d) [who is a fit and proper person to consider appeals in terms of section 18(2)(b) of the Act;] has knowledge of the relevant provisions of the Act and the Regulations made thereunder;**
- (e) whose appointment will not give rise to a conflict of interests; and**
- (f) who is not in the full-time [or part-time] employ of the public service or in Organ State [Agency].**

(2) Notwithstanding the provisions of subregulation (1) in relation to a legal practitioner, a person who is not a legal practitioner may be appointed as a member of the Independent Tribunal provided that person:

- (a) has an experience in the administration of law;**
- (b) has at least five years post graduate experience in the administration of law; and**
- (c) meets the requirement of subregulation (1)(d) to (f).**

7. Medical practitioner

A medical practitioner as contemplated in regulation 5(1)(b) must be a person:

- (a) who is registered with the Health Professions Council of South Africa;**
- (b) who has at least five years post registration experience in the practice of medicine;**
- (c) whose registration with the Health Professions Council of South Africa has not been revoked;**
- (d) has knowledge of the relevant provisions of the Act and the Regulations made thereunder [who is fit and proper to make assessments in relation to appeals in terms of section 18(2)(b) of the Act];**
- (e) who is not in the full-time employ of the public [health] service or an Organ State [or in the full-time or part-time employ of the Agency] ; and**
- (f) whose appointment will not give rise to a conflict of interests.**

[8. Member of civil society

A member of civil society as contemplated in regulation 5(1)(c) must be a person-

- (a) of good standing in the community; and**
- (b) whose appointment will not give rise to a conflict of interest.]**

CHAPTER 4

ROLES AND POWERS OF MEMBERS OF THE INDEPENDENT TRIBUNAL (regs [9] 8-11)

[9] 8. Legal practitioner

The legal practitioner is responsible for-

[(1)] (a) [deciding and ruling whether or not an appeal is to be upheld after consultation with the medical practitioner in respect of appeals contemplated in subregulation 5(2) and a member of civil society in respect of an appeal contemplated in subregulation 5(3)] deciding and ruling whether an appeal is to be confirmed, varied or set aside provided that, where the legal practitioner is in disagreement with the recommendation of a medical practitioner as contemplated in sub-regulation 9(3), he or she may only decide and rule on the appeal after consultation with the medical practitioner;

[(2)] (b) recording the decision of the Independent Tribunal and the reasons therefor; and

[(3)] (c) signing off on the decision and reasons contemplated in subregulation (2).

[10] 9. Medical practitioner

The medical practitioner is responsible for-

[(1)] (a) the assessment of all medical aspects of appeals in respect of grants contemplated in regulation 5(2);

[(2)] (b) advising the legal practitioner on all medical aspects of the appeals contemplated in subregulation (1); and

[(3)] (c) making recommendations in respect of appeals contemplated in regulation 5(2).

[11. Member of civil society

The member of civil society is responsible for advising the Independent Tribunal on the socio-economic aspects of the appellants in respect of an appeal contemplated in subregulation 5(3).]

[12]10. Powers of Independent Tribunal

(1) The Independent Tribunal has the power to-

(a) consider all applications for appeal by applicant, beneficiary or a person acting on his or her behalf in terms of section **[18(1A)] 18(1)** of the Act;

(b) in an instance where it is adjudicating an appeal by the applicant, beneficiary or a person acting on his or her behalf and it is not satisfied with the reasons provided by the applicant, beneficiary or a person acting on his or her behalf, request further written reasons from the applicant, beneficiary or a person acting on his or her behalf, in a form similar to **Form 8A** in **Annexure A** of these Regulations, to be submitted within a period of 15 days from the date of receipt of the request by the applicant, beneficiary or a person acting on his or her behalf;

(c) if it is not satisfied with the reasons provided by the Agency for rejecting the beneficiary's or applicant's social grant **[request for reconsideration]**, request the Agency to provide further written reasons for its decision for rejecting the social grant **[request for reconsideration in terms of section 18(1) of the Act]**;

(d) give directions to any party to the appeal regarding any matter within its jurisdiction in connection with that appeal;

(e) at any time, request any person or institution to furnish any written information which is necessary for the determination of the appeal;

(f) refer the applicant, beneficiary or a person acting on his or her behalf for a second and independent medical examination or opinion in terms of regulation **[18(1)] 16(1)**; and

(g) postpone the hearing for the consideration of an appeal to such date as it may determine subject to regulation **14(2) [16(2)]**. [**; and**]

[(h) consider an appeal relating to the failure of the Agency to reconsider its decision as contemplated in regulation 3(6).]

(2) The 90 days period referred to in regulation **[16(2)] 14(2)** will be interrupted by the 15 days period referred to in subregulation 1(b) and/or the 15 days period referred to in regulation 16(2)(b) and/or by the 30 days period referred to in regulation **[18(8)] 16(2)(c)**.

(3) The Independent Tribunal upon receipt of the reasons as contemplated in subregulation (1)(b) and (c), the information referred to in subregulation 1(e) or the medical report contemplated in regulation **[18(5)] 16(5)**

and after consideration of the appeal may **[act in accordance with section 18(2)(b) of the Act]** confirm, vary, or set aside that decision.

[13] 11. Ethical conduct of members of Independent Tribunal

(1) All members of the Independent Tribunal must, in performing their functions and duties-

- (a) maintain a high standard of integrity;
- (b) respect the confidentiality of information of all parties to an appeal;
- (c) maintain acceptable standards of professionalism and ethics; and
- (d) recuse themselves where there is conflict of interest.

(2) In an instance where a member of the Independent Tribunal is a member of a professional body he or she must observe the ethical rules applicable to members of such a body.

CHAPTER 5

LODGING OF APPEAL AND CONDONATION (regs [14-15] 12-13)

[14] 12. Lodging of appeal [Section 18(1A)]

(1) An applicant, beneficiary or a person acting on his or her behalf, who disagrees with the decision **[and reasons]** of the Agency and wishes to appeal that decision, must subject to regulation 2, lodge an appeal in terms of section **[18(1A)]** 18(1) of the Act **[to]** with the Independent Tribunal, in a form similar to Form **[3]** 1 in Annexure A to these Regulations.

(2) An appeal contemplated in subregulation (1):

- (a) must be lodged with the Independent Tribunal;
- (b) may be delivered by hand, or by electronic communication **[post, fax or electronic mail]**; and

(c) must be accompanied by documents required under Form **[3]** 1 in Annexure A to these Regulations.

(3) When lodging an appeal as contemplated in subregulation (1) the applicant, beneficiary or a person acting on his or her behalf must not be allowed to produce any evidence or information which was not provided to the Agency at the time of application for social assistance.

[15] 13. Condonation of late lodging of appeal

(1) The Independent Tribunal may, on application and on good cause shown **[upon application for condonation]** by persons contemplated in regulation **[14(1)]** 12(1), condone an application for appeal lodged after a period of 90 days **[, upon good cause shown]**.

(2) In deciding whether good cause has been shown for condonation of a late application for an appeal, the Independent Tribunal must take the following factors into account:

- (a) the reason for **[the delay]** and extent of the delay ;
- (b) whether it is in the interest of justice that condonation be granted; and
- (c) **[if]** whether there are reasonable prospects of success.

(3) An application contemplated in subregulation (1) must be in a form similar to Form **[4]** 2 in Annexure A to these Regulations.

CHAPTER 6

CONSIDERATION OF APPEAL (regs **[16-18]** 14-16)

[16.]

14(1) An appeal contemplated in regulation **[14(1)]** 12(1) must be **[conducted]** adjudicated:

(a) in the absence of the applicant, beneficiary or a person acting on his or her behalf; and

(b) by means of consideration of documentary evidence submitted by the Agency and the applicant, beneficiary or a person acting on his or her behalf or sourced by the Independent Tribunal in terms of regulation 16(1), if applicable.

(2) An appeal must, subject to regulation 10(1)(b), 14(3), [16(6)], 16(2)(b) and (c), or 17(5) be finalised within a period of 90 days from the date on which the appeal was received by the Independent Tribunal.

(3) The 90 days period referred to in regulation 14(2) will be interrupted by the 15 day period for obtaining the report referred to in regulation 16(1).

(4) The 90 days period referred to in regulation 14(2) will be further interrupted by the period of 30 days referred to in regulation 10(1)(b) to provide additional information or, for the appellant to submit the examination report referred to in regulation 16(2)(b) and (c).

[17] 15. Decision by the Independent Tribunal

The Independent Tribunal must, after having had due regard to the documents contemplated in regulation **[2(4)] 12(1)** and **Form [3] 1** in **Annexure A** to these Regulations act in terms of regulation **[12(2)] 10 (1)**.

[18] 16. Medical examination of applicant or beneficiary

(1) The Independent Tribunal must, where it is unable to make a decision **[due to] based on** the **[insufficiency, inconclusiveness or contradictory nature] available [of the] information contained in a** medical report provided by the Agency or the applicant, beneficiary or a person acting on his or her behalf, refer the applicant, beneficiary **[or a person acting on his or her behalf,]** refer the applicant[, or beneficiary **[or a person acting on his or her behalf]** for **[a second and] an additional** independent examination by medical or allied health professional's examination and report [or opinion].

[(2) Before an applicant, beneficiary or a person acting on his or her behalf is referred for a second and independent examination or opinion as contemplated in subregulation (1) the chairperson of the Independent Tribunal must summon the applicant, beneficiary or a person acting on his or her behalf, in a form similar to Form 5 in Annexure A to these Regulations to appear before it.]

(2) **[When the applicant, beneficiary or a person acting on his or her behalf appears before the Independent Tribunal as contemplated in subregulation (2) the chairperson]** Where an applicant or beneficiary is referred for an examination as contemplated in subregulation (1) the Independent Tribunal must, in writing:

(a) inform him or her of the reasons for the referral;

(b) inform him or her or the person acting on his or her behalf that the examination report contemplated in subregulation (1) must be obtained within a period of 30 days; [of the date and address to which a medical examination will take place;] and

(c) inform him or her that he or she must submit to the Independent Tribunal, the examination and report contemplated in subregulation (3)(b) [such medical report] within a period of **[30] 15** days from the date **[of being informed of such referral]** contemplated in subregulation (3)(b). [; and]

[(d) make him or her aware that, if he or she fails to submit himself or herself to a medical examination referred to in subregulation (1) or submit a medical report based on the said medical examination, the Independent Tribunal will continue to consider and finalise the appeal without such a medical report.]

[(4) The medical report contemplated in subregulation (1) must be in a form similar to Form 6 in Annexure A to these Regulations.

(5) The applicant or beneficiary who has undergone the medical examination must submit such a medical report to the Independent Tribunal.]

(3) The Independent Tribunal must, upon receipt of [a medical] an examination report as contemplated in subregulation [(5)] 2 consider the appeal and act in terms of regulation [12(2)] 10(2).

[(7) The Independent Tribunal must, subject to subregulation (10), upon receipt of a medical report referred to in subregulation (5), act in accordance with the provisions of regulation 12(2).]

(4) Where an applicant, or beneficiary [fails to attend a medical examination despite having been summoned as contemplated in subregulation (1) or] fails to submit the required [medical] examination report referred to in subregulation [(5)] (2)(c) within a period of [30] 15 days [of being summoned as] contemplated in subregulation [(5)] (2)(c), the Independent Tribunal may proceed with the [consideration] adjudication of the appeal in the absence of the medical report.

[(9) A medical examination referred to in this regulation must be based on and relate to the applicant's or beneficiary's medical condition as it had been at the time when the application for a social grant was rejected by the Agency.

(10) Where the medical report as contemplated in subregulation (1) concludes that the applicant or beneficiary, as at the time of rejection of the application for the grant, had a disability, the Independent Tribunal must uphold the appeal.]

CHAPTER 7

ADMINISTRATION OF APPEALS WITHIN INDEPENDENT TRIBUNAL [(regs 1925)

[19] 17. Receipt, acknowledgement and request for further information

(1) The Independent Tribunal is responsible to [sic]-

(a) receive and register appeals in an appeals register;

(b) within a period of seven days from date of receipt, acknowledge receipt of an appeal **[in a form similar to Form 7A in Annexure A to these Regulations];**

(c) prepare files for the adjudication of appeals by ensuring that all relevant and supporting documentation as may be required in respect of a particular social grant are included in such files;

(d) assess the accuracy, validity and reliability of supporting documentation. **[; and]**

(2) The Independent Tribunal may request the Agency to provide any document referred to in regulation 10(1)(c) or (e).

(3) The Independent Tribunal may request the applicant, beneficiary or a person acting on his or her behalf to provide any outstanding document referred to in regulation **[14(2)(c)] 12(2)(c).**

[(4) The Independent Tribunal must-

(a) upon receipt of further written reasons as contemplated in regulation 12(1)(b), acknowledge receipt thereof in a form similar to Form 8B in Annexure A to these Regulations.

(b) in a case of a referral for a medical examination provide the applicant, beneficiary or a person acting on his or her behalf with a date and venue of the medical examination in a form similar to Form 5 in Annexure A to these Regulations; and

(c) must schedule the appeal for consideration.

(5) The documents referred to in subregulation (3) must be submitted to the Independent Tribunal within 15 days from date of receipt of the request.]

(4) An appeal shall only be considered to have been lodged upon receipt of all the documentation referred to in regulation 12(2).

(5) Where, in the case of a medically related grant appeal the Agency fails to or cannot for whatever reason provide the Independent Tribunal with the relevant records required for the adjudication of such an appeal within the 30 days period contemplated in regulation 3(b), the Independent Tribunal may instruct the Agency to do a medical re-assessment of the appellant or beneficiary and submit such medical re-assessment report within a period of 30 days from the date of issuance of the instruction to the Agency.

(6) The Independent Tribunal shall, upon receipt of all documents referred to in subregulation (3), acknowledge receipt thereof **[in a form similar to Form 7B in Annexure A to these Regulations].**

[(7) The 90 days period referred to in regulation 16(2) will only start running from date of receipt by the Independent Tribunal of all documents required under subregulation (3).]

[20.] 18 Communication of decision

(1) The Independent Tribunal must, subject to subregulation (2) communicate the decision and reasons thereof in respect of an appeal to an applicant, beneficiary or a person acting on his or her behalf and to the Agency [, **in a form similar to Form 9 in Annexure A to these Regulations**].

(2) The communication of the decision must be delivered to the **[address provided by the]** applicant, beneficiary or a person acting on his or her behalf **[in his or her by the form for an application for appeal or]** by **[any other]** a method of communication as indicated by the applicant, beneficiary or a person acting on his or her behalf in his or her application form for an appeal or by any other method of communication including electronic communication as determined by the Independent Tribunal.

(3) Upon receipt of the finding of the Independent Tribunal by the Agency as contemplated in subregulation (1), the Agency must implement such finding within a period of **[14]** 30 days of receipt thereof.

[21.] 19. Application which does not constitute an appeal

(1) The Independent Tribunal must, upon receipt of the application which does not constitute an appeal as contemplated in section **[18(1A)]** 18(2) of the Act read with regulation 14, notify the applicant, beneficiary or a person acting on his or her behalf, in writing, that such an application does not constitute an appeal and the reasons thereof:

[(a) remove the matter from the schedule if it was already scheduled; and

(b) notify the applicant, beneficiary or person acting on his or her behalf that such an application does not constitute an appeal and the reasons thereof in a form similar to Form 10 in Annexure A to these Regulations;]

(2) The Independent Tribunal shall not be obliged to consider an application as contemplated in subregulation (1) **[.]**:

(a) when an application is not accompanied by all the documents required under Form 1 in Annexure A to these Regulations; or

(b) if such an application is an application contemplated in subregulation (1).

[22.] 20. Withdrawal of an appeal

An applicant, beneficiary or a person acting on his or her behalf may, by means of a written notice, at any time prior to the finalisation of the appeal by the

Independent Tribunal, withdraw such an appeal **[in a form similar to Form 11 in Annexure A to these Regulations]**.

[23.] 21. Record keeping

(1) A copy of the appeal documents, including notification of decision, record of proceedings and copies of the Agency's file should be retained by the Independent Tribunal for a period of five years from the date of communication of the outcome of the appeal.

(2) The Independent Tribunal is the custodian of the appeal documents.

[24. Legal notice

In the event that any legal notice or litigation against the minister, in connection with any matter prescribed in these Regulations and the 2008 Regulations, is contemplated, service of such notice must be addressed and delivered to the Chief Director Legal Services for the Department of Social Development at the following address:

Private Bag X901

PRETORIA

0001]

[25.] 22. Commencement

These Regulations come into effect on a date of proclamation thereof **[3 October 2011.]**

ANNEXURE A
FORM 1
[APPLICATION FOR RECONSIDERATION]
(Regulation 2(1))
[Section 18(1) of the Social Assistance Act 13 of 2004]

LODGING OF AN APPEAL
(Regulation 12(1))
[Section 18(1) of the Social Assistance Act 13 of 2004]

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY				
Surname:	Full Names:			
ID Number:	Nationality:	Gender: M	F	
Tel No:	Fax No:	Email:	Cell No:	
Physical Address				
Postal Address				

B. DETAILS OF GRANT APPLICATION: AGENCY							
Agency Office:					Date of Application:	Date of Rejection:	
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in-Aid	Social Relief of Distress

C. REASONS FOR REQUEST FOR RECONSIDERATION
Reasons why you disagree with the decision of the Agency: (If the space provided is insufficient, please attach a separate page to this form.) (Please sign and date the separate page). Reasons:

.....		
.....		
.....		
Separate page attached (Please indicate with an X)	YES	NO

D. DOCUMENTATION TO ACCOMPANY APPLICATION

Copy of a letter of rejection or approval of social assistance application by the Agency;	Copy of the power of attorney or letter of appointment by the applicant or beneficiary;	Previous and current medical reports which were presented to the Agency (if available);	Proof of grant application to Agency (Receipt issued by Agency);
Proof of income and/or assets	Any other relevant document in relation to the application; and state what type of documentation.		

E. REPRESENTATIVE'S DETAILS

Surname:	Full Names:		
ID No:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

Signature of applicant/beneficiary/ representative	Place	Date
OFFICIAL DATE STAMP OF RECEIPT:		

FORM 2
NOTIFICATION OF OUTCOME OF CONSIDERATION OF AN APPLICATION
FOR RECONSIDERATION

(Regulation 3(5))

[Section 18(1) of the Social Assistance Act 13 of 2004]

TO: _____

Address:
Dear Sir/Madam

Pursuant to section 18(1) of the Social Assistance Act, 13 of 2004, this serves to inform you of the outcome of your application for reconsideration of the Agency's decision.

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Name and Surname:	
ID Number:	

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:		Date of Application:	Date of Rejection:				
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:					
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Dependency	Child Support	Grant-in- Aid	Social Relief of Distress

C. OUTCOME OF APPLICATION FOR RECONSIDERATION

The outcome of your application for reconsideration is as follows:

application upheld.

application dismissed.

Reasons:

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If you wish to appeal against the above decision, you may appeal to the Minister of Social Development, in terms of regulation 14 in a form similar to **Form 3**, against such decision within ninety (90) [days] of gaining knowledge of such decision.

The appeal must be sent to:

**DEPARTMENT OF SOCIAL DEVELOPMENT
INDEPENDENT TRIBUNAL FOR SOCIAL ASSISTANCE APPEALS
PRIVATE BAG X901
PRETORIA
0001**

**CHIEF EXECUTIVE OFFICER
SOUTH AFRICAN SOCIAL SECURITY AGENCY
DATE:**

**Signature or thumb print of recipient (if hand- delivered)
Print Name**

Date

**FORM [3] 1
LODGING OF AN APPEAL
[(Regulation 14(1))**

[Section 18(1A) of the Social Assistance Act 13 of 2004]

For office use only:

Province: Local Office:

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:				Date of Application:		Date of Rejection:	
Date of Application for Reconsideration:				Date of Rejection of Application for Reconsideration:			
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in-Aid	Social Relief of Distress

C. REASONS FOR APPEAL

Reasons why you disagree with the decision of the Agency: (If the space provided is insufficient, please attach a separate page to this form and clearly indicate that a separate page(s) is attached).

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D. DOCUMENTATION TO ACCOMPANY APPEAL

Copy of Identity Document;

Proof of application for reconsideration to Agency;

A copy of a letter of rejection or approval of application for reconsideration by the Agency;

Previous and current medical reports which were presented to the Agency (if available);

Name of the hospital/clinic that you normally attend.

Proof of income and/or assets: Yes No N/A

In the case of a person appealing on behalf of the beneficiary or applicant, a copy of the power of attorney or proof of his or her appointment by the applicant or beneficiary to act on his or her behalf;

Any other relevant supporting documents (state what type of documentation).

E. REPRESENTATIVE'S DETAILS

Name and Surname:

Name of Organisation/Firm (where applicable):

The purpose of your appearance is to notify you of the medical examination which you have to undergo prior [to] finalisation of your appeal which you lodged on

.....

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(ITSAA official)

ITSAA date stamp:

FORM 6
REFERRAL FORM FOR SECOND MEDICAL EXAMINATION OR OPINION
(Regulation 18(4))

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY			
Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION			
Agency Office:		Date of Application:	Date of Rejection:
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:	
Type of Grant (Mark with 'X')			

Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in- Aid	Social Relief of Distress
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C. REFERRAL

In accordance with regulation 18, the above-mentioned applicant or beneficiary is hereby referred for a second and independent medical examination or opinion as follows:

Date of Medical Examination:	Time:	Telephone Number:
Venue: Physical Address:		
Name of medical practitioner:		

D. SECOND MEDICAL EXAMINATION OR OPINION**EXISTENCE OF DISABILITY:**

Is disability certified?	Yes	No
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NATURE OF DISABILITY

Medical Doctor's signature and stamp

FORM 7A
ACKNOWLEDGEMENT OF RECEIPT OF APPEAL AND REQUEST OF
FURTHER DOCUMENTS
 (Regulation 14(2)(c) read with Regulation (19(1)(b) and (2))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

To: _____ Address: Dear Sir/Madam This is to acknowledge receipt of your appeal dated _____ which was received by the Independent Tribunal on _____ 1 You did not provide us with all the necessary documents required in terms of Form 3. Please be informed that the Independent Tribunal will not be able to consider your appeal until such time that you have submitted the following documentation: Further note that in terms of regulation 19(7) the 90 days period contemplated in regulation 16(2) will only start running from the date of receipt [of] all the documents referred to above. (ITSAA official)	
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Name: _____	
Signature: _____	Date _____
ITSAA official stamp:	

1 Please delete if not applicable

FORM 7B
ACKNOWLEDGEMENT OF RECEIPT OF FURTHER DOCUMENTS
 (Regulation 19(6))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

To: _____	
Address: _____	
Dear Sir/Madam	
This is to acknowledge receipt of your documents referred to in regulation 19(2) which was received by the Independent Tribunal on _____.	
(ITSAA official)	
Name: _____	
Signature: _____	Date _____
ITSAA official stamp:	

FORM 8A
REQUEST FOR FURTHER WRITTEN REASONS
 (Regulation 12(1)(b))

To: _____

Address:

Dear Sir/Madam

Please note that the Independent Tribunal is not satisfied with the reasons you have provided in support of your application for appeal. **(State the reason why the Independent Tribunal is not satisfied with the reasons)**. You are kindly requested to provide us with further written reasons within a period of 15 working days from receipt of this notice.

Please be informed that the Independent Tribunal will not be able to consider your appeal until such time that you have submitted the information required above. Further note that in terms of regulation 12(2) the 90 days period contemplated in regulation 16(2) will be interrupted by a period of 15 days indicated in the above paragraph.

(ITSAA official)

Name: _____

Signature: _____

Date _____

ITSAA official stamp:

FORM 8B

**ACKNOWLEDGEMENT OF RECEIPT OF FURTHER WRITTEN REASONS
(Regulation 19(4)(a))**

To: _____

Address:

Dear Sir/Madam

This is to acknowledge receipt of further written reasons as was requested in terms of regulation 12(1)(b).

You will be notified of the outcome of the appeal within days **(Indicate the period before the 90 days lapse)** from the of 201....

(ITSAA official)

Name: _____

Signature: _____

Date _____

ITSAA official stamp:

FORM 9
NOTIFICATION OF OUTCOME OF AN APPEAL
(Regulation 20(1))

To: _____
 Dear Sir/Madam
 Pursuant to section 18(1A) of the Social Assistance Act, 13 of 2004, this serves to inform you of the outcome of your appeal.

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:		Date of Application:	Date of Rejection:
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:	
Type of Grant (Mark with 'X')			
Dis-ability	Older Persons'	War Veteran	Foster Child
		Care Depen-dency	Child Support
		Grant-in-Aid	Social Relief of Distress

D. OUTCOME OF APPEAL

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FORM 10
NOTIFICATION THAT AN APPLICATION FOR APPEAL DOES NOT
CONSTITUTE AN APPEAL
(Regulation 21(1)(b))

33

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(ITSAA Official)

ITSAA date stamp:

FORM 11
WITHDRAWAL OF AN APPEAL
(Regulation 22)

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Independent Tribunal for Social Assistance Appeals Private Bag X901, PRETORIA 0001				
A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY				
Surname:		Full Names:		
ID Number:	Nationality:	Gender: M	F	
Tel No:	Fax No:	Email:	Cell No:	
Physical Address				
Postal Address				

[illegible]

(Signature of applicant or beneficiary or representative)

Date:

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12
WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION
[MARSHALLTOWN]
 (Regulation 3(7))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X120
Marshalltown
2107

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	
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I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

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Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [NELSPRUIT]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X11230
Nelspruit
1200

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A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
 My reasons for withdrawing the application for reconsideration are as follows:

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 (Signature of applicant or beneficiary or representative)

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 Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	

Telephone No:	Fax No:	Cell No:	Email Address:
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FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [CAPE TOWN]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9189
Cape Town
8000

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)
..... Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12
WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION
[BLOEMFONTEIN]
 (Regulation 3(7))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X4424
Bloemfontein
9300

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

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Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [POLOKWANE]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9677

Polokwane
0700

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

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Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	

Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12**WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [MMABATHO]**

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X44
Mmabatho
2735

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

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Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [EAST LONDON]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9001
Chiselhurst
East London
5200

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	
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I, the undersigned, hereby withdraw my application for reconsideration dated

My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

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Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION

[PIETERMARITZBURG]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

**ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9146**

Pietermaritzburg
3201

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	

Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [KIMBERLEY]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X6011
Kimberley
8300

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
 My reasons for withdrawing the application for reconsideration are as follows:

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(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address: