



USAID
ՀԱՅԱՍՏԱՆԻ ՍՈՑԻԱԼԱԿԱՆ
ԲԱՐԵՓՈՒՈՒՄՆԵՐԻ ԾՐԱԳԻՐ
ARMENIA SOCIAL TRANSITION PROGRAM
14 Մուղղուկյան, Երևան 14 Sundukyan, Yerevan
Telephone: (3741) 27-31-75/6/9
E-mail: rvaughan@padco.am
*PADCO Inc., in collaboration with Abt Associates, AIHA, Counterpart
International, QED, AMEG*

REPORT No 16

HOW TO CREATE A TRANS- PARENT APPEALS SYSTEM FOR THE SOCIAL BENEFITS

Prepared for
The Ministry of Social Security of Armenia
Prepared by
PADCO Armenia Social Transition Program

January 15, 2001

PLANNING AND DEVELOPMENT COLLABORATIVE INTERNATIONAL

Development Solutions for the 21st Century

PREFACE

Under USAD Contract No. 111-C-00-00-00114-00, PADCO is providing assistance to the Government of Armenia on social sector reform issues. PADCO is charged with the responsibility of developing recommendations for the GOA to develop and implement transparent appeals processes for Poverty Family Benefit.

Under Task 2D:T5, PADCO is supporting the improvement of targeting of social assistance and part of the improvement process is the development of an open, fair and transparent appeals process. To develop such a process PADCO have undertaken a thorough analysis of the current appeals system and analyzed in cooperation with the Social Assistance Department of the Ministry of Social Security the options available for improvement of the system taking international best practice into consideration.

PADCO Armenia Social Transition Program has prepared this report to assist the GOA in implementing a fair, open and transparent appeals system that will help to strengthen public trust in the Poverty Family Benefit and improve public perception of the fairness of the social protection system. A workplan is also included that sets out future activity. This document will serve as a basis for further discussion with MOSS and as a discussion document for a planned seminar in February 2001 on Appeals. It is also intended to provide the basis for a pilot program testing improved appeals systems that will be included as part of the PADCO pilot programs in Lori Marz.

CONTENTS

PREFACE	2
CONTENTS	3
ABBREVIATIONS AND TERMS	4
1. INTRODUCTION	5
1.1. WHY A TRANSPARENT SYSTEM OF APPEALS FOR SOCIAL BENEFITS IS IMPORTANT	5
1.2. PURPOSE AND OUTLINE OF THIS REPORT	5
2. CURRENT SYSTEM OF APPEALS/COMPLAINTS ON SOCIAL BENEFITS IN ARMENIA.....	6
2.1. GENERAL LEGISLATION RELATING TO APPEALS	6
2.2. DECREE ON DEALING WITH RECEPTION OF CITIZENS	6
2.3. LEGISLATION SPECIFICALLY RELATED TO POVERTY FAMILY BENEFIT	6
2.4. THE CURRENT SYSTEM OF HANDLING APPEALS AT THE MINISTRY OF SOCIAL SECURITY	7
2.5. ANALYSIS OF COMPLAINTS/APPEALS MOSS HQ	8
2.5.1. <i>Overview</i>	8
2.5.2. <i>Reasons for Appeals</i>	8
2.6. DECREE 305 AND THE CREATION OF SOCIAL ASSISTANCE BOARDS	9
2.6.1. <i>The SABs as an Avenue of Appeal</i>	10
2.6.2. <i>The Courts as an Avenue of Appeal</i>	10
2.7. THE CURRENT SYSTEM OF APPEALS IN RELATED ORGANIZATIONS	10
2.7.1. <i>Social Insurance Fund</i>	10
2.7.2. <i>The Current System of Appeals at Republican Employment and Labor Services</i>	11
2.8. SHORTCOMINGS OF ARMENIA’S PRESENT SYSTEM.....	11
3. HOW OTHER COUNTRIES PROVIDE FOR CITIZEN APPEALS	12
3.1. THE APPEALS SERVICE AGENCY IN THE UK.....	12
3.2. THE SOCIAL WELFARE APPEALS OFFICE IN IRELAND.....	12
3.3. THE OFFICE OF HEARINGS AND APPEALS IN THE USA	13
3.4. THE SOCIAL SECURITY APPEALS TRIBUNAL IN AUSTRALIA.....	13
3.5. COMMON ELEMENTS IN ALL APPEAL SYSTEMS.....	13
4. RECOMMENDATIONS FOR IMPROVING THE PRESENT SYSTEM OF APPEALS IN ARMENIA	14
4.1. PRINCIPLES FOR REFORMING ARMENIA’S SOCIAL BENEFITS APPEALS SYSTEM	14
4.2. LEGAL CHANGES NECESSARY TO IMPLEMENT REFORM.....	15
4.2.1. <i>Introduction</i>	15
4.2.2. <i>Recommended Amendments to Decree 350</i>	15
4.2.3. <i>Amendments to MOSS Decree 36P – the Board Regulations</i>	16
5. WORK PLAN FOR COLLABORATION BETWEEN MINISTRY OF SOCIAL SECURITY AND PADCO.....	16
5.1. THE DEVELOPMENT OF THE WORK PLAN	16
WORK PLAN FOR COLLABORATION BETWEEN MINISTRY OF SOCIAL SECURITY AND PADCO ON DESIGN AND IMPLEMENTATION OF APPEALS SYSTEM FOR FAMILY BENEFITS PROGRAM NOVEMBER 1, 2000 – OCTOBER 2002.....	17
<i>Phase 1: Analysis of Options for Appeals System for Social Assistance Recipients</i>	17
<i>Phase 2: Develop Consensus on Alternatives to be Tested in Armenia</i>	17
<i>Phase 3. Implement Pilot Programs</i>	18
<i>Phase 4. Implementation of Improved Appeals Process Nationwide</i>	19

ABBREVIATIONS AND TERMS

- AST = Armenia Social Transition Program
- PFB = Poverty Family Benefit – the family benefit program based on the PAROS system administered by the Mergelyan Institute but to be transferred to the MOSS
- GOA = Government of Armenia
- MFE = Ministry of Finance and Economy, responsible for developing overall economic policy, ensuring auditing and reporting standards
- MOH = Ministry of Health
- MOSS = Ministry of Social Security
- MSR = Ministry of State Revenues, responsible for collecting taxes
- NA = National Assembly
- Normative acts = Laws of parliament, decrees of the President, ministerial decrees and instructions, that, together, form the legal and regulatory framework for social protection programs
- PIN = Personal Identification Number
- RELS = Republic Employment and Labor Service, responsible for administering unemployment insurance benefits and providing job and training information -- subordinated to the MOSS
- RSSC = Regional Social Security Center – there are 52 local RSSCs through which social services are delivered to the population of Armenia, responsibility for their administration rests with the Local Authority and MOSS creates the policy
- SAB = Social Assistance Board-created under Decree 350 July 2000 to assist in better targeting of social assistance
- SHA= State Health Agency
- SIF = State Social Insurance Fund, which is administratively independent (but must follow MOSS policy), responsible for collecting payroll contributions and for distributing mandatory insurance benefits including old age, survivor, and disability pensions, and many small social benefits such as childcare benefits to mothers caring for young children, funeral allowances
- SSIF = The 51 local offices of the Social Insurance Fund responsible for collecting payroll contributions and distributing social insurance benefits
- WB = World Bank

1. INTRODUCTION

1.1. WHY A TRANSPARENT SYSTEM OF APPEALS FOR SOCIAL BENEFITS IS IMPORTANT

People may not always agree with the decisions of a social security administration. This can occur when the administration refuses to grant benefit or assistance that has been applied for or when it grants the benefit or assistance and the applicant considers that the amount granted is incorrect. In a state respecting the rule of law such people who disagree with particular decisions should be provided with ways of questioning or challenging such decisions.

The provision of a system of redress for the legitimate grievances of customers is a basic right that must be provided in any social protection system. A simple, accessible, well publicized, transparent and fair appeals system against a refusal of a welfare benefit should be a feature of any modern social security system. The European Code of Social Security of the Council of Europe and the Social Security [Minimum Standards] Convention 1952 of the International Labor Office require that “every claimant shall have a right of appeal in case of refusal of benefit or complaint as to its quality of quantity”.

The right of appeal is fundamental to the principle of democracy in order to ensure that the citizen has the fullest confidence in the institutions of the state and in the impartiality of decisions made by institutions of the state. The citizen needs to feel secure in the knowledge that any grounds which they may hold for resentment about a decision will be examined in an impartial manner and that he/she will have a reasonable opportunity of presenting their own side of the case.

There are many approaches to the creation of formal and informal social security appeal systems. The first phase of any appeal or complaint, in many countries, consists of an internal checking by the social security administration that has taken the decision in dispute. The applicant may request the social security administration to review or reconsider the decision. In normal circumstances the same person or section or department of the administration that has made the original decision may deal with this request. It may be that a higher authority within the administration may be designated to deal with all reviews or complaints. Another variant may be that reviews and complaints may be entrusted to another administrative body or an independent appeals body.

No social security system can have a 100% satisfied customer base. There will always be applicants, in any social security system, who are dissatisfied with valid and responsible decisions made by the administration and who will still remain dissatisfied even when their complaint or appeal has been examined in a fair and impartial manner. What a social security administration should aim for is public confidence that the administration treats all complaints and appeals fairly and impartially and that the avenues of complaint are publicized and open to all.

1.2. PURPOSE AND OUTLINE OF THIS REPORT

This report examines the current procedures of handling complaints and appeals that exist in the Armenian social protection system. The following section describes the present system for dealing with appeals and complaints related to social benefits – including those established from the Poverty Family Benefits Program as well as those employed for pension benefits and unemployment benefits. The subsequent section describes how appeals are addressed in the UK, Ireland, the USA, and Australia. The final section outlines recommendations for improving the system of appeals in Armenia. It reviews recent changes that have been made, reviews options proposed by the Ministry of Social Security, the World Bank and other international donors, sets out approaches used in other countries and suggests an approach, which may fit Armenian conditions.

The AST team recommends that an improved system for dealing with complaints and appeals related to social benefits be tested as part of the proposed pilot programs that will be conducted in Lori Marz.

Discussions relating to appeals in Armenia often confuse the meaning of the term “appeal”. In Armenia the term can be synonymous with an application for payment: a citizen “appeals” for payment of PFB. In International Social Security terminology, an appeal is a request or demand by a citizen for review of a decision made by a social security administration that the citizen feels is incorrect, unfair or with which he/she disagrees. This second meaning of the term is the subject of this report.

2. CURRENT SYSTEM OF APPEALS/COMPLAINTS ON SOCIAL BENEFITS IN ARMENIA

2.1. GENERAL LEGISLATION RELATING TO APPEALS

The Law on “Procedure for dealing with citizens Proposals, Applications and Appeals” dated 11.24.1999 is the general framework law regulating how complaints and appeals are to be handled by all Government Bodies. The main provisions of the Law are:

- Appeals must be submitted, in writing, to the organization/body or officials who are responsible for the organization/body or official whose actions are being appealed.
- It is expressly forbidden to send the complaints for resolution to the officials against whom a complaint has been made.
- The organization that receives the appeal/complaint must send it should send it to the relevant organization **or** respond within 5 days.
- The organization must respond within a month with the exception of those cases that require special investigation. This time limit may be extended by 15 days when the case is complex.
- The answers to appeals/complaints are to be given in writing or verbally based on the applicants’ consent.

This law appears to be structured mainly to respond to complaints made by citizens against the actions of government Ministries and organizations rather than appeals by citizens against decisions made and as such it is unsuited as the basis of an appeals process for PFB applicants.

2.2. DECREE ON DEALING WITH RECEPTION OF CITIZENS

The recent Decree 77P of the Ministry of Social Security, dated October 5, 2000 concerning the reception of citizens’ inquiries at the MOSS central office does not contain any specific measures concerning the structure of appeals, nevertheless it impacts indirectly on the appeals system in that it is evidence of MOSS’s commitment to listen to (and deal with) citizens’ complaints, applications and appeals.

The basic intention of the decree is to create a system whereby every weekday (instead of just one day a week as before) two MOSS officials are available to answer citizens’ inquiries between the hours of 10am and 2pm. There is a rotation system that ensures that every day at least one of the two officials is a head of department (or, on Wednesdays, Minister or Deputy Minister). In addition, a manager registers details of each citizen, including the nature of the inquiry. The head of the general department is responsible for ensuring that orders by a Minister or Deputy Minister to the relevant head of department are acted upon. Finally, a monthly report summarizing the previous month’s work is prepared (presumably by the reception manager) and sent to the Minister.

2.3. LEGISLATION SPECIFICALLY RELATED TO POVERTY FAMILY BENEFIT

Resolution 727 of the GOA dated November 19, 1998 on the Introduction of Family Benefit states that:

- Where there is a refusal of benefit the center, within five days, must inform the applicant about the decision stating the reason for refusal.
- The decision may be appealed to the court.

This resolution has now been repealed. It does, however, indicate a will to provide the applicant with information on reasons for decisions. The only avenue of appeal, however, was through the court.

Decree 350 of July 3, 2000 on the Regulation of Poverty Family Benefit and Lump Sum Assistance Allocation and Payment is the current legislation governing the PFB program.

This Decree stipulated the creation of Social Assistance Boards [SAB] at RSSCs with the following membership:

- Representatives from the RSSCs
- Representatives from RELS
- Heads of SIF offices
- Representatives from the Social Assistance Department of the Marzpet

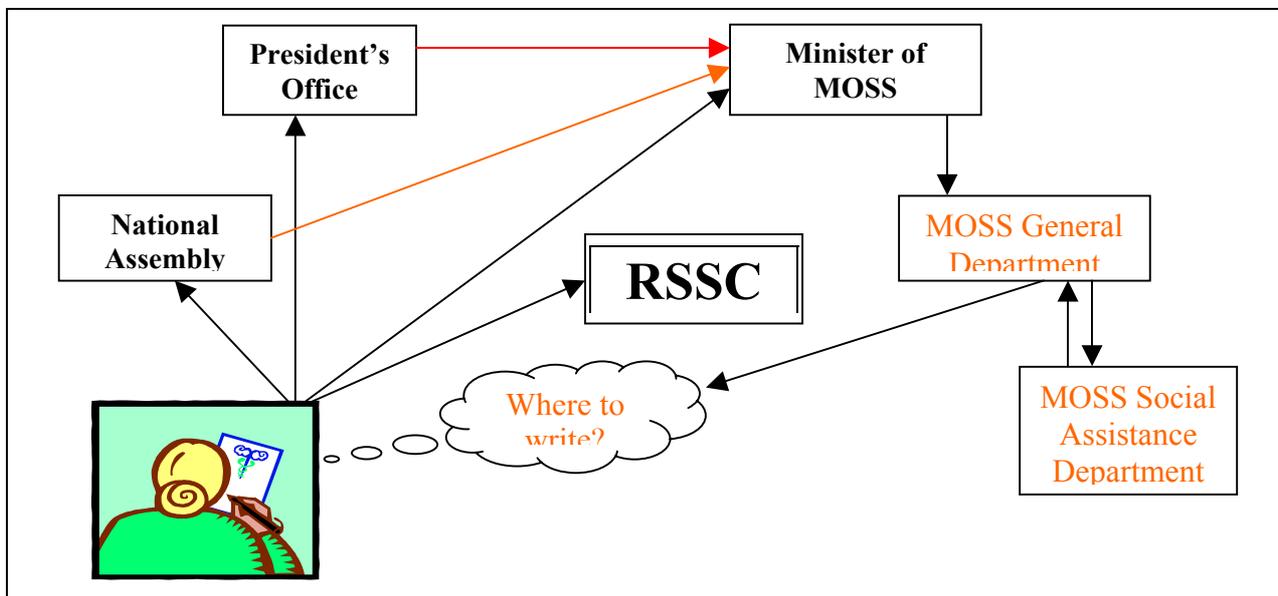
- Representatives from Internal Affairs Section dealing with children
- Representatives from NGO's

The creation of these SABs is a major improvement in the transparency of the social assistance system. The inclusion of NGO's in the social assistance system is a major welcome development.

2.4. THE CURRENT SYSTEM OF HANDLING APPEALS AT THE MINISTRY OF SOCIAL SECURITY

In order to identify clearly the current system of handling appeals, a study of the appeals handling process was carried out, by the AST team, at MOSS HQ, at a number of RSSCs both urban and rural and at the Marzpetaran level. The results of this study indicate quite clearly that there is a lack of clarity regarding where to appeal a decision made on PFB. There are a number of routes a citizen can take when he/she wishes to appeal a decision made on entitlement to PFB. The citizen may make a written appeal and send it or hand it in to the RSSC, the Marzpet, the Social Assistance Department of the Marzpet, the Head Office of MOSS or indeed to the President. He/She may also make a verbal appeal against refusal of PFB and the study indicates that this is normally the case.

A citizen can appeal to his local RSSC, to the Minister, To the National Assembly or to the Office of the President.



If a citizen makes a complaint or appeal which relates to the Ministry of Social Security and it is sent to another office e.g. the Office of the President it is routed to MOSS who, if it relates to a particular RSSC, send it there in order that they may respond.

There is a section at MOSS HQ dealing with all letters from members of the public or public representatives. All letters are received at the **General Department (GD)**, where they are examined by the General Department Inspectors. The GD Inspectors examine all letters and sort them according to the Department in the Ministry to which the enquiry relates. All inquiries are registered in a computer database. They are then distributed among departments (the total number of departments is 15).

If an inquiry or an appeal/complaint relates to PFB it is sent to the Department of Social Assistance. This Department has ten inspectors who are responsible for responding to letters from citizens. Formulating a response, in complex cases, can take time since these require research. They do have template letters to answer the most common inquiries. When the response is ready, an Inspector requires the signature of the Head of the Department Head or Deputy. When the inquiry is answered and signed, the file is returned to the General Department from where the letter issues and a copy is filed in the General Department folders. The format of the responses does not vary to a great extent and normally consist of 3-4 sentences. On occasion the response will require more text explaining the current status of the family.

The documents are archived for three years. At the General Department, the folders are divided according to:

- The Marzes from which they are received and

- Those received from the Presidential office and National Assembly.

The process of responding to the request/complaint/appeal takes approximately a month. The main reason for this is the enormous amount of appeals and complaints.

Apart from appealing/complaining in written form, citizens have an opportunity to meet in person with the Minister of MOSS or a Deputy Minister. There is a Reception Office at the Ministry with three staff and this office is open all day, five days a week, where callers are dealt with without appointment. Most callers wish to see the Minister to make their case in person. The organization of the Reception Office is chaotic, with a large number of people attending on each day.

The Minister of MOSS and Deputy Ministers are available to the public on Wednesday each week. To see the Minister, the person must summarize their case in writing and present it to the Reception Office which will decide whether to give an appointment with the Minister for the following Wednesday.

2.5. ANALYSIS OF COMPLAINTS/APPEALS MOSS HQ

2.5.1. Overview

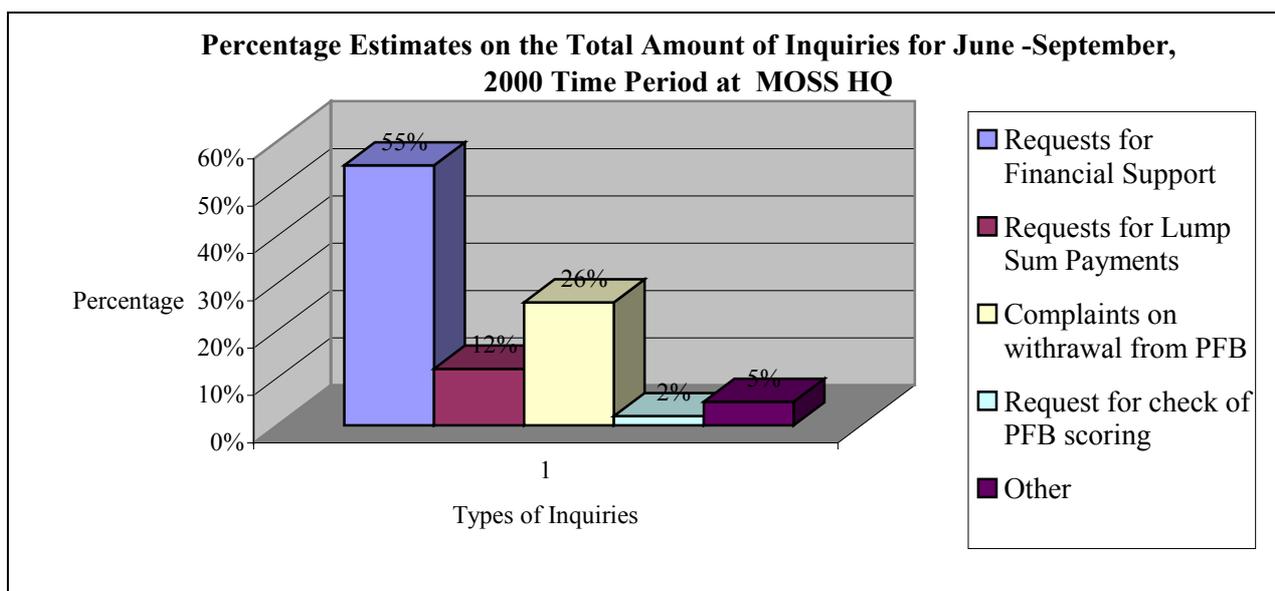
The overall number of letters from the public to the Social Assistance Department in the 9-month period from January 2000 amounts to over 4,000. Most of the letters were applications for financial assistance, over 67%, and the remainder could be considered as appeals against the withdrawal of PFB or expressions of dissatisfaction about not being granted PFB.

An analysis of 120 of these indicated the following types of complaints/appeals:

- Complaints about withdrawal of PFB - 26%
- Requests to reconsider the PFB scoring - 2%

The main bulk of the letters - 67%- i.e. requests for financial assistance, are dealt with by referring the letter to their local RSSC. Those who are already entitled to the FB are normally refused additional financial support. On occasion, the requests for assistance are treated as requests for "lump sum" payments and are directed to the Regional Councils so that the family may be considered for a Lump Sum Payment. The Ministry may also use its special budget for providing financial assistance to those asking for financial support. A representative from the Ministry indicated that approximately 20% of these letters requesting financial assistance receive a positive response.

The following graph illustrates nature of appeals/complaints to the MOSS SA Department over the period of analysis.



2.5.2. Reasons for Appeals

The main reason for appeals made by citizens against refusal of PFB or termination of PFB is a lack of clarity in the system. Appellants have poor knowledge of the eligibility conditions and rules pertaining to PFB and often their appeals are, quite simply, an appeal for information on why they have been refused or why

their payment has been terminated. A substantial number of appeals are in connection with applicants who have not provided documentation, as requested, within a specific time-frame and a large number relate to persons who were late in reregistering for PFB and thus missed out on a number of months payments.

The reasons for termination of PFB, in the cases, examined fell into the following categories:

- Car registered in the name of a person in the family
- Adult in the family registered with a business
- Absence of a family member from the household
- Inaccurate registration of the home address
- Death of a family member
- Over-consumption of electricity
- Home visit by an inspector who considers the family to have good living conditions

Letters of appeal examined indicated that the appellants find the eligibility conditions hard to understand and consider them unfair. People are inclined to believe that the inspectors make the decisions and blame them for incompetence and being prejudiced and unfair.

2.6. DECREE 305 AND THE CREATION OF SOCIAL ASSISTANCE BOARDS

Decree 305 is very significant in that it created a new entity, that appears, at first, to have the elements of an Appeals system. The SABs were set up with the following goals:

- With a purpose of improving the productivity of social assistance under Decree No. 350 of the GOA “Establishment and Payment of Poverty Family Allowances and Lump Sum Financial Assistance” adopted on July 3, 2000.
- The Board acts on a non-governmental basis alongside with the RSSCs
- Individuals, NGOs, governmental and local self-governing bodies can approach The Board with social issues.

The functions of the SAB’ are outlined hereunder:

- To assist in the purposeful and targeted use of state funds within the scope of its rights,
- To plan work local and regional social security programs and to submit them to the Ministry of the Social Security of the RA and to the Governor’s Office (Mayor’s Office in Yerevan),
- To discuss and address the applications related to the social issues,
- To assist in the implementation of payment of poverty family allowances and lump sum financial assistance and other social programs and to provide participation of relevant organizations, companies and local self-governing bodies in their area of operation,
- To examine the documents presented by families requesting lump sum assistance and make proposals whether those families are appropriate to be included in the lists of lump sum assistance,
- To provide the participation of community governing bodies in the assessment of social situation in families,
- To provide publicity and transparency of social programs implemented and to comment on them in the mass media contributing to establishment of public opinion.

The SAB is supposed to meet during the first week of each month and cases are reviewed on an individual basis. The cases are decided by a simple majority vote and any Board member can, if in disagreement, submit a specific opinion to MOSS or to the Governor (Mayor of Yerevan). Minutes of the Board meetings are taken and they are kept in the local RSSC.

The meeting of the Board may take place if more than half of the members are present. If a Board member misses more than 3 meetings the Chairman of the Board informs the relevant organization and the Governor (Mayor of Yerevan). Individuals, representatives of local and self-governing bodies, NGOs and the mass media can be present at the Board meetings with the approval of the Chairman of the Board. The resolutions of the Board must be re submitted to the relevant organizations within 3 days.

2.6.1. The SABs as an Avenue of Appeal

The SABs functions appear to be mainly concentrated on making decisions on Lump Sum Payments i.e. the 5% of the PFB budget set aside for this purpose. In the course of research PADCO project representatives attended two SAB meetings in different parts of the country. While at one meeting two cases were discussed where the inspector had made an error which, when corrected, resulted in the two families receiving PFB it was quite clear that, in reality, the main function of the SABs relate to the “lump-sum” payments. No appeals were presented to the Board, no cases were discussed where applicants had been refused PFB or where they had appealed against termination. In addition, the functions of the SABs as set out in the Decree make no direct reference to dealing with appeals except perhaps: “To assist in the implementation of payment of poverty family allowances and lump sum financial assistance”. Another paragraph which could be interpreted as referring to appeals reads as follows: “Discuss and as appropriate forward applications concerning social issues”. Here the word “applications” could be interpreted to include “appeals” and “complaints”. But it is a matter of interpretation. The text is by no means clear. Another point to note is that there is no jurisdiction to make any ruling on appeals, only to discuss them and pass them on to the relevant body. Section 3 of the charter lists the activities of the Councils. 3.1. reads: “Within 5 days of receiving applications, to send them to the relevant organizations for registration and examination”. This would suggest that the Councils should be permanent bodies, or should at least meet every 5 days; otherwise they will not be able to comply with this provision. Yet article 4.4. of the charter prescribes that the Councils meet once a month, and additionally only if the chairman considers it necessary. It is, however, doubtful that with their present, unpaid membership they would be able to meet on a weekly basis.

2.6.2. The Courts as an Avenue of Appeal

Taking into account all the circumstances, it seems very unlikely that the courts would ever have to listen to a case concerning family benefit. The costs and technicalities are a sufficient deterrent. MOSS officials were aware of only one case in the past, in which a citizen had sued in the courts before MOSS had had a chance to resolve the situation.

2.7. THE CURRENT SYSTEM OF APPEALS IN RELATED ORGANIZATIONS

In examining the system of appeals and complaints, it is important to examine briefly the systems in place in SIF and RELS in order to determine if an integrated appeals process would benefit the citizen.

2.7.1. Social Insurance Fund

As with all Ministries and Government Agencies, the main Law governing appeals/complaints is the Law on “Procedure for dealing with citizens Proposals, Applications and Appeals” dated November 24, 1999. Apart from this, laws specifically regulating the field of social insurance have special provisions concerning citizens’ appeals and complaints. In particular, Article 54 of the Law on “State Pension Security of the Citizens of the Republic of Armenia “ (06/12/1995) regulates the appeals against any issue related to appointing pensions. In line with the provisions of the main Law, appeals should be made to the office which is dealing with the case and when the citizens is dissatisfied with the response then the procedure is to refer to the 11.24.1999 law and thereafter to the courts.

Although the “Law on the procedure for dealing with citizens’ suggestions, applications and appeals” stipulates that the complaints/appeals should be handled according to the order of supervision, the citizen may send a complaint/appeal directly to the SIF head office or else to the SIF President. In some cases, when the issue does not require in-depth analysis by the social insurance staff, if the SIF head office receives the appeal, they reply, while sending a copy to the relevant SIF branch. If the issue requires detailed examination then the SIF head office receives sends it to the relevant branch to be dealt with (with a copy of the letter sent to the applicant).

Within SIF, HQ complaints/appeals are dealt with in the Department of Pension Security. According to an analysis for the third quarter of the year 2000, 473 appeals/complaints were received out of which. The main areas of complaint were about delays in payment of pension, complaints about the size of the pension and about 10 percent could be classified as appeals.

In summary, the level of appeals in the SIF is low and the system of handling complaints appears to work well. This is due to the fact that eligibility for payment of pensions depends on the length of service and amount of salary both of which need to be supported by actual documentation, which the applicant has to

produce. If the applicant produces the correct documentation then the pension is paid. Hence appeals in this system are concerned mainly with the applicant's inability or failure to submit the required documentation.

2.7.2. The Current System of Appeals at Republican Employment and Labor Services

There is no specific appeals process in the RELS available to applicants who may have their applications for unemployment benefit or registration as unemployed rejected. The process of handling appeals/complaints at the RELS is again governed by the "Procedure for dealing with citizens Proposals, Applications and Appeals" dated 11.24.1999. Neither the Law on Employment of the Population [1997], nor any other normative acts and other legislative documents regulating the field of employment, contain special provisions on how to deal with appeals/complaints.

In line with the provisions of the main Law, the administrative body should deal with appeals. If the appellant is still dissatisfied with the decision he/she may apply to the court. He may however send a complaint/appeal directly to the Employment Service's Head Office, the Ministry or higher.

No formal analysis of the nature and numbers of appeals is carried out by the RELS HQ or RELS local. According to an expert at RELS HQ they receive on average 20-25 appeals a month. The normal complaints relate to late payments of unemployment benefits. A large number, however, are in connection with not being granted unemployment benefit. There are cases in which complaints are made about a particular staff member of a RELS. Depending on the nature of the appeal/complaint, a reply may, on rare occasions, be issued by RELS HQ staff but more often the appeal is sent to the relevant RELS office for reply.

2.8. SHORTCOMINGS OF ARMENIA'S PRESENT SYSTEM

Having analyzed the current system of appeals, which is in place for social protection customers, the following conclusions can be drawn.

1. There is a genuine will within MOSS to improve the system of appeals and complaints. Many improvements have been made in the past two years to improve citizen access to officials as evidenced by the creation of a reception section in MOSS HQ and the access which the public have to the Minister and Deputy Ministers and Department Heads.
2. There is confusion in the social protection system with regard to complaints and appeals. A complaint may be defined as an expression of dissatisfaction with a service provided by the social protection body while an appeal is a demand for review of a **DECISION** made by a social protection body. There is a need for a separate process for dealing with complaints and a separate process for dealing with appeals.
3. The current economic climate, with pensions and benefits several months in arrears, the level of complaints is extremely high and is likely to remain so while payments are in arrears. This makes it difficult for MOSS to focus on the issue of Appeals and a simplified appeal process.
4. The Appeals system in place is unclear for the citizen. A citizen who has had his application for PFB or "lump sum payment" rejected is given no advice or guidelines on what he/she should do to appeal against the decision. In the vast majority of cases there is no written notification given to the applicant of the decision and the grounds for the decision.
5. Linked with the lack of a clear route to make appeals is the need for MOSS to inform the public about the rules of eligibility for PFB. While efforts are made to do this through the media and other means MOSS officials and Local Authorities acknowledge that citizens still are problems accessing information on the system. Clear booklets, leaflets and posters need to be developed to ensure the public is informed.
6. Citizens, in general, have a distrust of the PFB system, considering it to be unfair and to lack transparency. A fair system of appeals would counteract this view. If citizens are in a position to appeal the decisions made by the social protection body and feel that it will be dealt with in a fair and impartial manner it will help to change public perception of the system.
7. The Social Assistance Boards created by Decree 350 are a major development. They have brought a level of transparency into the system, which did not exist previously. Unfortunately they do not appear to operate, or to have been designed, as a body, which can hear or deal with citizen appeals. These Boards could provide a good framework for an appeals system however the regulations governing their operation would need to be changed to reflect their new role.

8. A WB report by A.Pozarac [1998] recommended that Appeals Bodies should be created which could, among other issues, deal with applicants who are unable, through no fault of their own, to produce documentation. Studies indicate that many needy families are unable to produce documentation e.g. mentally or physically disabled persons unable to obtain full documentation of their cases or women whose spouses have immigrated can have difficulty achieving legal divorce papers. These cases should be dealt with in an appeal procedure.
9. The RSSCs are under the supervision of the marzpets while MOSS creates policy. The relationship is still somewhat uneasy and unclear. This reporting status seems to have created only an additional tier of bureaucracy. In terms of methodological issues, the MOSS is *de-jure* and *de-facto* supervising RSSCs while in matters of administration they are supervised by the Marzpeteran Social Assistance Department. In the public mind it has added another route for appeals and, in fact, over 75% of complaints received by the Marzpet relate to social protection issues.
10. Analysis of the appeals process in other countries indicates that the agencies, which hear appeals, in general cover more than one area of appeal. SSIF and MOSS opinion was sought regarding their point of view on the merits (or the opposite) of combining the appeals systems for social assistance and social insurance. It is their opinion of those officials that such unification would not be justified, since the nature of complaints and the mechanisms that are employed in resolving the complaints are different. In the social insurance system, the pension is calculated strictly by Law. Cases of complaints (apart from late payments) are related only to miscalculation of pensions. If the issue is not resolved in the normal way, i.e. bringing the matter to the attention of the SIF it automatically falls under the jurisdiction of the court. In other words the role of a subjective judgment here is absent. In contrast in social protection, the role of the subjective factor is significant, and there is a need for safeguards.

3. HOW OTHER COUNTRIES PROVIDE FOR CITIZEN APPEALS

To devise an appropriate appeal and complaint system for Armenia, it is useful to outline a number of models from other countries. The countries selected are the UK, Ireland, the USA, and Australia.

3.1. THE APPEALS SERVICE AGENCY IN THE UK

The current appeals system in the social security sector was reformed in April 2000 and is now led by the "Appeals Service Agency", an agency under the Department for Social Security, together with an independent tribunal body responsible for hearing appeals. The Executive Director of the agency is responsible to the relevant minister and to Parliament.

The Appeals Service has a total of 6 areas of jurisdiction. The two core areas are social security and child support (maintenance payments). However, in addition to these areas, the Service has authority to hear appeals regarding vaccine damage, tax credits, compensation recovery and road traffic offences.

The appeals process is a standard one: when the a person notifies a decision-making body (e.g. the Benefits Agency) that he/she wishes to appeal, the decision-making body sends that person a copy of the reasons for their decision together with a pre-hearing enquiry form. They also send a copy of their decision to the Appeals Service. This written decision is their submission in the case. When the Appeals Service has received the completed pre-hearing enquiry form from the appellant, it then allocates a hearing date and notifies the relevant parties. At the hearing the tribunal makes a decision, which, in written form, is issued to the parties together with information about how they can appeal to the courts if they remain dissatisfied.

3.2. THE SOCIAL WELFARE APPEALS OFFICE IN IRELAND

The Social Welfare Appeals Office [SWAO] is an independent agency under the Ministry of Social, Community and Family Affairs. It determines appeals from persons who are dissatisfied with the decisions of Deciding Officers [DO's], who make decisions regarding entitlement to social welfare payments and insurability of employment under the Social Welfare Acts. Appeals are considered by Appeals Officers who consider all the facts of the case and make decisions, which must be followed by the Ministry.

The first stage of the appeals process is receipt by the SWAO of a written appeal from a person who is dissatisfied with a decision made on his/her application for payment of benefit or assistance. This is initially passed to the DO for review to reconsider the decision. The appeal may contain new evidence, or indicate a

change in circumstances, or point to a mistake in interpreting the relevant facts or law. If the DO upon review finds that the claimant's case is satisfied, the decision is changed, and the claimant is notified accordingly, and the SWAO is correspondingly informed that the appeal will not proceed. If however the DO finds the appeal is not justified, then he/she prepares a written submission, which outlines in detail the reasons for the decision taken. This submission is forwarded to the SWAO for consideration by an Appeals Officer. The claimant similarly receives and submits a completed appeal form for consideration by the Appeals Officer.

The Appeals Officer may decide the case on the basis of the documentary facts laid before him or may decide to hold an Oral Appeal where the appellant may present his/her case in person to the Appeals Officer. A representative of the social security administration may be requested to attend to give evidence if the Appeals Officer considers this to be necessary. The appellant may be accompanied by an advocate or lawyer at this hearing and the costs of attendance of both the appellant and the lawyer are borne by the Ministry.

3.3. THE OFFICE OF HEARINGS AND APPEALS IN THE USA

The Office of Hearings and Appeals [OHA] is the relevant appeals body for cases concerning provision of benefits. The bulk of cases concern disability benefits, but other areas covered include claims for retirement and survivors insurance, medi-care, and non-disability benefit claims.

Prior to the appeals process, an appellant can request that the initial decision be reviewed by the Social Security Administration. A person other than the official who made the initial decision always carries out this review. There is then a two-tier appeals process within the OHA, with an Administrative Law Judge entering an initial decision, which can be appealed to the Appeals Council. Following that, the claimant can appeal to the federal courts.

The appeals process usually consists of oral hearings, though the claimant can request a review of written documentation only. After the hearing parties are supplied with the written grounds for the decision.

3.4. THE SOCIAL SECURITY APPEALS TRIBUNAL IN AUSTRALIA

The Social Security Appeals Tribunal [SSAT] reviews decisions concerning pensions, benefits, allowances and student assistance. Prior to an appeal, the appellant must have requested an internal review of the original decision. Upon receipt of an appeal, SSAT requests a written explanation of the original decision from the social security administration, and this must be submitted within 28 days. The appellant is sent a copy of this explanation and the parties are notified of a hearing date.

At the hearing, the social security administration is not represented. Only the appellant and the appeals panel attend the hearing. The decision is made after the hearing and communicated in writing to the claimant within 2 weeks. If either party is not satisfied with the SSAT's decision, there are three further appeal stages, as follows: Administrative Appeals Tribunal, Federal Court and High Court.

3.5. COMMON ELEMENTS IN ALL APPEAL SYSTEMS

There are common elements in all of the appeals processes described.

- Professional, permanent organization. In each country appeals are handled by an organization specifically set up for that purpose, with permanent staff and detailed practice rules and guidelines.
- Unified system. In each country, the appeals system has jurisdiction over at least two areas – i.e. it is considered that the subjects (e.g. benefits, medical insurance, child maintenance, student grants) are sufficiently similar for one agency to have the relevant competencies to hear appeals concerning each area.
- Specific route for appeals. In each case the system prescribes a set appeals “route” which the claimant must follow. For example in Australia, the claimant must have requested an internal review before proceeding to an appeal, and in each country all stages of the administrative system of appeals must be used before proceeding to the general courts.
- There are normally set time limits for appealing initial decisions. This varies between 3 weeks and 2 months.
- Travel expenses. In some cases it is indicated that applicants may be eligible to claim reimbursement of the cost of traveling to attend the appeal hearing.

- Clear Decisions. In all countries the applicant receives a written decision from the social security administration with clear reasons why a particular decision was taken by the administration and outlining what actions the applicant should take if he/she is dissatisfied with the decision.
- Transparency and ease-of-use. In each country much attention has been paid to developing clear guidelines and to providing citizens with sufficient information at all stages of the appeals process

4. RECOMMENDATIONS FOR IMPROVING THE PRESENT SYSTEM OF APPEALS IN ARMENIA

4.1. PRINCIPLES FOR REFORMING ARMENIA’S SOCIAL BENEFITS APPEALS SYSTEM

The main features of a modern appeals system should be:

- Simplicity - the appellant must be able to appeal without having to follow complicated procedures.
- Accessibility - There must be sufficient public knowledge of the system of appeal so that he/she will know the route to take and access must be available to the appellant at a reasonable distance from him/her and there should be no extraordinary costs involved.
- Transparency - the appellant must feel that all decisions taken have a sound basis and that the reasons for the decision are clear.
- Fairness - the system must be perceived as fair with access for all and not favoring a person or group of people.

There are many other elements to an appeals system. If, however, a system contains the above elements, then it is considered to be of international standards.

It is considered that, given the current economic conditions, it is impractical to suggest that a totally independent body should be created to deal with appeals in the sphere of social protection. What is considered most practical, at this time, is to build on the structure which was put in place under Decree 350 i.e. The Social Assistance Boards. These Boards are in place and are ideally placed to take on the role of Appeals Body for Poverty Family Benefit. In order to do so certain basic elements need to be put in place:

1. All decisions made by MOSS on PFB and on “lump-sum” payments must be communicated, in writing, to the applicant and must contain a clear explanation of the reasons for the decision made. The decision notification must contain details of the Appeals Process, which is available if the applicant is dissatisfied.
2. Revised regulations for the Social Assistance Boards to ensure that their new role as Appeals Body is clear and unambiguous.
3. Training for the Social Assistance Boards to ensure that they deal professionally and conscientiously with citizen appeals and training for staff in the RSSCs to ensure that they can guide appellants to the Appeals Process.
4. A facility for appellants to present their case in person or with an advocate at the hearing of their appeal.
5. A major publicity campaign to ensure that the public is made aware of the appeals process and how it is accessed.
6. Regulations must be put in place to ensure that the decisions of the Appeals Boards are final and binding on MOSS however if the appellant is still dissatisfied he will not be prevented from applying to the court.
7. The appellant must be notified, in writing, of the decision of the Appeals Board.
8. A software program must be devised to ensure that there is a system in place to register appeals-track them through the appeals process-and analyze common types of appeals, numbers, processing times to ensure that a countrywide database of appeal cases is maintained.[At the new Ministry Information Center perhaps].

4.2. LEGAL CHANGES NECESSARY TO IMPLEMENT REFORM

4.2.1. Introduction

This section sets out the basic amendments to current legislation that will be necessary to set up a functional appeals system under the auspices of the “Social Assistance Boards” (as set up by Govt. Res. 350 dated July 3, 2000; hereinafter described as SABs and “Resolution #350” respectively). The background to and object of the amendments is analyzed before proceeding to describe the necessary amendments.

The report is intended to be a discussion document, which may give cause for debate or rethinking.

The current system cannot work in practice, basically because the “Law on the procedure for dealing with citizens’ suggestions, applications and appeals” (24/11/99, the “Appeals Law”) prescribes rules with which the SABs, in their current format, will not be able to comply.

Further, we take the view that the role of the SABs should be strengthened to make it clear that they can rule on appeals, rather than simply issue recommendations to be adopted or rejected by state bodies as they see fit.

Because there is a contradiction between the Appeals Law and the current regulations concerning the Councils, one of the two needs to be changed. It is easier to change the regulations (specifically, Res. #350 and MOSS Decree 36P) because that only requires Govt./Ministerial resolutions, whereas to change a law would require a long process starting with the MOSS, going through Government and ending up in the National Assembly. Further, the Appeals Law, whilst not ideal, is nevertheless respected in Armenia for setting certain standards by which state bodies must abide (particularly as regards time-limits), and so there will probably be some resistance to the idea that the time limits should be relaxed, even if only in respect of family benefit appeals.

The aim is to set up a mechanism that can ensure a) the processing of appeals within the legal time limits and b) the issuing of binding decisions. There are a number of routes at present that a citizen may take in seeking redress), and it seems that there is little point in simply adding another route. In other words, we must try to create a structure that will be seen to work and be seen as the best route to take – otherwise it may cause further confusion.

The provisions of the Appeals Law, coupled with the ad-hoc nature of the SABs as currently constituted (monthly sessions with no permanent secretariat) would suggest the introduction of a major change: the post of secretary, to ensure that appeals correspondence is dealt with promptly. Given financial restraints, it seems impractical to suggest that a new, paid post be created. Having in mind the structure of the Council, it seems most convenient to allocate the post of secretary to the RSSC representative. The advantages are that the RSSC official is on-site to receive appeals and will have a clear idea of how to follow up and present findings to the Council sessions. The disadvantage is that the RSSC official may be (and be perceived to be) biased.

Finally, in practice it is probably not practicable or necessary to set up a unified appeals system for this area and the pensions and unemployment sectors.

4.2.2. Recommended Amendments to Decree 350

- Paragraph 2. Add a phrase to indicate that the Boards have power to hear appeals against the RSSCs concerning family and one-off benefits.
- Regulations: para. 8: delete
- Regulations: at end of Section V, insert a new section, as follows:

“VI. Appeals

33. Citizens’ appeals concerning poverty family benefit and one-off monetary benefit may be directed to the Social Assistance Boards, other superior bodies or the courts.

34. For the purposes of timely processing of appeals, the RSSC director shall appoint a member of staff to act as Board secretary. The secretary shall ensure registration of written appeals and complaints, their prompt investigation with the relevant authorities and the presentation of preliminary findings for approval at sessions of the Board.

35. The SAB shall discuss each appeal within one month of receipt, and its decision shall be binding on the RSSC. Appeals may be to superior bodies or the courts”.

4.2.3. Amendments to MOSS Decree 36P – the Board Regulations

Para. 2.1: add the following paragraphs:

- To adjudicate on appeals presented to the Board by citizens regarding family poverty benefit and one-off monetary benefit.
- To discuss complaints presented to the Council by citizens regarding family poverty benefit and one-off monetary benefit, and to make recommendations to the relevant authorities.

Para. 3.1: amend to read as follows:

- In the person of its secretary, to register appeals and complaints presented to the Board and within 5 days to forward to (or make enquiries with) the relevant authorities, as appropriate. The secretary shall then present to the Board preliminary findings for discussion and resolution at the following session.

Section 4: insert a new para. 4.3A as follows:

- The Board secretary shall be the representative of the RSSC, appointed by the Director of the RSSC for a one-year term.
- The secretary:
 - Acts in accordance with 3.1 above,
 - Ensures that a summary of rules concerning the processing of appeals and complaints is posted in a visible place at the entrance of the RSSC,
 - Upon receipt of an appeal or complaint by a citizen, informs him/her of his/her right to be present at the relevant Board session,
 - Consults with the Chairman regarding the timing of monthly and supplementary sessions of the Board, having regard to the processing of appeals within the time limits prescribed by law, and ensures that notice of the date of each session is posted in the RSSC at least one week in advance.

Para. 4.8: add a sentence as follows:

- Citizens who have presented written appeals or complaints to the Board for resolution have the right to attend the relevant hearing to present their case.

Para. 4.10: add a sentence as follows:

- Decisions of the Board regarding appeals by citizens against decisions of the RSSC are binding on the latter, and can be appealed to the MOSS or the courts; recommendations of the Board arising from the hearing of complaints against RSSC officials are sent to the Marzpet with copy to the RSSC Director and MOSS.

5. WORK PLAN FOR COLLABORATION BETWEEN MINISTRY OF SOCIAL SECURITY AND PADCO.

5.1. THE DEVELOPMENT OF THE WORK PLAN

The work plan for collaboration has been developed jointly by PADCO and MOSS and reflects a realistic timescale for implementing an appeals system. It will be the subject of further discussions between Padco and MOSS and will form the basis for the implementation program that envisages piloting the system in one Marz initially and eventually training and rollout of the system nationwide.

**WORK PLAN FOR COLLABORATION BETWEEN MINISTRY OF SOCIAL SECURITY AND PADCO
ON DESIGN AND IMPLEMENTATION OF APPEALS SYSTEM FOR FAMILY BENEFITS PROGRAM
NOVEMBER 1, 2000 – OCTOBER 2002**

<i>Task No.</i>	<i>Definition of Tasks</i>	<i>Time of Completion</i>	<i>Assignment of Responsibilities:</i> 1) MOSS 2) PADCO	<i>Preliminary Estimate of Direct Costs to be Financed by PADCO</i>
<i>Phase 1: Analysis of Options for Appeals System for Social Assistance Recipients</i>				
Summary: The purpose of the first phase is to analyze the current system of appeals and review alternatives				
1.1	Review current appeals system developed by MOSS, examine the recommendations of the World Bank, and analyze approaches used in other countries	December 31, 2000	1) Provide input into review of current system 2) Analyze representative sample of files at two RSSCs to identify types of appeals/complaints, outcomes and staff and customer perception of the process 3) Interview key experts, review WB recommendations, research alternative approaches prepare draft report with recommendations on improvements	
1.2.	Conduct seminar between WB and MOSS and PADCO to discuss recommendations in Report	February 28, 2001	1) Participate in discussion 2) Organize and host discussion 3) Print and distribute report to include feedback from discussion	
<i>Expected Results from Completion of Phase: Clear understanding of alternative improved appeals system</i>				
<i>Phase 2: Develop Consensus on Alternatives to be Tested in Armenia</i>				
Summary: During Phase 2, the range of options for an easily accessible, transparent and independent Appeals System will be narrowed and an improved system developed				
2.1	Carry out a Study Tour to a selected Country to study a quality system of Social Welfare Appeals	February 28, 2001	1) Review knowledge and understanding of various approaches 2) Select country with quality appeals system and organize study tour	

<i>Task No.</i>	<i>Definition of Tasks</i>	<i>Time of Completion</i>	<i>Assignment of Responsibilities:</i> 1) MOSS 2) PADCO	<i>Preliminary Estimate of Direct Costs to be Financed by PADCO</i>
2.2.	Conduct a roundtable between MOSS and PADCO to review study tour experience, discuss recommendations in Report, design new and improved process and produce an action plan for introduction of an improved appeals system Select 3 sites for implementation of a pilot system of improved appeals system for social assistance	March 31, 2001	1) Present review of study tour experience, design improved process and develop implementation plan. Select pilot sites, input into development of training program and training materials 2) Organize and host roundtable, support and provide technical assistance in design of appeal process, development of implementation plan, training program and training materials	
<i>Expected Results from Completion of Phase 2: Improved Appeals System designed and agreement on sites and timetable for testing.</i>				
<i>Phase 3. Implement Pilot Programs</i>				
Summary: Improved Appeals system tested and results analyzed				
3.1.	Train staff on improved Appeals System in three sites, carry out a public information campaign, implement the new system and put appropriate monitoring structures in place.	June 30, 2001	1) Input to training of staff in three sites. Input to information dissemination. Implement new system and monitor results on an ongoing basis 2) Design training program for staff, design training materials, assist in training delivery. Design public information campaign to include poster, leaflet and form production. Design monitoring system	
3.2.	Produce a report on the experience of piloting the improved system to include feedback from management, staff and customers.	October 31, 2001	1) Input to report particularly on monitoring of results. Draft necessary normative acts to underpin the new appeals system. 2) Prepare report, print and distribute and provide technical assistance in preparing draft law/regulation/orders	
3.3.	Hold a NEXT STEPS workshop to discuss results of piloting, review results, redesign the appeals process as necessary and develop an action plan for nationwide implementation.	November 30, 2001	1) Present results and review of pilots. Redesign the process as needed. Create an action plan for nationwide implementation. 2) Organize NEXT STEPS workshop. Provide technical assistance in development of implementation plan.	
<i>Expected Results from Completion of Phase 4; Nation-wide implementation plan for improved appeals system devised and agreed</i>				

<i>Task No.</i>	<i>Definition of Tasks</i>	<i>Time of Completion</i>	<i>Assignment of Responsibilities:</i> 1) MOSS 2) PADCO	<i>Preliminary Estimate of Direct Costs to be Financed by PADCO</i>
<i>Phase 4. Implementation of Improved Appeals Process Nationwide</i>				
Summary: Nationwide implementation of improved Appeals System with clear public access to a fair and equitable process which is well advertised				
4.1.	Implement all Laws/Regulations/Ministerial Orders necessary to underpin the Appeals System	December 31 2001	1) Present draft law/regulation/order to appropriate body or bodies	
4.2.	Train all SSC staff in the new appeals system	March 2002	1) Develop training plan for staff on the new system, carry out training 2) Provide technical support in training	
4.3.	Carry out a nationwide information campaign advertising the new system	April 2002	1) Develop an information campaign and arrange press releases, organize media involvement, 2) Assist in the design and production of public information leaflets and posters	
4.4.	Roll out the improved appeals system to all RSSCs	April 2002	1) Ensure that all SSC offices have trained staff to implement the system, that the system is in place and that there is a supply of all forms and informational leaflets are available in all offices. Ensure that a monitoring structure is in place.	
4.5.	Review improvements and adjust as necessary	October 2002	1) Review the operation of the new system in terms of access, public understanding of the system and public perception of the accessibility and fairness of the system	
<i>Expected Results from Completion of Phase 4: Improved Appeals Process in place with clear evidence of increased public awareness of the existence of the system</i>				