

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5729

67th Legislature
2022 Regular Session

Passed by the Senate March 7, 2022
Yeas 49 Nays 0

President of the Senate

Passed by the House March 3, 2022
Yeas 98 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5729** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5729

AS AMENDED BY THE HOUSE

Passed Legislature - 2022 Regular Session

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; amending RCW 74.08.080 and
4 74.09.741; creating a new section; and providing an effective date.

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.

5 (i) For the purpose of this subsection, good cause is defined as
6 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 (ii) The department shall not grant a request for a hearing for
11 good cause if the request is filed more than one year after the
12 aggrieving decision.

13 (b) The hearing shall be conducted at the local community
14 services office or other location in Washington convenient to the
15 appellant.

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

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

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

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

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

1 market value for the purpose of qualifying or continuing to qualify
2 for medical assistance or the limited casualty program for the
3 medically needy. If the prevailing party in the adjudicative
4 proceeding is the applicant or recipient, he or she is entitled to
5 reasonable attorney's fees.

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

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

21 (1) The following persons have the right to an adjudicative
22 proceeding:

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

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

28 (2) For purposes of this section:

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

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

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

1 (4) An applicant or recipient may file an application for an
2 adjudicative proceeding with either the authority or the department
3 and must do so within (~~ninety~~) 90 calendar days after receiving
4 notice of the aggrieving decision unless good cause is shown, to the
5 extent allowable under federal law. The authority shall determine
6 which agency is responsible for representing the state of Washington
7 in the hearing, in accordance with agreements entered pursuant to RCW
8 41.05.021.

9 (a) For the purpose of this subsection, good cause is defined as
10 a substantive reason or legal justification for failing to meet a
11 hearing deadline. Good cause to fail to meet a hearing deadline may
12 include, but is not limited to: Military deployment, medical reasons,
13 housing instability, language barriers, or domestic violence.

14 (b) The authority or the department shall not grant a request for
15 a hearing for good cause if the request is filed more than one year
16 after the aggrieving decision.

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

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

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

32 (b) If there are multiple adjudicative proceedings involving
33 common issues or parties where there is one appellant and both the
34 authority and the department are parties, upon motion of any party or
35 upon his or her own motion, the presiding offer may consolidate the
36 proceedings if he or she finds that the consolidation is not likely
37 to prejudice the rights of the appellant who is a party to any of the
38 consolidated proceedings.

39 (c) The adjudicative proceeding shall be conducted at the local
40 community services office or other location in Washington convenient

1 to the applicant or recipient and, upon agreement by the applicant or
2 recipient, may be conducted telephonically.

3 (d) The applicant or recipient, or his or her representative, has
4 the right to inspect his or her file from the authority and, upon
5 request, to receive copies of authority documents relevant to the
6 proceedings free of charge.

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

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

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

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

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

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

34 (c) Nothing in this subsection shall impose or modify any legal
35 requirement that a party seek administrative review of initial orders
36 in order to exhaust administrative remedies pursuant to RCW
37 34.05.534.

38 (7) This subsection only applies to an adjudicative proceeding in
39 which the appellant is an applicant for or recipient of medical
40 services programs established under this chapter and the issue is his

1 or her eligibility or ineligibility due to the assignment or transfer
2 of a resource. The burden is on the authority or its authorized
3 agency to prove by a preponderance of the evidence that the person
4 knowingly and willingly assigned or transferred the resource at less
5 than market value for the purpose of qualifying or continuing to
6 qualify for medical services programs established under this chapter.
7 If the prevailing party in the adjudicative proceeding is the
8 applicant or recipient, he or she is entitled to reasonable
9 attorneys' fees.

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

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

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

29 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
30 conflict with federal requirements that are a prescribed condition to
31 the allocation of federal funds to the state, the conflicting part of
32 this act is inoperative solely to the extent of the conflict and with
33 respect to the agencies directly affected, and this finding does not
34 affect the operation of the remainder of this act in its application
35 to the agencies concerned. Rules adopted under this act must meet
36 federal requirements that are a necessary condition to the receipt of
37 federal funds by the state.

1 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2023.

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