

AMENDED IN ASSEMBLY APRIL 18, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 921

Introduced by Assembly Member Krekorian

February 22, 2007

An act to amend Sections 10951 and 10960 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 921, as amended, Krekorian. Public social services: hearings.

Existing law authorizes an applicant for or recipient of public social services who is dissatisfied with certain actions of the county welfare department, to request a hearing from the State Department of Social Services. Existing law requires a request for hearing to be filed within 90 days after the order or action complained of.

This bill would authorize a person to file a request for a hearing more than 90 days after the order or action complained of, if the claimant did not receive adequate notice or there is good cause for filing beyond 90 days, as specified.

Existing law authorizes an affected county or applicant or recipient, within 30 days after receiving the proposed decision of an administrative law judge adopted by the Director of Social Services, a final decision rendered by an administrative law judge or a decision issued by the director himself or herself, to file a request with the director for a rehearing. Existing law requires the director to grant or deny the request for rehearing between 5 and 15 working days after the receipt of the request, *and provides that the request shall be deemed denied if the director does not take action within the time allowed.*

This bill ~~instead would require the director to grant or deny a rehearing request no more than 60 working days after the receipt of the request would, instead, deem the rehearing request approved if the director does not take action within the time allowed.~~ The bill would ~~revise the rehearing procedures, including specifying the criteria pursuant to which rehearing would be granted, and the conditions under which new evidence may be presented at the rehearing~~ *authorize a rehearing beyond 30 days if an applicant or recipient does not receive a copy of the relevant decision, or when there is good cause for the late filing.*

This bill would also require the department to *implement the bill through all-county letters or similar instructions from the director by January 1, 2008, and to adopt regulations by July 1, 2008, to implement the above provisions bill,* in consultation with representatives of claimants and counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10951 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 10951. (a) No person shall be entitled to a hearing pursuant
- 4 to this chapter unless he files his request for the same within 90
- 5 days after the order or action complained of.
- 6 (b) Notwithstanding subdivision (a), a person shall be entitled
- 7 to a hearing pursuant to this chapter if he or she files his request
- 8 more than 90 days after the order or action complained of, ~~if the~~
- 9 ~~claimant he or she~~ did not receive adequate notice, or there is good
- 10 cause for filing beyond 90 days. ~~Nonreceipt of the notice or good~~
- 11 ~~cause shall be established if the claimant, or his or her authorized~~
- 12 ~~representative, establishes that the deadline was missed for any of~~
- 13 ~~the following reasons, which resulted in the claimant not receiving~~
- 14 ~~the notice or being unable to appeal within 90 days:~~
- 15 (1) ~~A death in the family.~~
- 16 (2) ~~Personal illness or injury.~~
- 17 (3) ~~An emergency situation.~~
- 18 (4) ~~A physical, mental, educational, or linguistic limitation,~~
- 19 ~~including a lack of English proficiency, that prevented the claimant~~
- 20 ~~from filing, or from understanding the need for or how to file, a~~
- 21 ~~timely request for hearing.~~

1 ~~(5) An action by, or information received from, a county welfare~~
2 ~~department or State Department of Social Services employee that~~
3 ~~misled the claimant.~~

4 ~~(6) Action by a county welfare department or State Department~~
5 ~~of Social Services employee that discouraged the claimant from~~
6 ~~requesting a hearing.~~

7 ~~(e) The department, in consultation with representatives of~~
8 ~~claimants and counties, shall adopt regulations to implement~~
9 ~~subdivision (b).~~

10 *(c) Notwithstanding the Administrative Procedure Act (Chapter*
11 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
12 *Title 2 of the Government Code), the department shall implement*
13 *this section through an all-county letter or similar instructions*
14 *from the director, no later than January 1, 2008, after consulting*
15 *with representatives of claimants and counties. The department,*
16 *in consultation with claimants and counties, shall adopt regulations*
17 *to implement this section no later than July 1, 2008.*

18 SEC. 2. Section 10960 of the Welfare and Institutions Code is
19 amended to read:

20 10960. (a) Within 30 days after receiving the proposed decision
21 of an administrative law judge adopted by the director, a final
22 decision rendered by an administrative law judge or a decision
23 issued by the director himself or herself, the affected county or
24 applicant or recipient may file a request with the director for a
25 rehearing. The director shall immediately serve a copy of the
26 request on the other party to the hearing and that other party may
27 within five days of the service file with the director a written
28 statement supporting or objecting to the request. The director shall
29 grant or deny the request ~~no later than the 60th~~ *earlier than the*
30 *fifth nor later than the 15th* working day after the receipt of the
31 request. *If the director grants the request, the rehearing shall be*
32 *conducted in the same manner and subject to the same time limits*
33 *as the original hearing. If action is not taken by the director within*
34 *the time allowed, the request shall be deemed approved.*

35 ~~(b) The rehearing request shall include a statement regarding~~
36 ~~the date the adopted decision was received. In the absence of this~~
37 ~~statement, the date of receipt shall be the later of the following:~~

38 ~~(1) Three business days after the postmarked date on the~~
39 ~~envelope containing the decision.~~

- 1 ~~(2) Three business days after the date the decision was released~~
2 ~~by the department or the hearing division.~~
- 3 ~~(e) The filing date of the rehearing request shall be the~~
4 ~~postmarked date on the envelope containing the rehearing request.~~
5 ~~If the postmarked date is illegible, and the request for rehearing is~~
6 ~~undated, the filing date shall be three business days before the date~~
7 ~~the rehearing request is received by the department.~~
- 8 ~~(d) Rehearing shall be granted based on one or more of the~~
9 ~~following criteria:~~
- 10 ~~(1) Newly discovered evidence not in the custody of or available~~
11 ~~to the party requesting rehearing at the time of the first hearing is~~
12 ~~now available, and the new evidence, had it been introduced, could~~
13 ~~have changed the hearing decision.~~
- 14 ~~(2) The adopted decision is inconsistent with law.~~
- 15 ~~(3) The adopted decision is not supported by the evidence in~~
16 ~~the record.~~
- 17 ~~(4) The adopted decision is not supported by the findings.~~
- 18 ~~(5) The adopted decision does not address all of the claims or~~
19 ~~issues raised by the parties pursuant to Section 10958.1.~~
- 20 ~~(6) The adopted decision does not set forth sufficient information~~
21 ~~to determine the basis for its legal conclusion.~~
- 22 ~~(e) If the rehearing request is to permit the presentation of~~
23 ~~additional evidence, the request shall include all of the following:~~
- 24 ~~(1) A description of the additional evidence.~~
- 25 ~~(2) A statement as to why the additional evidence was not~~
26 ~~previously introduced.~~
- 27 ~~(3) An explanation of the materiality of the additional evidence.~~
- 28 ~~(4) An explanation of how the additional evidence will change~~
29 ~~the outcome of the hearing decision.~~
- 30 ~~(f) If the director grants the request, the rehearing shall be~~
31 ~~conducted in the same manner and subject to the same time limits~~
32 ~~as the original hearing. If action is not taken by the director within~~
33 ~~the time allowed, the request shall be deemed denied.~~
- 34 ~~(g) The department, in consultation with representatives of~~
35 ~~claimants and counties, shall adopt regulations to implement~~
36 ~~subdivisions (b) to (f), inclusive.~~
- 37 ~~(b) Notwithstanding subdivision (a), an applicant or recipient~~
38 ~~may otherwise be entitled to a rehearing pursuant to this chapter~~
39 ~~if he or she files a request more than 30 days after the proposed~~
40 ~~decision, final decision, or director's decision, if he or she did not~~

1 *receive a copy of the proposed decision, final decision, or*
2 *director's decision, or if there is good cause for filing beyond 30*
3 *days.*

4 *(c) Notwithstanding the Administrative Procedure Act (Chapter*
5 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
6 *Title 2 of the Government Code), the department shall implement*
7 *this section through an all-county letter or similar instructions*
8 *from the director, no later than January 1, 2008, after consulting*
9 *with representatives of claimants and counties. The department,*
10 *in consultation with claimants and counties, shall adopt regulations*
11 *to implement this section no later than July 1, 2008.*

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