

BILL ANALYSIS

Senate Research Center
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H.B. 75
By: Naishat et al. (Wentworth)
Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, almost all decisions made by a state agency or regulatory board in Texas are subject to judicial review. However, adverse decisions regarding Medicaid and other public assistance programs are not subject to judicial review. Texas is the only state that does not provide state court judicial review of final decisions on any of its public assistance programs.

H.B. 75 provides for state court judicial review of the Health and Human Services Commission (HHSC) decisions of denial, termination, suspension, or reduction of food stamps and Medicaid benefits. This bill requires an applicant for or recipient of certain public assistance benefits to request an administrative review of HHSC's decision, before the individual would be able to request judicial review, ensuring that all administrative remedies have been exhausted.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 531, Government Code, by adding Section 531.019, as follows:

Sec. 531.019. ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN DECISIONS. (a) Defines "public assistance benefits."

(b) Requires the electronic recording of the proceedings of a hearing related to a decision regarding public assistance benefits contested by an applicant or recipient of the benefits that is conducted by the Health and Human Services Commission (HHSC) or a health and human services agency to which HHSC delegates a function related to the benefits. Prohibits the cost of preparing the record and transcript required to be sent to a reviewing court, notwithstanding Section 2001.177, from being charged to the applicant for or recipient of the benefits.

(c) Requires an applicant for or recipient of public assistance benefits to request an administrative review by an appropriate attorney of HHSC or a health and human services agency, as applicable, in accordance with rules of the executive commissioner of HHSC (executive commissioner) before appealing a decision of a hearing officer for HHSC or a health and human services agency related to those benefits. Requires the attorney to complete an administrative review of the decision and notify the applicant or recipient in writing of the results of that review not later than the 15th business day after the attorney receives the request for administrative review.

(d) Provides that, except as provided by this section, Subchapters G (Contested Case: Judicial Review) and H (Court Enforcement), Chapter 2001, govern an appeal of a decision made by a hearing officer for HHSC or a health and human services agency related to public assistance benefits brought by an applicant or recipient of the benefits.

(e) Provides that an applicant for or recipient of public assistance benefits, for purposes of Section 2001.171 (Judicial Review), has exhausted all available administrative remedies and a decision, including a decision under Section 32.035 (Appeals), Human Resources Code, is final and appealable on the date that, after a hearing, the hearing officer for HHSC or a health and human services agency reaches a final decision related to the benefits, and the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(f) Provides that an applicant for or recipient of public assistance benefits is not required, for purposes of Section 2001.171, to file a motion for rehearing with HHSC or a health and human services agency, as applicable.

(g) Provides that judicial review of a decision made by a hearing officer for HHSC or a health and human services agency related to public assistance benefits is under the substantial evidence rule and is instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001.

(h) Provides that an appeal described by Subsection (d) takes precedence over all civil cases except workers' compensation and unemployment compensation cases.

(i) Provides that the appellee is HHSC.

SECTION 2. Amends Section 2001.223, Government Code, to provide that Section 2001.038 and Subchapters C through H do not apply to, except as provided by Section 531.019, the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under service programs that were operated by the former Texas Department of Human Services before September 1, 2003, and are operated on and after that date by the HHSC or a health and human services agency, as defined by Section 531.001.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.