

HOUSE RESEARCH

Bill Summary

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Overview

This bill specifies uniform procedures for certain Department of Human Services' administrative fair hearings and appeals.

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1 Hearing procedures. Adds § 256.0451.

Subd. 1. Scope. Specifies the fair hearings and appeals to which this section applies. Defines the terms person and agency.

Subd. 2. Access to files. Gives a person involved in a fair hearing the right of access to the person's case files and private welfare data on the person generated by the agency. Defines case file.

Subd. 3. Agency appeal summary. Requires the agency involved in an appeal to prepare a state agency summary for each fair hearing appeal. Specifies requirements related to the agency's appeal summary.

Subd. 4. Enforcing access to files. Specifies the procedures for a person to enforce the right of access to data and copies of the case file.

Subd. 5. Prehearing conferences. Permits an appeals referee to hold a prehearing conference before a fair hearing appeal. Specifies that the person involved in the fair hearing may request a prehearing conference. Specifies the issues that may be addressed at the prehearing conference.

Subd. 6. Appeal request for emergency assistance or urgent matter. Specifies the

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procedures for an appeal involving an application for emergency assistance.

Subd. 7. Continuance; rescheduling, or adjourning a hearing. Specifies the grounds for when a person involved in a fair hearing or the agency may receive a continuance, a rescheduling, or an adjournment of a hearing. Also specifies the procedures for requesting a continuance or rescheduling.

Subd. 8. Subpoenas. Permits a person involved in a fair hearing or the agency to request a subpoena for a witness or evidence, or both. Specifies the procedures for issuing a subpoena. Permits an individual or entity served with a subpoena to petition the appeals referee to vacate or modify the subpoena.

Subd. 9. No ex parte contact. Prohibits the appeals referee from having ex parte contact on substantive issues with the agency or any participant or witness in a fair hearing appeal.

Subd. 10. Telephone or face-to-face hearing. Permits a fair hearing to be conducted by telephone, by other electronic media, or by a face-to-face hearing.

Subd. 11. Hearing facilities and equipment. Specifies requirements related to the hearing location, hearing room, and communication and recording equipment.

Subd. 12. Interpreter and translation services. Requires the appeals referee to inquire and determine whether any participant in the hearing needs interpreter or translator services. Requires that the services be provided at no charge to the person involved in the hearing.

Subd. 13. Failure to appear; good cause. Permits the appeals referee to dismiss an appeal if a person involved in the appeal fails to appear at the hearing. Specifies that a person may reopen the appeal within ten working days if the person shows good cause. Also specifies the grounds for good cause.

Subd. 14. Commencement of hearing. Specifies the procedures an appeals referee must follow at the beginning of a hearing.

Subd. 15. Conduct of the hearing. Specifies how the appeals referee must act during and conduct a fair hearing.

Subd. 16. Scope of issues addressed at the hearing. Specifies the scope of issues addressed at a fair hearing.

Subd. 17. Burden of persuasion. Specifies the burden of persuasion at the fair hearing.

Subd. 18. Inviting comment by department. Provides that the appeals referee may request that the department prepare a written comment about the policy implications of a specific legal issue if it could help to resolve a pending appeal.

Subd. 19. Developing the record. Specifies requirements for the appeals referee to develop the record at a fair hearing.

Subd. 20. Unrepresented persons. Specifies the procedures an appeals referee must follow in cases where persons involved in the case are not represented by legal counsel.

Subd. 21. Closing of the record. Specifies the procedures for when and how evidence

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may be submitted after the hearing.

Subd. 22. Decisions. Requires a timely, written decision in every appeal. Provides that a decision must be issued within 90 days of the appeal request date. Specifies the contents of the hearing decision. Prohibits the appeals referee from independently investigating facts or otherwise rely on information not presented at the hearing. Requires the commissioner to review the appeals referee's recommended decision.

Subd. 23. Refusal to accept recommended orders. Specifies the procedures if the commissioner refuses to accept the recommended order from the appeals referee.

Subd. 24. Reconsideration. Provides that a person may request reconsideration of the commissioner's final order and specifies the procedures relating to the request.

Subd. 25. Access to appeal decisions. Requires the agency to maintain appeal decisions in a manner so that the public has access to the decisions and to take appropriate safeguards to protect private data.