



Senate

General Assembly

File No. 86

January Session, 2009

Substitute Senate Bill No. 817

Senate, March 16, 2009

The Committee on Human Services reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 17b-812 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (f) Any person aggrieved by a decision of the commissioner or the
5 commissioner's agent pursuant to the program under this section or
6 pursuant to a portion of the federal Section 8 voucher program
7 administered by the department pursuant to the federal Housing
8 Choice Voucher Program, 42 USC 1437f(o), shall have a right to a
9 hearing in accordance with the provisions of chapter 54. Nothing in
10 this section shall give any person a right to continued receipt of rental
11 assistance at any time that the program is not funded.

12 Sec. 2. Section 17b-811a of the general statutes is amended by

13 adding subsection (d) as follows (*Effective October 1, 2009*):

14 (NEW) (d) Any person aggrieved by a decision of the commissioner
15 or the commissioner's agent pursuant to the program under this
16 section shall have a right to a hearing in accordance with the
17 provisions of chapter 54.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	17b-812(f)
Sec. 2	<i>October 1, 2009</i>	17b-811a

HS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Social Services	GF - Cost	Minimal	Minimal

Municipal Impact: None

Explanation

This bill provides individuals served under three rental subsidy programs at the Department of Social Services (DSS) with the right to a hearing under the Uniform Administrative Procedures Act (UAPA) and the ability to appeal a decision to the Superior Court. Currently, the appeals procedure ends at an internal desk review at DSS.

This change will lead to increased administrative costs to DSS due to the need for increased resources for UAPA hearings as well as appeals to the Superior Court. Currently, DSS conducts approximately 12 desk reviews per month. As it is unlikely that all such reviews would continue through the appeals process, the overall cost impact of this increase on the department's fair hearing personnel is expected to be minimal.

It is anticipated that the Superior Court can handle any increased workload within the course of its normal practices.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 817*****AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.*****SUMMARY:**

This bill gives individuals in the rental assistance (RAP), transitionary rental assistance (T-RAP), and the Department of Social Services (DSS)-administered portion of the Section 8 voucher program aggrieved by decisions of the DSS commissioner or his designated agent, the right to a hearing in accordance with the Uniform Administrative Procedures Act (UAPA) (see COMMENT). The bill would allow these individuals to appeal final decisions to Superior Court.

Currently, these individuals may request an informal hearing and, under the RAP and T-RAP programs, a subsequent desk review to appeal DSS decisions on program eligibility. Because DSS is not statutorily required to hold hearings on eligibility for these programs, individuals cannot appeal final decisions.

EFFECTIVE DATE: October 1, 2009

UAPA HEARING PROCESS***Judicial Review***

Under the bill, an individual whose assistance is denied, modified, or terminated may request a department hearing in accordance with UAPA and, if still not satisfied, can appeal to Superior Court. Under UAPA, final agency decisions in “contested cases” can be appealed to Superior Court within 45 days of the issuance of the final decision. UAPA generally defines “contested cases” as those where a statute requires an agency to determine a party’s legal rights, duties, or

privileges after a hearing (CGS § 4-166).

The court cannot substitute its judgment as to the weight of the evidence presented in the case. It can only overturn an agency's decision under limited circumstances. These include situations where (1) a statute or constitutional law was violated; (2) an agency acted without statutory authority; (3) the agency erred in considering the evidence; (4) the agency's procedures were unlawful; or (5) the agency was arbitrary, capricious, or abused its discretion.

BACKGROUND

Appeals Process for the RAP and T-RAP Programs

DSS regulations establish an appeals process under the RAP and T-RAP programs. When an individual's assistance is denied, modified or terminated, DSS must send written notice. An individual may request an informal conference with DSS or its agent within seven days of receiving the written notice. DSS or its agent must designate someone to conduct the hearing within 30 days of the request, but the designee cannot be a person, or subordinate of a person, directly involved in making the decision. An individual may bring evidence, witnesses, and legal or other representation to the conference at his or her own expense. He or she may also review any documents or information about the case before the conference. DSS or its agent must send the individual a written report of its findings within 30 days of the conference.

If the decision remains unchanged, the individual may request a DSS desk review. DSS reviews all information considered at the informal conference and any additional evidence the individual submits. Upon completing the desk review, DSS sends a written report of the findings to the individual (Conn. Agencies Reg., § 17b-811a-8, § 17b-812-12).

Appeals Process for the Section 8 Housing Choice Voucher Program

Federal Housing and Urban Development regulations (24 CFR

982.555 (a-f) and 982.54(13)) and DSS administrative plan procedures govern the appeals process for the Section 8 Housing Choice Voucher program. The process is almost identical to that of the RAP and T-RAP programs except that it does not provide for a desk review and it uses different time frames for requesting an informal hearing and issuing a written report of the hearing's findings.

COMMENT

Section 8 Informal Hearing Rights

The bill appears to extend the right to a formal hearing to any individual in the DSS-administered portion of the Section 8 voucher program aggrieved by a decision of the DSS commissioner or his designated agent. But, under the federal Section 8 voucher program regulations, only certain individuals have the right to an informal hearing. A public housing authority (PHA) must provide individuals with an informal hearing regarding the following determinations:

1. the family's annual or adjusted income and the computation of the housing assistance payment,
2. the appropriate utility allowance used from schedule,
3. family unit sizes under PHA subsidy standards,
4. the family is residing in a unit with more bedrooms than appropriate under PHA subsidy standards or the PHA's denial of the family's request for an exception from the standards,
5. termination of assistance because of the family's action or failure to act, or
6. termination of assistance because the family has been absent from the assisted unit for longer than the maximum period allowed under federal policies and rules.

Informal hearings are not required regarding for:

1. PHA discretionary administrative determinations;

2. general policy issues or class grievances;
3. PHA schedules of utility allowances for families in the program;
4. a PHA determination not to approve an extension or suspension of a voucher term;
5. a PHA determination not to approve a unit or tenancy;
6. a PHA determination that an assisted unit is not in compliance with housing quality standards, (but the PHA must provide an informal hearing for family breach of housing quality standards because that is a family obligation determinations); or
7. a PHA determination that a unit is not in accordance with housing quality standards due to family size, or
8. A PHA determination to exercise or not to exercise any right or remedy against the owner under a HAP contract (24 CFR § 982.555).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 15 Nay 3 (02/27/2009)