

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-209—sSB 410 (VETOED)

Human Services Committee

Appropriations Committee

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

SUMMARY: This act makes several changes in the procedures the Department of Social Services (DSS) must follow when conducting an administrative hearing on an appeal of a department decision.

The act exempts DSS from certain provisions of the Uniform Administrative Procedure Act (UAPA) pertaining to communications during contested cases (see BACKGROUND). Under the act, 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 act 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 generally must hold a hearing after receiving a request and (b) 90 to 105, the number of days within which DSS generally must issue a final decision after the initial hearing request;
4. explicitly allows up to three continuances; and
5. broadens the circumstances in which the aggrieved person may be excused from appearing personally at the hearing.

The act additionally 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 act 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 act allows hearing requests to be filed by mail, telephone, or any electronic means that DSS

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determines acceptable. Previously, such requests could only be made in writing. The request must be made to DSS and include the reasons why the person claims to be aggrieved.

Prior law required 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 act 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 act 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. Under prior law, DSS had to provide the notice only to the aggrieved person.

APPEARANCE AT HEARING

Under prior law, the aggrieved person had to appear personally at the hearing unless his or her physical or mental condition precluded him or her from doing so. The act 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 act, the aggrieved person's or his or her representative's testimony may be accepted by telephone in lieu of personal appearance, at the hearing officer's discretion.

HEARING DECISION

Prior law required 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 required the commissioner or his designee to take final definitive administrative action within 90 days after the hearing was requested. The act 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.

BACKGROUND

UAPA

The UAPA prohibits hearing officers or members of an agency who are to render a final decision in a contested case from communicating (1) about any issue of fact with any person or party or (2) in connection with any issue of law, with any party or the party's representative, without notice and opportunity for all parties to participate (CGS § 4-181(a)). It also makes an exception that allows members of multimember agencies or hearing officers to receive aid and advice from members, employees, or agents of the agency in certain circumstances (CGS § 4-181(b)).

The UAPA also prohibits anyone with a direct or indirect interest in the outcome of a contested case from communicating directly or indirectly about any

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issue in the case with a hearing officer or any member of the agency without advance notice and opportunity for all parties to participate in the communication (CGS § 4-181(c)).

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