
OLR Bill Analysis

sSB 410

AN ACT CONCERNING ADMINISTRATIVE HEARINGS CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES.

SUMMARY:

This bill establishes an Office of Administrative Appeals (OAA) within the Department of Social Services (DSS), independent of DSS' legal counsel and any other department division, to conduct all administrative appeals from DSS decisions. The OAA administrator must report directly to the DSS commissioner, who may remove the administrator from office only for cause. (Presumably, the DSS commissioner appoints the administrator.) Current law requires the DSS commissioner or anyone he authorizes to hold fair hearings for all such appeals.

Under the bill, if OAA is hearing a contested case and DSS has an adverse interest to any party in the proceeding, the hearing officer cannot communicate directly or indirectly with any other DSS employee, including counsel, about any issue of fact or law in the hearing without advance notice and opportunity for all parties to participate on the record.

The bill also makes a number of changes in the hearing process. Specifically, it:

1. allows more people to request a hearing;
2. makes it easier to request a hearing by allowing such requests to be made by mail, telephone, or any electronic means DSS determines acceptable, rather than just in writing;
3. lengthens, from 30 to 45, the number of days within which DSS must hold a hearing after receiving a request;

4. caps at three the number of allowable continuances; and
5. broadens the circumstances in which the aggrieved person may be excused from appearing personally at the hearing.

The bill also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2014

HEARING REQUESTS AND NOTICE

The law allows an aggrieved person or his or her conservator to request an administrative hearing on a DSS decision. The bill broadens the list of those who may request such a hearing to include (1) an authorized representative who meets state and federal legal requirements and (2) anyone with legal authority to act on the aggrieved person's behalf. This includes, in addition to a conservator, a legal guardian; a person with power of attorney if permitted under the terms of the designation; or, for a deceased person, an estate executor or administrator. The bill allows hearing requests to be filed by mail, telephone, or any electronic means that DSS determines acceptable. Currently, such requests may only be made in writing. The request must be made to DSS and include the reasons why the person claims to be aggrieved.

Current law requires an aggrieved person or his or her conservator to mail a hearing request to the commissioner within 60 days after the department rendered its decision. The bill instead prohibits DSS from holding a hearing unless it receives the request within 65 days of the department's decision. The bill also lengthens, from 30 to 45, the number of days within which DSS must hold a hearing after receiving a request. It requires DSS to notify the aggrieved person and, if applicable, the person who requested the hearing on his or her behalf of the hearing time and place. Currently, DSS must provide the notice only to the aggrieved person.

APPEARANCE AT HEARING

Currently, the aggrieved person must appear personally at the

hearing unless his or her physical or mental condition precludes him or her from doing so. The bill instead excuses the aggrieved person from appearing personally at the hearing if (1) he or she is represented by legal counsel who appears at the hearing and (2) the hearing officer determines that the person's or his or her representative's testimony is not required. Under the bill, the aggrieved person's or his or her representative's testimony may be accepted by phone in lieu of personal appearance at the hearing officer's discretion.

HEARING DECISION

Current law requires the commissioner or hearing officer to render a final decision within 60 days of a hearing, based on the evidence introduced before him and applying all pertinent provisions of the law, regulations, and department policy, and that the final decision supersedes the decision made without a hearing. It also requires the commissioner or his designee to take final definitive administrative action within 90 days after the hearing is requested. The bill requires the department to issue the final decision within 60 days after the hearing's record closes and within 90 days after the hearing request. (Although it appears that DSS may exceed 90 days and still stay within the bill's time limits for holding a hearing after receiving a request and issuing a final decision after the record closes.)

The bill does not change the process for appealing such decisions.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/20/2014)