

SENATE BILL REPORT

SSB 5729

As Amended by House, March 3, 2022

Title: An act relating to creating a good cause exception to administrative hearing deadlines for applicants or recipients of certain public assistance benefits.

Brief Description: Creating a good cause exception to administrative hearing deadlines for applicants or recipients of certain public assistance benefits.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Nguyen, Das, Hasegawa, Kuderer, Nobles, Robinson, Saldaña, Stanford, Trudeau and Wilson, C.).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/20/22, 1/25/22 [DPS].

Floor Activity: Passed Senate: 2/9/22, 49-0.

Passed House: 3/3/22, 98-0.

Brief Summary of First Substitute Bill

- Provides a good cause exception to the 90-day deadline to request an adjudicative hearing for applicants and recipients of benefits from the Department of Social and Health Services or the Health Care Authority who are aggrieved by a decision of the agency or authority.
- Provides a definition of good cause to mean a substantive or legal justification for failing to meet a hearing deadline.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5729 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wilson, C., Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Dozier, McCune, Saldaña and Trudeau.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alison Mendiola (786-7488)

Background: Department of Social and Health Services. A public assistance applicant or recipient who is aggrieved of a decision by the Department of Social and Health Services (DSHS), or an authorized agency of DSHS, has the right to an adjudicative proceeding. A current or former recipient who is aggrieved by a DSHS claim that they owe a debt for an overpayment of assistance or food stamps or food stamp benefits transferred electronically, or both, has the right to an adjudicative proceeding.

An applicant or recipient has no right to an adjudicative proceeding when the sole basis for DSHS's decision is a state or federal law that requires an assistance adjustment for a class of recipients.

Adjudicative proceedings are governed by the Administrative Procedures Act (APA) and relevant statutes.

The applicant or recipient must file the application for an adjudicative proceeding with the secretary within 90 days of receiving the aggrieving decision.

The Health Care Authority. An applicant or recipient who is aggrieved by a decision of the Health Care Authority (HCA), or an authorized agency of the HCA, or a current or former recipient who is aggrieved by the HCA's claim that they owe a debt for overpayment of assistance has the right to an adjudicative proceeding.

An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the HCA's decision is a state or federal law that requires an assistance adjustment for a class of recipients.

Adjudicative proceedings are governed by APA and relevant statutes.

The applicant or recipient must file an application for an adjudicative proceeding with the HCA within 90 days of receiving the aggrieving decision.

Summary of First Substitute Bill: When an applicant or recipient of public assistance or any medical service program under current law is aggrieved by a decision by DSHS or the HCA and fails to meet the 90-day deadline to request an adjudicative proceeding, they are entitled to show that they had good cause, to the extent allowed under federal law, for not meeting the 90-day deadline. This includes current or former recipients who are aggrieved by a claim by DSHS or the HCA that they owe a debt for an overpayment of assistance, including food stamps. Good cause means a substantive reason or legal justification for failing to meet a hearing deadline. Good cause to fail to meet a hearing deadline may include, but is not limited to military deployment, medical reasons, housing instability, language barriers, or domestic violence.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: During the pandemic, many people have not been able to meet the appeal deadline of 90 days. California and Oregon have created exceptions to the 90 day deadline. We're trying to address state funded programs and other programs not limited to the 90 day deadline. The current statutes are very strict and leave no room for an administrative law judge to grant an exception for failing to meet the deadline to appeal. The people most impacted by this are the most vulnerable and need the most basic essentials for themselves and their children. For child support, the Department of Social and Health Services statute allows one year and one year to appeal. People are not used to getting physical mail, what if you moved, fled an abuser, or have a general delivery mail address? The relevant laws are silent on good cause exceptions—to not allow them violates their due process. This is a rare opportunity to right a wrong. A person's only courthouse door is effectively shut.

Persons Testifying: PRO: Senator Joe Nguyen, Prime Sponsor; Jane Habegger, Retired Administrative Law Judge; Antonio Ginatta, Columbia Legal Services; Lisa Brodoff, Seattle University School of Law; Sara Robbins; Erika Lim, Northwest Justice Project.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- DSHS or HCA may not grant a hearing for good cause if the request for a hearing is filed more than one year after the aggrieving decision.
- Adds an effective date of July 1, 2023 as well as a federal severability clause.