
SUBSTITUTE HOUSE BILL 2802

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Human Services (originally sponsored by Representative Cooper)

Read first time 02/07/92.

1 AN ACT Relating to developmental disabilities; amending RCW
2 71A.10.050 and 71A.20.080; and adding a new section to chapter 71A.20
3 RCW.

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

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

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

11 (a) A denial of an application for eligibility under RCW
12 71A.16.040;

1 (b) An unreasonable delay in acting on an application for
2 eligibility, for a service, or for an alternative service under RCW
3 71A.18.040;

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

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

7 (e) A disagreement with an action of the secretary under RCW
8 71A.10.060 or 71A.10.070;

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

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

13 The adjudicative proceeding is governed by the Administrative
14 Procedure Act, chapter 34.05 RCW.

15 (2) This subsection applies only to an adjudicative proceeding in
16 which the department action appealed is a decision to return a resident
17 of a habilitation center to the community. The resident or his or her
18 representative may appeal on the basis of whether the specific
19 placement decision is in the best interests of the resident. When the
20 resident or his or her representative files an application for an
21 adjudicative proceeding under this section ~~((the department has the
22 burden of proving))~~ there is a rebuttable presumption that the specific
23 placement decision is in the best interests of the resident.

24 (3) When the department takes any action described in subsection
25 (1) of this section it shall give notice as provided by RCW 71A.10.060.
26 The notice must include a statement advising the recipient of the right
27 to an adjudicative proceeding and the time limits for filing an
28 application for an adjudicative proceeding. Notice of a decision to
29 return a resident of a habilitation center to the community under RCW
30 71A.20.080 must also include a statement advising the recipient of the

1 right to file a petition for judicial review of an adverse adjudicative
2 order as provided in chapter 34.05 RCW.

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

5 Whenever in the judgment of the secretary, the treatment and
6 training of any resident of a residential habilitation center has
7 progressed to the point that it is deemed advisable to return such
8 resident to the community, the secretary may grant placement on such
9 terms and conditions as the secretary may deem advisable after
10 consultation in the manner provided in RCW 71A.10.070. The secretary
11 shall give written notice of the decision to return a resident to the
12 community as provided in RCW 71A.10.060. The notice must include a
13 statement advising the recipient of the right to an adjudicative
14 proceeding under RCW 71A.10.050 and the time limits for filing an
15 application for an adjudicative proceeding. The notice must also
16 include a statement advising the recipient of the right to judicial
17 review of an adverse adjudicative order as provided in chapter 34.05
18 RCW.

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

26 The department of social and health services shall periodically
27 evaluate at reasonable intervals the adjustment of the resident to the
28 specific placement to determine whether the resident should be

1 continued in the placement or returned to the institution or given a
2 different placement.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.20 RCW
4 to read as follows:

5 The department shall provide residents of residential habilitation
6 centers transferred under RCW 71A.20.080 with all necessary medical,
7 habilitative, training, and residential services required to
8 successfully transfer and maintain them in community settings.