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**SUBSTITUTE SENATE BILL 5729**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

READ FIRST TIME 01/26/22.

1 AN ACT Relating to creating a good cause exception to  
2 administrative hearing deadlines for applicants or recipients of  
3 certain public assistance benefits; and amending RCW 74.08.080 and  
4 74.09.741.

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

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

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

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

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

1 (a) The applicant or recipient must file the application for an  
2 adjudicative proceeding with the secretary within (~~ninety~~) 90 days  
3 after receiving notice of the aggrieving decision unless good cause  
4 is shown, to the extent allowable under federal law. For the purpose  
5 of this subsection, good cause is defined as a substantive reason or  
6 legal justification for failing to meet a hearing deadline. Good  
7 cause to fail to meet a hearing deadline may include, but is not  
8 limited to: Military deployment, medical reasons, housing  
9 instability, language barriers, or domestic violence.

10 (b) The hearing shall be conducted at the local community  
11 services office or other location in Washington convenient to the  
12 appellant.

13 (c) The appellant or his or her representative has the right to  
14 inspect his or her department file and, upon request, to receive  
15 copies of department documents relevant to the proceedings free of  
16 charge.

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

19 (e) The department is limited to recovering an overpayment  
20 arising from assistance being continued pending the adjudicative  
21 proceeding to the amount recoverable up to the (~~sixtieth~~) 60th day  
22 after the secretary's receipt of the application for an adjudicative  
23 proceeding.

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

31 (g) This subsection applies only to an adjudicative proceeding in  
32 which the appellant is an applicant for or recipient of medical  
33 assistance or the limited casualty program for the medically needy  
34 and the issue is his or her eligibility or ineligibility due to the  
35 assignment or transfer of a resource. The burden is on the department  
36 to prove by a preponderance of the evidence that the person knowingly  
37 and willingly assigned or transferred the resource at less than  
38 market value for the purpose of qualifying or continuing to qualify  
39 for medical assistance or the limited casualty program for the  
40 medically needy. If the prevailing party in the adjudicative

1 proceeding is the applicant or recipient, he or she is entitled to  
2 reasonable attorney's fees.

3 (3) When a person files a petition for judicial review as  
4 provided in RCW 34.05.514 of an adjudicative order entered in a  
5 public assistance program, no filing fee shall be collected from the  
6 person and no bond shall be required on any appeal. In the event that  
7 the superior court, the court of appeals, or the supreme court  
8 renders a decision in favor of the appellant, said appellant shall be  
9 entitled to reasonable attorneys' fees and costs. If a decision of  
10 the court is made in favor of the appellant, assistance shall be paid  
11 from date of the denial of the application for assistance or  
12 ((~~thirty~~)) 30 days after the application for temporary assistance for  
13 needy families or ((~~forty-five~~)) 45 days following the date of  
14 application, whichever is sooner; or in the case of a recipient, from  
15 the effective date of the local community services office decision.

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

18 (1) The following persons have the right to an adjudicative  
19 proceeding:

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

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

25 (2) For purposes of this section:

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

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

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

37 (4) An applicant or recipient may file an application for an  
38 adjudicative proceeding with either the authority or the department  
39 and must do so within ((~~ninety~~)) 90 calendar days after receiving

1 notice of the aggrieving decision unless good cause is shown, to the  
2 extent allowable under federal law. The authority shall determine  
3 which agency is responsible for representing the state of Washington  
4 in the hearing, in accordance with agreements entered pursuant to RCW  
5 41.05.021. For the purpose of this subsection, good cause is defined  
6 as a substantive reason or legal justification for failing to meet a  
7 hearing deadline. Good cause to fail to meet a hearing deadline may  
8 include, but is not limited to: Military deployment, medical reasons,  
9 housing instability, language barriers, or domestic violence.

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

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

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

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

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

36 (d) The applicant or recipient, or his or her representative, has  
37 the right to inspect his or her file from the authority and, upon  
38 request, to receive copies of authority documents relevant to the  
39 proceedings free of charge.

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

3 (f) If a final adjudicative order is issued in favor of an  
4 applicant, medical services benefits must be provided from the date  
5 of earliest eligibility, the date of denial of the application for  
6 assistance, or (~~forty-five~~) 45 days following the date of  
7 application, whichever is soonest. If a final adjudicative order is  
8 issued in favor of a recipient, medical services benefits must be  
9 provided from the effective date of the authority's decision.

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

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

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

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

28 (c) Nothing in this subsection shall impose or modify any legal  
29 requirement that a party seek administrative review of initial orders  
30 in order to exhaust administrative remedies pursuant to RCW  
31 34.05.534.

32 (7) This subsection only applies to an adjudicative proceeding in  
33 which the appellant is an applicant for or recipient of medical  
34 services programs established under this chapter and the issue is his  
35 or her eligibility or ineligibility due to the assignment or transfer  
36 of a resource. The burden is on the authority or its authorized  
37 agency to prove by a preponderance of the evidence that the person  
38 knowingly and willingly assigned or transferred the resource at less  
39 than market value for the purpose of qualifying or continuing to  
40 qualify for medical services programs established under this chapter.

1 If the prevailing party in the adjudicative proceeding is the  
2 applicant or recipient, he or she is entitled to reasonable  
3 attorneys' fees.

4 (8) When an applicant or recipient files a petition for judicial  
5 review as provided in RCW 34.05.514 of an adjudicative order entered  
6 with respect to the medical services program, no filing fee may be  
7 collected from the person and no bond may be required on any appeal.  
8 In the event that the superior court, the court of appeals, or the  
9 supreme court renders a decision in favor of the applicant or  
10 recipient, the person is entitled to reasonable attorneys' fees and  
11 costs. If a decision of the court is made in favor of an applicant,  
12 assistance shall be paid from the date of earliest eligibility, the  
13 date of the denial of the application for assistance, or (~~forty-~~  
14 ~~five~~) 45 days following the date of application, whichever is  
15 soonest. If a decision of the court is made in favor of a recipient,  
16 assistance shall be paid from the effective date of the authority's  
17 decision.

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

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

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