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HOUSE BILL 1830

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State of Washington

55th Legislature

1997 Regular Session

By Representative Boldt

Read first time 02/11/97. Referred to Committee on Children & Family Services.

1 AN ACT Relating to developmental disabilities; and amending RCW  
2 71A.10.050 and 71A.20.080.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to  
5 read as follows:

6 (1) An applicant or recipient or former recipient of a  
7 developmental disabilities service under this title from the department  
8 of social and health services has the right to appeal the following  
9 department actions:

10 (a) A denial of an application for eligibility under RCW  
11 71A.16.040;

12 (b) An unreasonable delay in acting on an application for  
13 eligibility, for a service, or for an alternative service under RCW  
14 71A.18.040;

15 (c) A denial, reduction, or termination of a service;

16 (d) A claim that the person owes a debt to the state for an  
17 overpayment;

18 (e) A disagreement with an action of the secretary under RCW  
19 71A.10.060 or 71A.10.070;

1 (f) A decision to return a resident of (~~an~~[a]) a habilitation  
2 center to the community; and

3 (g) A decision to change a person's placement from one category of  
4 residential services to a different category of residential services.

5 The adjudicative proceeding is governed by the Administrative  
6 Procedure Act, chapter 34.05 RCW.

7 (2) This subsection applies only to an adjudicative proceeding in  
8 which the department action appealed is a decision to return a resident  
9 of a habilitation center to the community. The resident or his or her  
10 representative may appeal on the basis of whether the specific  
11 placement decision is in the best interests of the resident. When the  
12 resident or his or her representative files an application for an  
13 adjudicative proceeding under this section (~~the department has the~~  
14 ~~burden of proving~~) there is a rebuttable presumption that the specific  
15 placement decision is in the best interests of the resident.

16 (3) When the department takes any action described in subsection  
17 (1) of this section it shall give notice as provided by RCW 71A.10.060.  
18 The notice must include a statement advising the recipient of the right  
19 to an adjudicative proceeding and the time limits for filing an  
20 application for an adjudicative proceeding. Notice of a decision to  
21 return a resident of a habilitation center to the community under RCW  
22 71A.20.080 must also include a statement advising the recipient of the  
23 right to file a petition for judicial review of an adverse adjudicative  
24 order as provided in chapter 34.05 RCW.

25 **Sec. 2.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to  
26 read as follows:

27 Whenever in the judgment of the secretary, the treatment and  
28 training of any resident of a residential habilitation center has  
29 progressed to the point that it is deemed advisable to return such  
30 resident to the community, the secretary may grant placement on such  
31 terms and conditions as the secretary may deem advisable after  
32 consultation in the manner provided in RCW 71A.10.070. The secretary  
33 shall give written notice of the decision to return a resident to the  
34 community as provided in RCW 71A.10.060. The notice must include a  
35 statement advising the recipient of the right to an adjudicative  
36 proceeding under RCW 71A.10.050 and the time limits for filing an  
37 application for an adjudicative proceeding. The notice must also  
38 include a statement advising the recipient of the right to judicial

1 review of an adverse adjudicative order as provided in chapter 34.05  
2 RCW.

3 A placement decision (~~((shall not))~~) may be implemented (~~((at any~~  
4 ~~level during any period))~~) during (~~((which))~~) an appeal (~~((can be taken or~~  
5 ~~while an appeal is pending and undecided, unless authorized by court~~  
6 ~~order so long as the appeal is being diligently pursued))~~) only if the  
7 department maintains space in the residential habilitation center for  
8 a resident who successfully appeals the secretary's action under this  
9 section.

10 The department of social and health services shall periodically  
11 evaluate at reasonable intervals the adjustment of the resident to the  
12 specific placement to determine whether the resident should be  
13 continued in the placement or returned to the institution or given a  
14 different placement.

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