
OLR Bill Analysis

sSB 410 (File 388, as amended by Senate "A")*

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

SUMMARY:

This bill makes several changes to the procedures the Department of Social Services (DSS) must follow when conducting an administrative hearing for an appeal of a department decision.

Under the bill, if DSS is hearing a contested case and 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:

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 (a) 30 to 45, the number of days within which DSS must hold a hearing after receiving a request and (b) 90 to 105, the number of days within which DSS must issue a final decision after the initial hearing request;
4. caps at three the number of allowable continuances;
5. broadens the circumstances in which the aggrieved person may be excused from appearing personally at the hearing.

The bill additionally makes several minor, technical, and

conforming changes.

*Senate Amendment "A" (1) eliminates the provision in the underlying bill establishing an independent Office of Administrative Appeals and (2) lengthens the number of days within which DSS must issue a final decision after an initial hearing request.

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 additionally allows hearings to be requested by (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 be made only 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, unless otherwise prescribed by federal law. 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 and applying all pertinent provisions of the law, regulations, and department policy. It also requires the commissioner or his designee to take final definitive administrative action within 90 days after the hearing is requested. The bill instead requires the department to issue the final decision within 60 days after the hearing's record closes and within 105 days after the hearing request.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/20/2014)

Appropriations Committee

Joint Favorable

Yea 39 Nay 9 (04/22/2014)