

Assembly Bill No. 921

Passed the Assembly September 11, 2007

Chief Clerk of the Assembly

Passed the Senate September 10, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 director determines there is good cause, as defined, for filing beyond the 90-day period.

Existing law authorizes an affected county, 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 would, instead, require the director to grant or deny the rehearing request no later than 35 days after the request is made. The bill specifies grounds for rehearing and requires that notice granting or denying rehearing specify the legal grounds of the decision. The bill would authorize a rehearing beyond 30 days if an applicant or recipient does not receive a copy of the relevant decision, or when the director determines that good cause, as defined, exists.

This bill would also require the department to implement the bill through all-county information notices from the director by January 1, 2008.

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

SECTION 1. Section 10951 of the Welfare and Institutions Code is amended to read:

10951. (a) No person shall be entitled to a hearing pursuant to this chapter unless he or she files his or her request for the same within 90 days after the order or action complained of.

(b) (1) Notwithstanding subdivision (a), a person shall be entitled to a hearing pursuant to this chapter if he or she files the request more than 90 days after the order or action complained of and there is good cause for filing the request beyond the 90-day period. The director may determine whether good cause exists.

(2) For purposes of this subdivision “good cause” means a substantial and compelling reason beyond the party’s control, considering the length of the delay, the diligence of the party making the request, and the potential prejudice to the other party. The inability of a person to understand an adequate and language compliant notice, in and of itself, shall not constitute good cause. In no event shall the department grant a request for a hearing where the request is filed more than 180 days after the order or action complained of.

(3) Nothing in this section shall preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(c) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this section through an all-county information notice no later than January 1, 2008. The department may also provide further instructions through training notes.

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

10960. (a) Within 30 days after receiving the decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, the affected county or applicant or recipient may file a request with the director for a rehearing. The director shall immediately serve a copy of the request on the other party to the hearing and that other party may within five days of the service file with the director a written statement supporting or

objecting to the request. The director shall grant or deny the request no later than the 35th working day after the request is made to ensure the prompt and efficient administration of the hearing process. If the director grants the request, the rehearing shall be conducted in the same manner and subject to the same time limits as the original hearing.

(b) The grounds for requesting a rehearing are as follows:

(1) The adopted decision is inconsistent with the law.

(2) The adopted decision is not supported by the evidence in the record.

(3) The adopted decision is not supported by the findings.

(4) The adopted decision does not address all of the claims or issues raised by the parties.

(5) The adopted decision does not address all of the claims or issues supported by the record or evidence.

(6) The adopted decision does not set forth sufficient information to determine the basis for its legal conclusion.

(7) Newly discovered evidence, that was not in custody or available to the party requesting rehearing at the time of the hearing, is now available and the new evidence, had it been introduced, could have changed the hearing decision.

(8) For any other reason necessary to prevent the abuse of discretion or an error of law, or for any other reason consistent with the provisions of Section 1094.5 of the Code of Civil Procedure.

(c) The notice granting or denying the rehearing request shall explain the reasons and legal basis for granting or denying the request for rehearing.

(d) The decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, remains final pending a request for a rehearing. Only after rehearing is granted is the decision no longer the final decision in the case.

(e) Notwithstanding any other provision of law, a rehearing request or decision shall not be a prerequisite to filing an action under Section 10962.

(f) (1) Notwithstanding subdivision (a), an applicant or recipient may otherwise be entitled to a rehearing pursuant to this chapter if he or she files a request more than 30 days after the decision of

the director is issued, or if he or she did not receive a copy of the decision of the director, or if there is good cause for filing beyond the 30-day period. The director may determine whether good cause exists.

(2) For purposes of this subdivision “good cause” means a substantial and compelling reason beyond the party’s control, considering the length of the delay, the diligence of the party making the request, and the potential prejudice to the other party. The inability of a person to understand an adequate and language compliant notice, in and of itself, shall not constitute good cause. In no event shall the department grant a request for a hearing where the request is filed more than 180 days after the order or action complained of.

(3) Nothing in this section shall preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(g) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this section through an all-county information notice no later than January 1, 2008. The department may also provide further instructions through training notes.

Approved _____, 2007

Governor