

**REPORT TO THE TWENTY-THIRD HAWAII STATE
LEGISLATURE 2005**

**IN ACCORDANCE WITH THE PROVISIONS OF ACT 208,
SLH 2004**

**DEPARTMENT OF HUMAN SERVICES
BENEFIT, EMPLOYMENT, AND SUPPORT SERVICES
DIVISION
NOVEMBER 2004**

REPORT SUBMITTED BY THE DEPARTMENT OF HUMAN SERVICES TO THE 2005 LEGISLATURE TO MEET THE REQUIREMENTS OF ACT 208, SLH 2004.

Act 208, SLH 2004 amended §346-71, Hawaii Revised Statute (HRS). This section relates to eligibility for General Assistance and the process of determining disability. Specifically it addresses medical reviews as applicants must be disabled in order to qualify for this assistance. The Department is required to report on the progress of this Act.

The Act mandated three changes to the eligibility determination for this assistance which we have already implemented.

1. Previously, applicants were determined either physically disabled by a board of licensed physicians or mentally disabled by a board of licensed psychologists or psychiatrists. Act 208 requires that individuals claiming to be both physically and mentally disabled will be given the opportunity to provide verification of both disabilities to determine if the combination of disabilities makes them disabled when either disability by itself is not sufficient. The applicant declares which disability is most significant and that is the evaluation for which they are referred first. If they are found disabled as a result of the initial evaluation, we do not send them for the second evaluation because the applicant is already eligible based on the first evaluation. If the applicant's first review does not find a disability, then a review of the applicant's declared secondary disability is conducted. Although the reviews must be conducted sequentially, both disabilities are reviewed by a combined board to determine the total impact on the individual.
2. Previously, if we received a medical report from our physical or psychiatric board and it stated that the individual was not disabled, we would send a notice telling the applicant that his/her application was denied. We are now required to send a notice giving the individual ten days to provide additional verification or to get an additional medical review before denying the application.
3. Compliance with medical treatment is a condition of eligibility for this category of assistance. We received complaints from clients stating they did not comply with the treatment as they could not decipher the examining doctor's handwriting. Act 208 requires that the treatment requirements be legible. The treatment requirements are now sent to the Department and a typed copy is issued to the client to eliminate the problem of the form not being legible.

This Act was signed by the Governor on July 7, 2004 and implemented by the Department on August 1, 2004. A copy of the instructions sent to our staff is attached for your reference. From August 2004 through October 2004 we had 120 individuals request both medical and psychiatric disability reviews of which 58 individuals were determined eligible based on dual disabilities.

PROGRAM CLARIFICATION

PC NO.: 04-046
SUBJECT: GA INITIAL EVALUATIONS AND RE-EVALUATIONS
SECTION(S): 17-659-11
ORIGINATOR(S): S. Morishige
EFFECTIVE DATE: June 1, 2004
ISSUE DATE: 6/03/04

INFORMATION ONLY:

FS FA CCCH CCL FTW E&T

ACTION REQUIRED:

FS FA CCCH CCL FTW E&T

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FOR INFORMATION:

This PC rescinds and reissues PC 04-010. This program clarification revises the procedures for both the General Assistance (GA) physical and psychiatric examinations that were issued in PC 04-010 as a result of meetings with representatives from the State Legislature, the Legal Aid Society of Hawaii, and the Department of Human Services (BESSD and MQD).

The General Assistance (GA) physical or psychiatric examination to determine GA incapacity is not designed to be a complete physical examination. The physical and psychiatric examinations are designed to test the individual's functional ability. Both physical and psychiatric examiners consider the degree of functional limitation of the items listed on the DHS 1270 and DHS 1271 to determine whether the individual is able to perform manual or sedentary work of at least thirty hours per week. A determination that an individual is not incapacitated does not mean that the individual does not have a disability. It means that although the individual may have a disability, the disability does not impede the individual's ability to perform any sedentary work of thirty hours per week. The Social Security Administration (SSA) considers functional ability in addition to other factors such as medical history (medications, hospitalizations, length and severity of illness), education, training, and social and family history to determine an individual's disability. Therefore, the GA examinations may not be as lengthy as SSA examinations and an individual may be determined not incapacitated for GA but may be considered disabled by the SSA.

The physical or psychiatric examiners are contracted by the Department of Human Services to assist in the determination of incapacity for applicants and recipients which is

an integral part of the eligibility determination for the General Assistance program. As such, we must support these examiners, in addition to the Med-QUEST Division staff, and work together to correctly determine an applicant's or recipient's eligibility. Comments regarding the examination or examiners shall not be initiated by staff to the applicant or recipient.

As discussed in meetings with representatives from the State Legislature and the Legal Aid Society of Hawaii, the Department of Human Services (BESSD and MQD) has agreed to the following:

1. Allow applicants the opportunity to declare both a physical and a psychiatric disability. The applicant shall declare a primary disability: physical or psychiatric disability.
2. Protect the date of application for applicants who initially declare a physical disability and subsequently declare a psychiatric disability.
3. Involve both medical and psychiatric Med-QUEST (MQD) consultants in the determination of disability in instances in which the DHS 1270, Physical Evaluation Report, or the DHS 1271, Psychiatric Examination Report, indicates a review by both consultants is necessary. Upon review by both consultants, a determination of physical or psychiatric disability will be made.
4. Instruct the authorized examiners to provide a legible treatment plan and provide a copy of the treatment plan to the applicant or recipient.

As a result of these meetings, the procedures issued in PC 04-010 were revised. The new procedures are attached.

FOR ACTION:

Review the above and implement effective June 1, 2004. Units will be notified when DHS 1261 is loaded as a template. In the interim, DHS 1261 shall be manually reproduced.

Please refer any questions regarding this to the program office through the appropriate channels.

	/s/ Garry L. Kemp
	ABESSDA

Attachment(s) [1 \(DHS 1261\)](#)

Historical Reference: 03-156, 04-010

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Physical Examinations ([Flow chart on page 11](#))

1. Staff shall encourage all applicants and recipients to provide any additional medical evidence to the GA examiner at the time of their appointment. Any additional medical evidence provided to staff by clients shall be forwarded to PARS.
2. Upon completion of the examination, PARS will refer the DHS 1127, Medical History and Disability Statement, current DHS 1270 and DHS 1258, previous DHS 1270 and DHS 1258, and any additional medical evidence to the medical consultant who will review these documents at PARS within five (5) working days of the examination.
 - a. If the client is determined to be incapacitated, PARS will send the DHS 1258, DHS 1270 and DHS 1127 to the appropriate EW. The EW shall take appropriate action on the case record and forward the DHS 1258, DHS 1270 and DHS 1127 to MQD-MSB for review and signature by the second medical consultant. Upon completion of the GA determination by the MQD medical consultants, MQD will send the DHS 1258, DHS 1270 and DHS 1127 to the appropriate EW.
 - b. If the determination on the DHS 1258 is that the client is not incapacitated, PARS will send the DHS 1258, current and previous DHS 1270, and DHS 1127 directly to MQD-MSB for review by the second medical consultant. Upon completion of the GA determination by the MQD medical consultants, MQD will send the DHS 1258, DHS 1270 and DHS 1127 to the appropriate EW. The EW shall take negative action upon receipt of the final determination by MQD.
3. In situations where the client submits the additional medical evidence after the GA examination or after the GA determination has been made, units shall send a DHS 1258 with the additional medical evidence to PARS, attention: Merle. The medical consultant will review the additional information at PARS to determine whether there is a change in the original determination. If there is a change, the medical consultants will notate the change on the DHS 1258 and MQD will send the signed DHS 1258 to the EW. The EW shall change the previously determined action based on the new DHS 1258.
4. If a fair hearing is requested by the client and the fair hearing officer would like to review the additional medical evidence filed at PARS, the Administrative Appeals Office (AAO) shall request this information from PARS. If the client provides additional medical evidence during the hearing, the medical consultant will accept and review the additional evidence at the direction of the hearing officer and will determine whether the person's status of not being incapacitated will be changed.

Psychiatric Examinations ([Flow chart on page 12](#))

1. Staff shall encourage all applicants and recipients to provide any additional medical evidence to the authorized examiner at the time of their appointment.
 - a. For new applications or re-evaluations being completed by the same authorized examiner, the EW shall route the DHS 1258, a blank DHS 1271, and any additional medical evidence to the authorized examiner.
 - b. For re-evaluations being completed by a different authorized examiner, the EW shall attach a copy of the most current DHS 1258 and DHS 1271 to the new DHS 1258, a blank DHS 1271 and additional medical evidence and send it to the authorized examiner.
 - c. If the authorized examiner receives additional medical evidence at the time of the examination, the authorized examiner will route the additional medical evidence to the EW together with the DHS 1271 and DHS 1258.
2. Upon completion of the examination, the authorized examiner will refer the DHS 1258, DHS 1271, and any additional medical evidence to the EW. If the client is determined incapacitated, the EW shall take appropriate action on the case record and forward the DHS 1258, DHS 1271, and any additional medical evidence to MQD-MSB for review and signature by the psychiatric consultants. If the examiner determined the client is not incapacitated, the EW shall attach a copy of the most recent DHS 1258 and DHS 1271 to the current DHS 1258, DHS 1271, and any additional medical evidence and forward to MQD-MSB for review and signature by the psychiatric consultants. Upon completion of the GA determination by the MQD psychiatric consultants, MQD will send the DHS 1258(s), DHS 1271(s) and additional medical evidence to the appropriate EW.
3. In situations where the client submits the additional medical evidence after the GA examination or after the GA determination has been made, the unit shall send a DHS 1258 with the additional medical evidence to the psychiatric consultants who will review the additional information to determine whether there is a change in the original determination. The psychiatric consultants will notate the outcome of the second review on the DHS 1258 and MQD will send the revised DHS 1258 to the EW. If the additional evidence changed the examiner's determination from not incapacitated to incapacitated, the EW shall change the previously determined negative action.
4. If a fair hearing is requested by the client and the fair hearing officer would like to review the additional medical evidence that was reviewed by the psychiatric examiner, the Administrative Appeals Office (AAO) shall request this information from the psychiatric examiner. If the client provides the additional evidence during the hearing, the psychiatric consultant will accept and review the additional evidence

at the direction of the hearing officer and determine whether the person's status of not being incapacitated will be changed.

5. Effective June 4, 2004, the psychiatric examiners have been instructed to provide a legible treatment plan on the DHS 1271 only if the client is determined incapacitated. The examiners shall route the additional medical evidence to the EW, together with the DHS 1271 and DHS 1258, GA Determination and/or ADRC Referral Form. If the examiner indicates the applicant or recipient may have both a physical or psychiatric disability, the EW shall notate this on the DHS 1258 and request the DHS 1258 be reviewed for physical disability also. The EW shall route the DHS 1271, DHS 1258, and any additional medical evidence to the MQD-Medical Standard Branch's (MSB) psychiatric consultant. For all instances in which the examiner finds the client is not incapacitated or not in compliance with treatment, the EW shall also send a copy of the DHS 1271 completed just prior to the most current evaluation to the attention of the psychiatric consultant of the MQD-MSB. In the event the examiner determined the client is not incapacitated but the MQD board determined the client is incapacitated, the psychiatric consultant will contact the examiner to obtain the treatment plan and shall send the treatment to the EW via the DHS 1258.
6. The EW shall provide the applicant or recipient with the treatment plan by mailing or giving a copy of the DHS 1271 (back only) to the applicant who will be approved or the recipient.

Both physical and psychiatric disability

When an applicant indicates he or she is incapacitated on the basis of both a physical or mental impairment:

1. Applicants ([Flow chart on page 13](#)):

When the applicant states he or she has both a physical and a psychiatric disability, the eligibility worker (EW) shall ask the applicant or recipient to declare a primary disability ([form DHS 1261](#) attached) and shall refer the applicant or recipient to the appropriate examiner.

- i. If the result of the first examination is that the applicant is not incapacitated, the EW shall allow the applicant to obtain an examination for the other disability before sending the DHS 1270 or DHS 1271 to the MQD board. Both a physical and a psychiatric disability determination are allowed when the applicant or recipient declares both types of disability.
 - A. The EW shall send [HAWI notice A018](#) (copy attached) to inform applicant that the result of the first examination was that the applicant is not incapacitated and instruct applicant to contact EW within ten (10) calendar days to set up an appointment for an examination of the second disability.
 - B. The EW shall deny the application if the applicant fails to contact the EW for an appointment for an examination of the second disability.
 - ii. When the second examination form is received by the EW (DHS 1270 or DHS 1271):
 - A. If the applicant is not incapacitated, the EW shall send both the DHS 1270 and the DHS 1271 to the medical **and** the psychiatric consultants. Notate on the DHS 1258 that the applicant is declaring both a physical and a psychiatric disability. The applicant shall be approved if one or both consultants determine the applicant is incapacitated.
 - B. If the applicant is incapacitated, the EW shall approve the application and shall forward the second examination form (DHS 1270 or DHS 1271) to the appropriate consultant at MQD-MSB.
 - iii. If eligible, the application shall be approved retroactive to the original date of application.
- b. When a PARS or a psychiatric examiner indicates on the DHS 1270 or DHS 1271 that the applicant is not incapacitated but may also have a psychiatric or physical

disability, the EW shall refer the applicant for a determination of the second disability before referring the DHS 1270 or DHS 1271 to the MQD board.

- i. The EW shall send HAWI notice A018 to inform applicant that the result of the first examination was that the applicant is not incapacitated and instruct applicant to contact EW within ten (10) calendar days to set up an appointment for an examination of the second disability. The EW shall deny the application if the applicant fails to contact the EW for an appointment for an examination of the second disability.
- ii. When the second examination form is received by the EW (DHS 1270 or DHS 1271):
 - A. If the applicant is not incapacitated, the EW shall send both the DHS 1270 and the DHS 1271 to the medical **and** the psychiatric consultants. Notate on the DHS 1258 that the applicant is declaring both a physical and a psychiatric disability. The applicant shall be approved if one or both consultants determine the applicant is incapacitated.
 - B. If the applicant is incapacitated, the EW shall approve the application and shall forward the second examination form (DHS 1270 or DHS 1271) to the appropriate consultant at MQD-MSB.
- iii. If eligible, the application shall be approved retroactive to the date of application.
- d. The EW shall not deny the application based on one determination (physical or psychiatric) and take a new application to determine eligibility based on the other determination (physical or psychiatric).

2. Recipients:

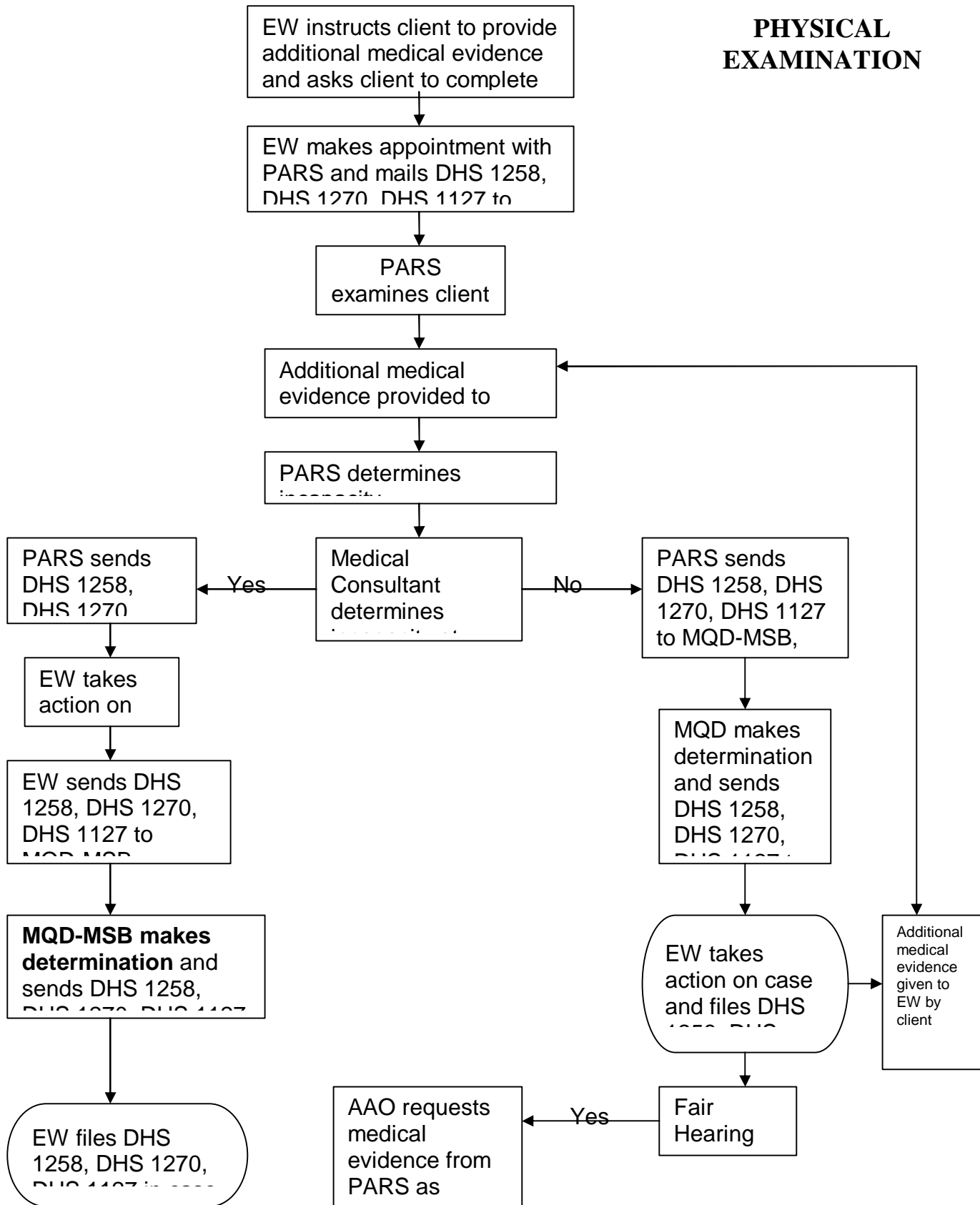
- a. When a PARS or a psychiatric examiner indicates on the DHS 1270 or DHS 1271 that the recipient is not incapacitated but may also have a psychiatric or physical disability, the EW shall refer the applicant for a determination of the second disability before referring the DHS 1270 or DHS 1271 to the MQD board. The EW shall not terminate benefits pending the determination of the other disability type. ([Flow chart on page 14](#))
 - i. The EW shall send [HAWI notice A018](#) to inform applicant that the result of the first examination was that the recipient is not incapacitated and instruct recipient to contact EW within ten (10) calendar days to set up an appointment for an examination of the second disability. The EW shall close the case if the recipient fails to contact the EW for an appointment for an examination of the second disability.

- ii. When the second examination form is received by the EW (DHS 1270 or DHS 1271):
 - A. If the recipient is not incapacitated, the EW shall send both the DHS 1270 and the DHS 1271 to the medical **and** the psychiatric consultants. Notate on the DHS 1258 that the recipient is declaring both a physical and a psychiatric disability. The recipient shall be terminated after a determination by the consultants that the recipient is not incapacitated.
 - B. If the recipient is incapacitated, the EW shall continue eligibility and shall forward the second examination form (DHS 1270 or DHS 1271) to the appropriate consultant at MQD-MSB.
- b. When a notice of adverse action is sent to a recipient to inform the recipient that the MQD board determined he or she is no longer incapacitated and the recipient claims another disability type (physical or psychiatric), the EW shall not take the adverse action and shall allow the recipient to obtain an examination for the other disability type. The EW shall take action after the determination of the second examination is made by the board. ([Flow chart on page 15](#))
- c. When the MQD medical or psychiatric board determines a recipient may be both physically or mentally incapacitated the consultant will discuss with the other consultant. The consultants will determine the primary disability (physical or psychiatric) and whether the client is incapacitated. The consultant shall document such discussion with the other consultant and the result of the discussion on the DHS 1258 to be sent to the EW. If the other consultant feels that an examination of the other disability (physical or psychiatric) is necessary, the consultant will instruct the EW on the DHS 1258 to set an appointment for the other disability.

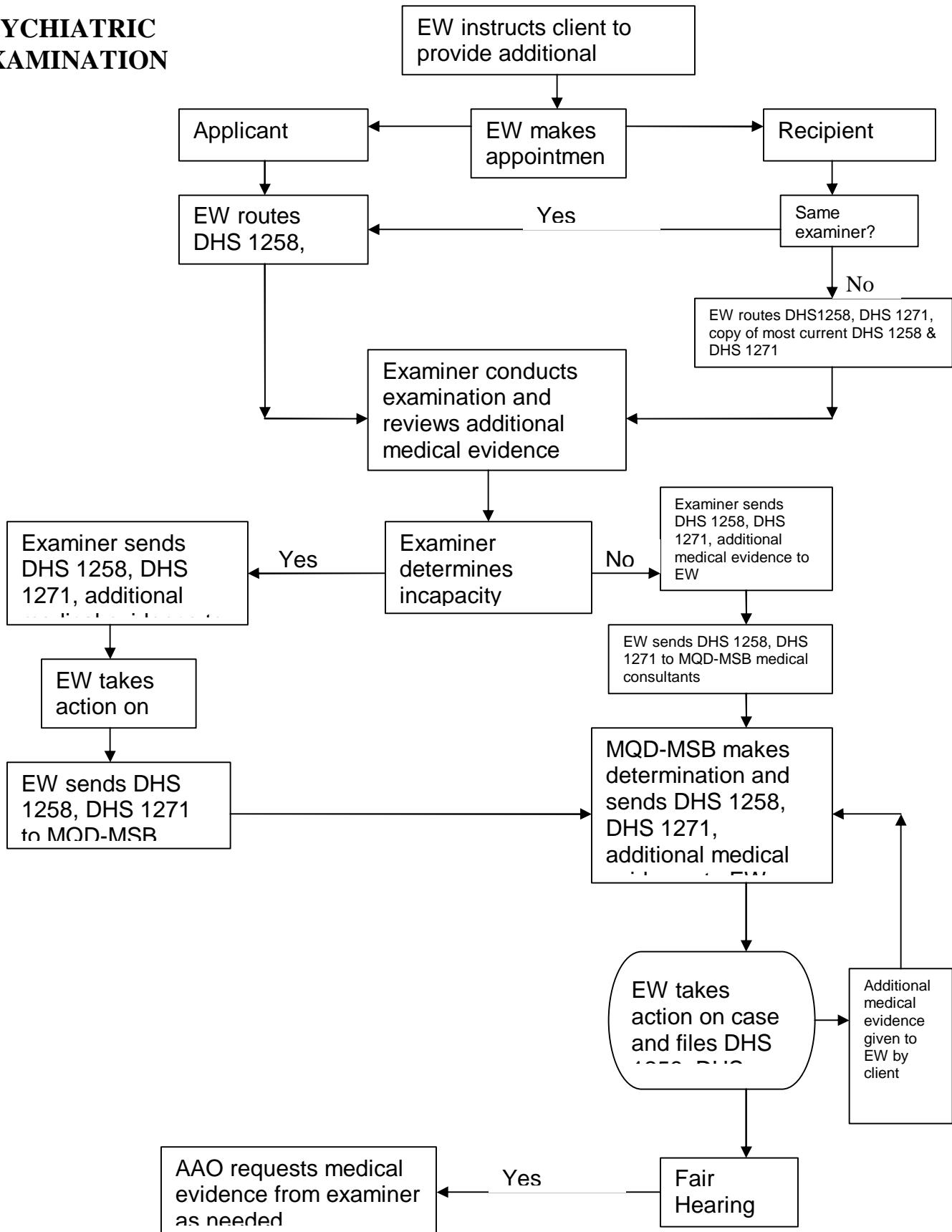
Sending documents to MQD-MSB

All documents sent to MQD-MSB must be attached to a DHS 1258. If the DHS 1258 was already sent to MQD-MSB and a follow-up document is being sent, please make a copy of the original DHS 1258 and copies of all documents that were attached to the original DHS 1258 sent to MQD-MSB to enable them to make a timely determination and distribution the DHS 1258s to the units.

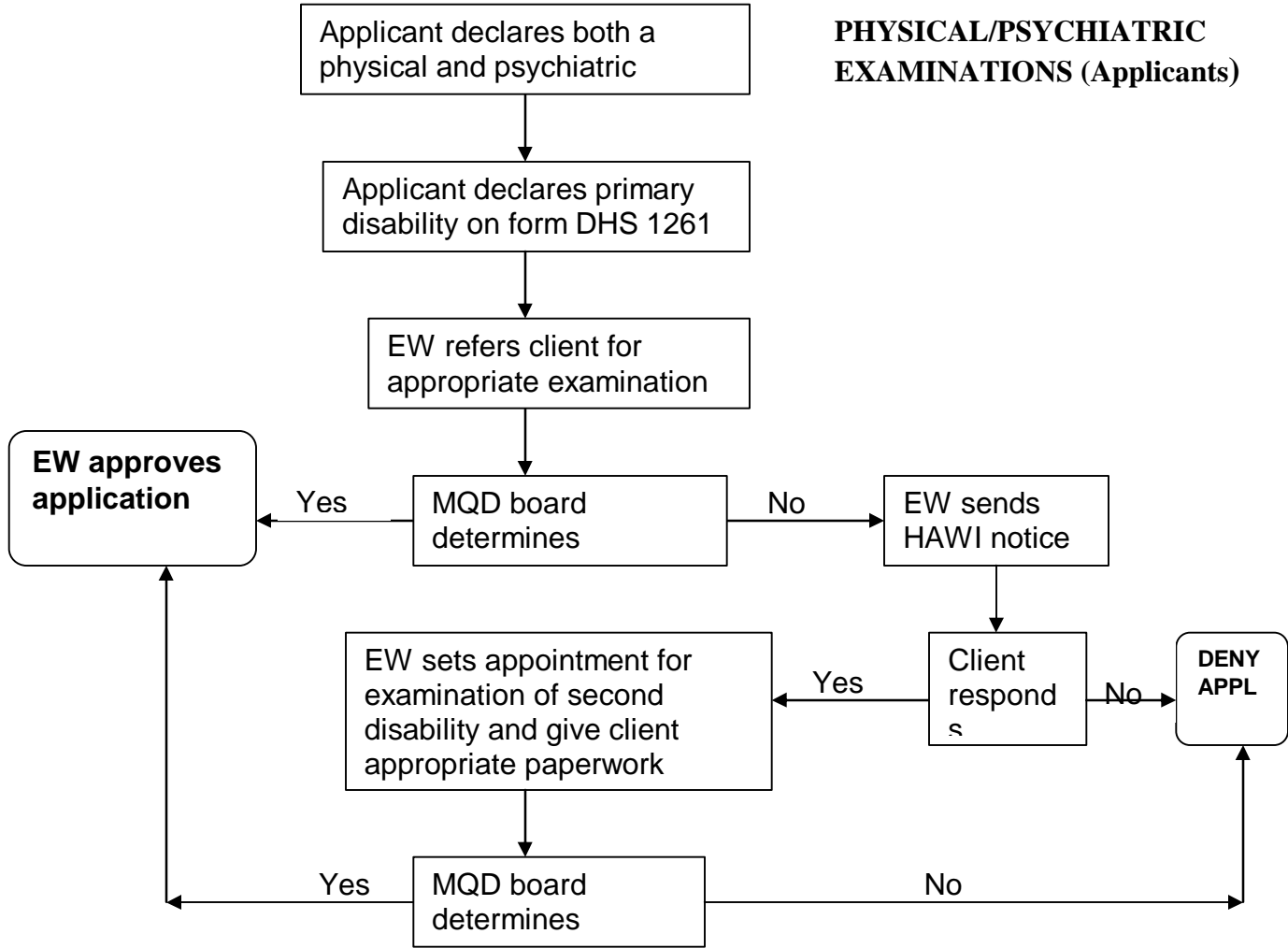
PHYSICAL EXAMINATION



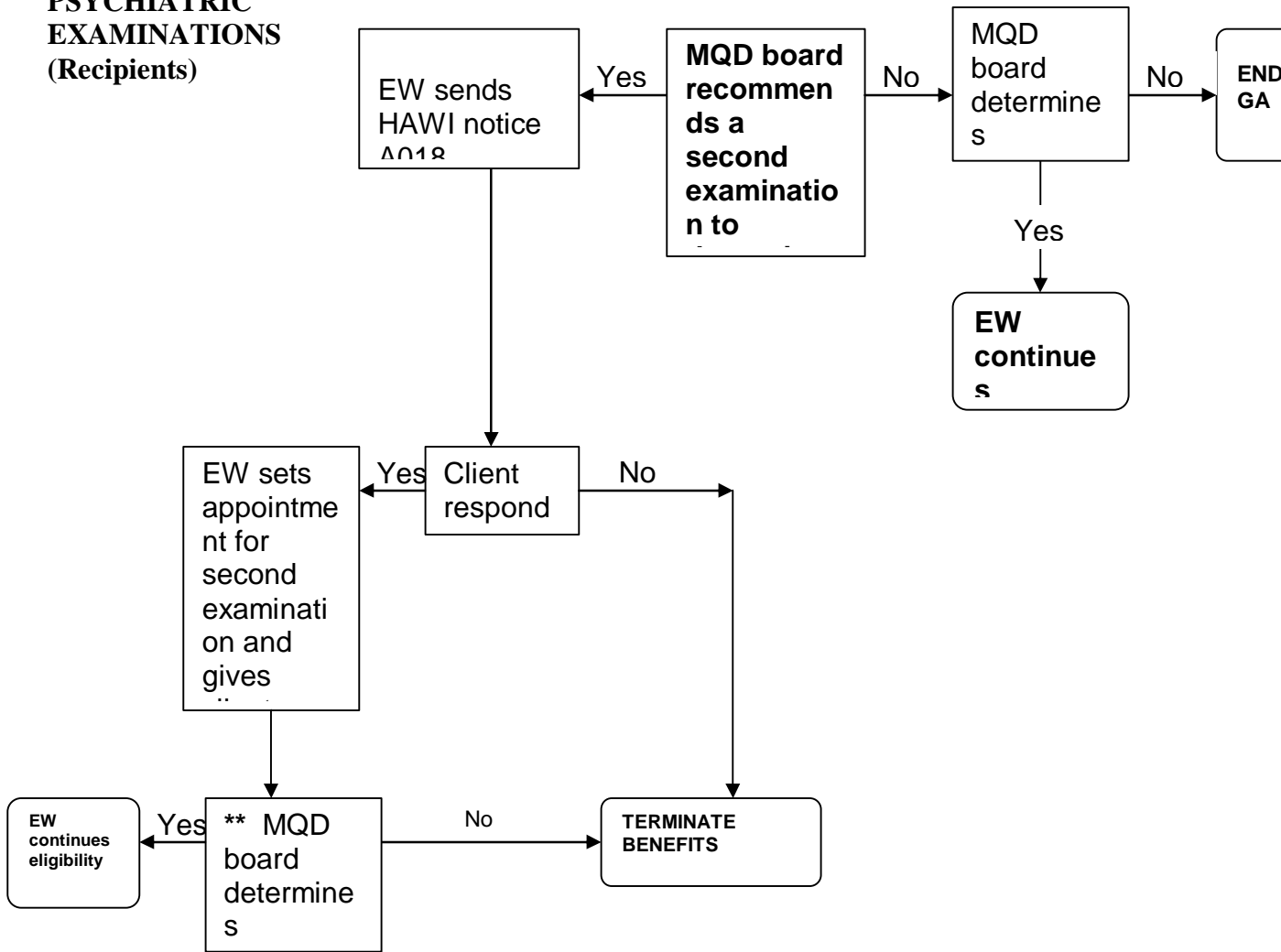
PSYCHIATRIC EXAMINATION



PHYSICAL/PSYCHIATRIC EXAMINATIONS (Applicants)

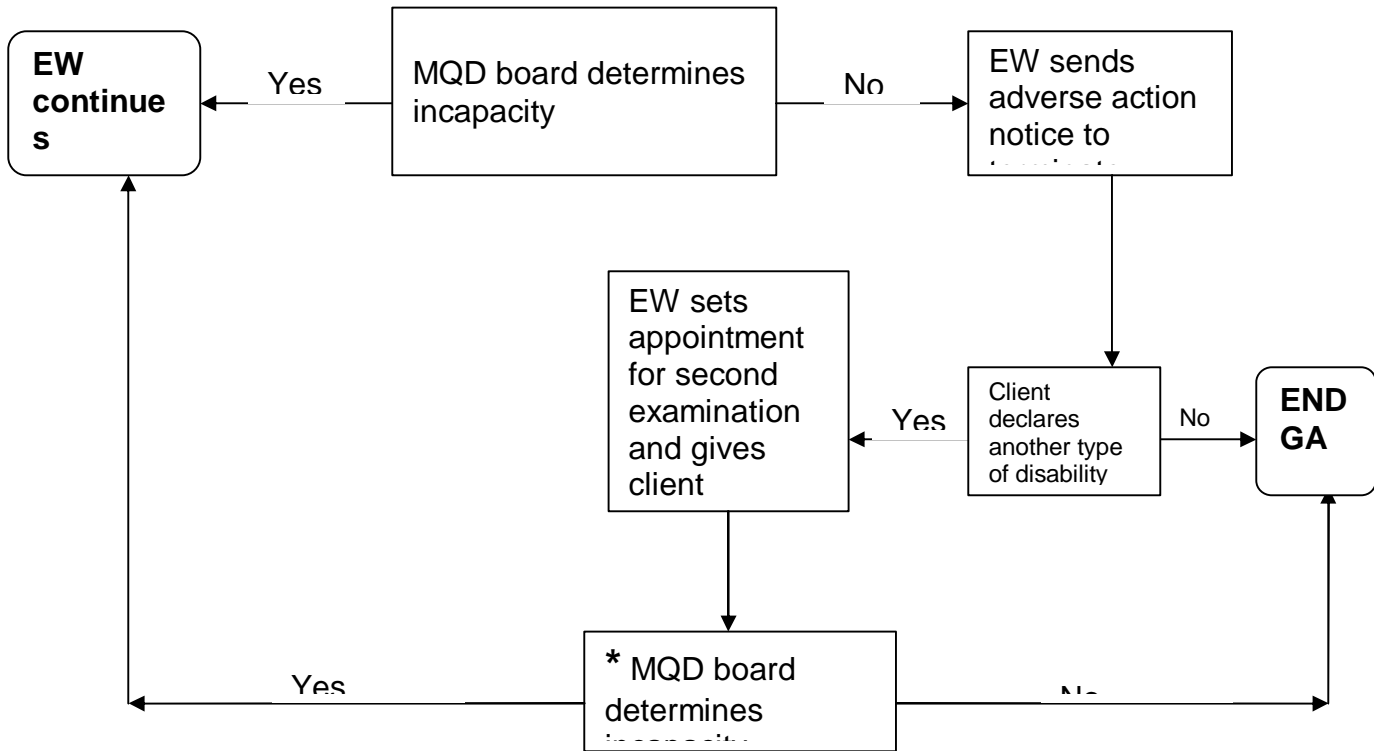


**PHYSICAL AND
PSYCHIATRIC
EXAMINATIONS
(Recipients)**



** If **client** is determined not incapacitated for both types of incapacity, overpayment shall be determined beginning with the first month benefits would have been terminated as a result of the first determination.

PHYSICAL AND PSYCHIATRIC EXAMINATION (Recipients – Adverse Action)



* If client is determined not incapacitated for both types of incapacity, overpayment shall be determined beginning with the first month benefits would have been terminated as a result of the first determination.

NOTICE: A018 EFFECTIVE DATE FROM: 051904

TITLE: PENDING -PHYSICAL/PSYCHIATRIC DISABILITY

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YOU STATED THAT YOU ARE UNABLE TO WORK BECAUSE OF A PHYSICAL AND
A
PSYCHIATRIC DISABILITY.@@

ACTION ON YOUR APPLICATION FOR FINANCIAL ASSISTANCE RECEIVED ON
&&APPREC&& HAS BEEN DELAYED BECAUSE OF THE REASON MARKED BELOW: @@

>>

|##| YOU ARE ABLE TO WORK AT LEAST 30 HOURS A WEEK FOR A PERIOD
OF @@

 MORE THAN 60 DAYS AS DETERMINED AND CERTIFIED BY THE @@
 DEPARTMENT'S BOARD OF LICENSED PHYSICIANS. @@

>>

|##| YOU ARE ABLE TO WORK AT LEAST 30 HOURS A WEEK FOR A PERIOD
OF @@

 MORE THAN 60 DAYS AS DETERMINED AND CERTIFIED BY THE @@
 DEPARTMENT'S BOARD OF LICENSED
PSYCHOLOGISTS/PSYCHIATRISTS. @@

>>

PLEASE CONTACT ME AT THE NUMBER LISTED ABOVE BY
%%%%%%%%%% SO

THAT AN APPOINTMENT CAN BE SCHEDULED FOR A

%%%%%%%%%%

EXAMINATION TO DETERMINE YOUR ABILITY TO WORK BASED ON THIS
DISABILITY. @@

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FAILURE TO COMPLY MAY RESULT IN BEING DENIED. @@

>>

AUTH.: H.A.R. 17-659-2, 17-659-
11#####. @@

>>

FAIR HEARING RIGHTS AND OTHER IMPORTANT INFORMATION ARE EXPLAINED
ON
THE BACK OF THIS NOTICE. @@