

- SUBJECT:** Requirements for uniform fair hearing rules for Medicaid services
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 7 ayes — Rose, S. King, J. Davis, Herrero, Hughes, Naishtat, Parker
0 nays
2 absent — Eissler, Pierson
- WITNESSES:** For — Peter Hofer, Advocacy, Inc; Tammy Carrington
Against — None
- BACKGROUND:** The state is required to maintain a fair hearings system for Medicaid beneficiaries whose claims for services have been denied, reduced, terminated, or not acted upon with reasonable promptness.
- In 1997, the 75th Legislature enacted SB 514 by Moncrief, which required the Health and Human Services Commission (HHSC) to promulgate uniform fair hearing rules for all Medicaid funded services. In 2006, a federal court ruled that HHSC's rules regarding fair hearings were not compliant with the due process clause of the U.S. Constitution, federal law, and Medicaid program requirements. In addition, the court held that HHSC's rules specifically violated the relevant provisions regarding prior authorizations.
- DIGEST:** CSHB 2256 would specify the requirements for fair hearings for Medicaid funded services. It would require that rules regarding fair hearings provide due process to an applicant for Medicaid or a recipient seeking Medicaid services, including those requiring prior authorization. The bill would require that services, even for prior authorization, continue for an individual who requested a hearing until a decision was rendered after the hearing.
- The rules would require that an individual receive written notice of his or her right to a hearing. The notice would be mailed at least 10 days before the individual's Medicaid benefits were affected and contain an explanation of the circumstances under which Medicaid could be

continued if a hearing were requested. HHSC could take actions to limit Medicaid eligibility before a hearing only if the hearing officer determined that the sole issue at the hearing was one of federal or state law or policy and HHSC promptly informed the individual in writing that services were to be terminated, suspended, or reduced pending the hearing decision.

HHSC would be authorized to seek a waiver or authorization from a federal agency if it were necessary for implementation of this bill.

The bill would take effect September 1, 2007.