

SSB 5729 - H COMM AMD

By Committee on Housing, Human Services & Veterans

ADOPTED AND ENGROSSED 3/3/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 74.08.080 and 1998 c 79 s 15 are each amended to
4 read as follows:

5 (1)(a) A public assistance applicant or recipient who is
6 aggrieved by a decision of the department or an authorized agency of
7 the department has the right to an adjudicative proceeding. A current
8 or former recipient who is aggrieved by a department claim that he or
9 she owes a debt for an overpayment of assistance or food stamps or
10 food stamp benefits transferred electronically, or both, has the
11 right to an adjudicative proceeding.

12 (b) An applicant or recipient has no right to an adjudicative
13 proceeding when the sole basis for the department's decision is a
14 state or federal law that requires an assistance adjustment for a
15 class of recipients.

16 (2) The adjudicative proceeding is governed by the Administrative
17 Procedure Act, chapter 34.05 RCW, and this subsection.

18 (a) The applicant or recipient must file the application for an
19 adjudicative proceeding with the secretary within (~~ninety~~) 90 days
20 after receiving notice of the aggrieving decision unless good cause
21 is shown, to the extent allowable under federal law.

22 (i) For the purpose of this subsection, good cause is defined as
23 a substantive reason or legal justification for failing to meet a
24 hearing deadline. Good cause to fail to meet a hearing deadline may
25 include, but is not limited to: Military deployment, medical reasons,
26 housing instability, language barriers, or domestic violence.

27 (ii) The department shall not grant a request for a hearing for
28 good cause if the request is filed more than one year after the
29 aggrieving decision.

30 (b) The hearing shall be conducted at the local community
31 services office or other location in Washington convenient to the
32 appellant.

1 (c) The appellant or his or her representative has the right to
2 inspect his or her department file and, upon request, to receive
3 copies of department documents relevant to the proceedings free of
4 charge.

5 (d) The appellant has the right to a copy of the tape recording
6 of the hearing free of charge.

7 (e) The department is limited to recovering an overpayment
8 arising from assistance being continued pending the adjudicative
9 proceeding to the amount recoverable up to the (~~sixtieth~~) 60th day
10 after the secretary's receipt of the application for an adjudicative
11 proceeding.

12 (f) If the final adjudicative order is made in favor of the
13 appellant, assistance shall be paid from the date of denial of the
14 application for assistance or (~~thirty~~) 30 days following the date
15 of application for temporary assistance for needy families or
16 (~~forty-five~~) 45 days after date of application for all other
17 programs, whichever is sooner; or in the case of a recipient, from
18 the effective date of the local community services office decision.

19 (g) This subsection applies only to an adjudicative proceeding in
20 which the appellant is an applicant for or recipient of medical
21 assistance or the limited casualty program for the medically needy
22 and the issue is his or her eligibility or ineligibility due to the
23 assignment or transfer of a resource. The burden is on the department
24 to prove by a preponderance of the evidence that the person knowingly
25 and willingly assigned or transferred the resource at less than
26 market value for the purpose of qualifying or continuing to qualify
27 for medical assistance or the limited casualty program for the
28 medically needy. If the prevailing party in the adjudicative
29 proceeding is the applicant or recipient, he or she is entitled to
30 reasonable attorney's fees.

31 (3) When a person files a petition for judicial review as
32 provided in RCW 34.05.514 of an adjudicative order entered in a
33 public assistance program, no filing fee shall be collected from the
34 person and no bond shall be required on any appeal. In the event that
35 the superior court, the court of appeals, or the supreme court
36 renders a decision in favor of the appellant, said appellant shall be
37 entitled to reasonable attorneys' fees and costs. If a decision of
38 the court is made in favor of the appellant, assistance shall be paid
39 from date of the denial of the application for assistance or
40 (~~thirty~~) 30 days after the application for temporary assistance for

1 needy families or (~~forty-five~~) 45 days following the date of
2 application, whichever is sooner; or in the case of a recipient, from
3 the effective date of the local community services office decision.

4 **Sec. 2.** RCW 74.09.741 and 2011 1st sp.s. c 15 s 53 are each
5 amended to read as follows:

6 (1) The following persons have the right to an adjudicative
7 proceeding:

8 (a) Any applicant or recipient who is aggrieved by a decision of
9 the authority or an authorized agency of the authority; or

10 (b) A current or former recipient who is aggrieved by the
11 authority's claim that he or she owes a debt for overpayment of
12 assistance.

13 (2) For purposes of this section:

14 (a) "Applicant" means any person who has made a request, or on
15 behalf of whom a request has been made to the authority for any
16 medical services program established under this chapter (~~(74.09~~
17 ~~RCW)~~).

18 (b) "Recipient" means a person who is receiving benefits from the
19 authority for any medical services program established in this
20 chapter.

21 (3) An applicant or recipient has no right to an adjudicative
22 proceeding when the sole basis for the authority's decision is a
23 federal or state law requiring an assistance adjustment for a class
24 of applicants or recipients.

25 (4) An applicant or recipient may file an application for an
26 adjudicative proceeding with either the authority or the department
27 and must do so within (~~ninety~~) 90 calendar days after receiving
28 notice of the aggrieving decision unless good cause is shown, to the
29 extent allowable under federal law. The authority shall determine
30 which agency is responsible for representing the state of Washington
31 in the hearing, in accordance with agreements entered pursuant to RCW
32 41.05.021.

33 (a) For the purpose of this subsection, good cause is defined as
34 a substantive reason or legal justification for failing to meet a
35 hearing deadline. Good cause to fail to meet a hearing deadline may
36 include, but is not limited to: Military deployment, medical reasons,
37 housing instability, language barriers, or domestic violence.

1 (b) The authority or the department shall not grant a request for
2 a hearing for good cause if the request is filed more than one year
3 after the aggrieving decision.

4 (5) (a) The adjudicative proceeding is governed by the
5 administrative procedure act, chapter 34.05 RCW, and this subsection.
6 The following requirements shall apply to adjudicative proceedings in
7 which an appellant seeks review of decisions made by more than one
8 agency. When an appellant files a single application for an
9 adjudicative proceeding seeking review of decisions by more than one
10 agency, this review shall be conducted initially in one adjudicative
11 proceeding. The presiding officer may sever the proceeding into
12 multiple proceedings on the motion of any of the parties, when:

13 (i) All parties consent to the severance; or

14 (ii) Either party requests severance without another party's
15 consent, and the presiding officer finds there is good cause for
16 severing the matter and that the proposed severance is not likely to
17 prejudice the rights of an appellant who is a party to any of the
18 severed proceedings.

19 (b) If there are multiple adjudicative proceedings involving
20 common issues or parties where there is one appellant and both the
21 authority and the department are parties, upon motion of any party or
22 upon his or her own motion, the presiding offer may consolidate the
23 proceedings if he or she finds that the consolidation is not likely
24 to prejudice the rights of the appellant who is a party to any of the
25 consolidated proceedings.

26 (c) The adjudicative proceeding shall be conducted at the local
27 community services office or other location in Washington convenient
28 to the applicant or recipient and, upon agreement by the applicant or
29 recipient, may be conducted telephonically.

30 (d) The applicant or recipient, or his or her representative, has
31 the right to inspect his or her file from the authority and, upon
32 request, to receive copies of authority documents relevant to the
33 proceedings free of charge.

34 (e) The applicant or recipient has the right to a copy of the
35 audio recording of the adjudicative proceeding free of charge.

36 (f) If a final adjudicative order is issued in favor of an
37 applicant, medical services benefits must be provided from the date
38 of earliest eligibility, the date of denial of the application for
39 assistance, or (~~forty-five~~) 45 days following the date of
40 application, whichever is soonest. If a final adjudicative order is

1 issued in favor of a recipient, medical services benefits must be
2 provided from the effective date of the authority's decision.

3 (g) The authority is limited to recovering an overpayment arising
4 from assistance being continued pending the adjudicative proceeding
5 to the amount recoverable up to the (~~sixtieth~~) 60th day after the
6 director's receipt of the application for an adjudicative proceeding.

7 (6) If the director requires that a party seek administrative
8 review of an initial order to an adjudicative proceeding governed by
9 this section, in order for the party to exhaust administrative
10 remedies pursuant to RCW 34.05.534, the director shall adopt and
11 implement rules in accordance with this subsection.

12 (a) The director, in consultation with the secretary, shall adopt
13 rules to create a process for parties to seek administrative review
14 of initial orders issued pursuant to RCW 34.05.461 in adjudicative
15 proceedings governed by this subsection when multiple agencies are
16 parties.

17 (b) This process shall seek to minimize any procedural
18 complexities imposed on appellants that result from multiple agencies
19 being parties to the matter, without prejudicing the rights of
20 parties who are public assistance applicants or recipients.

21 (c) Nothing in this subsection shall impose or modify any legal
22 requirement that a party seek administrative review of initial orders
23 in order to exhaust administrative remedies pursuant to RCW
24 34.05.534.

25 (7) This subsection only applies to an adjudicative proceeding in
26 which the appellant is an applicant for or recipient of medical
27 services programs established under this chapter and the issue is his
28 or her eligibility or ineligibility due to the assignment or transfer
29 of a resource. The burden is on the authority or its authorized
30 agency to prove by a preponderance of the evidence that the person
31 knowingly and willingly assigned or transferred the resource at less
32 than market value for the purpose of qualifying or continuing to
33 qualify for medical services programs established under this chapter.
34 If the prevailing party in the adjudicative proceeding is the
35 applicant or recipient, he or she is entitled to reasonable
36 attorneys' fees.

37 (8) When an applicant or recipient files a petition for judicial
38 review as provided in RCW 34.05.514 of an adjudicative order entered
39 with respect to the medical services program, no filing fee may be
40 collected from the person and no bond may be required on any appeal.

1 In the event that the superior court, the court of appeals, or the
2 supreme court renders a decision in favor of the applicant or
3 recipient, the person is entitled to reasonable attorneys' fees and
4 costs. If a decision of the court is made in favor of an applicant,
5 assistance shall be paid from the date of earliest eligibility, the
6 date of the denial of the application for assistance, or (~~forty-~~
7 ~~five~~) 45 days following the date of application, whichever is
8 soonest. If a decision of the court is made in favor of a recipient,
9 assistance shall be paid from the effective date of the authority's
10 decision.

11 (9) The provisions of RCW 74.08.080 do not apply to adjudicative
12 proceedings requested or conducted with respect to the medical
13 services program pursuant to this section.

14 (10) The authority shall adopt any rules it deems necessary to
15 implement this section.

16 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
17 conflict with federal requirements that are a prescribed condition to
18 the allocation of federal funds to the state, the conflicting part of
19 this act is inoperative solely to the extent of the conflict and with
20 respect to the agencies directly affected, and this finding does not
21 affect the operation of the remainder of this act in its application
22 to the agencies concerned. Rules adopted under this act must meet
23 federal requirements that are a necessary condition to the receipt of
24 federal funds by the state.

25 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2023."

26 Correct the title.

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