

## **BILL ANALYSIS**

H.B. 75  
By: Naishtat  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, when HHSC makes a decision to deny, terminate, or suspend Medicaid or Food Stamp benefits, the applicant or recipient can appeal the decision and request a fair hearing, which is conducted by the Commission's hearing officer. If the hearing officer upholds the original decision, the applicant or recipient can request an administrative review of the hearing officer's decision, which is conducted by a commission attorney.

However, if HHSC's administrative review upholds the agency's decision, current law does not provide an opportunity for the individual to have his or her case file reviewed by a state court judge despite the fact that almost all other state agency and regulatory board decisions in Texas are subject to judicial review.

HB 75 would provide an individual who believes the HHSC decision to deny, terminate, suspend, or reduce Medicaid or Food Stamp benefits was in error, the opportunity to request state court judicial review of his or her case record. HB 75 requires judicial review to fall under a substantial evidence rule which is more favorable to the Commission. Under a rule of substantial evidence, filing a petition requesting judicial review does not delay agency action of denying, terminating, suspending or reducing benefits. HB 75 requires all other available administrative remedies be exhausted prior to requesting judicial review.

Given recent problems with the state's eligibility and enrollment system, HB 75 would help to ensure program integrity and accountability.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

HB 75 defines "public assistance benefits" as benefits provided under a public assistance program under Chapter 32 or 33, Human Resources Code. The bill provides that proceedings of a hearing related to a decision regarding public assistance benefits conducted by the commission or an agency to which the commission delegates a function related to the public assistance benefits must be recorded electronically. The cost of preparing the record and transcript cannot be charged to the applicant for or recipient of the public assistance benefits.

The bill provides that before an applicant for or recipient of public assistance benefits is authorized to appeal a decision of a hearing officer related to those public assistance benefits, the applicant or recipient must request an administrative review by an appropriate attorney, in accordance with rules of the executive commissioner.

The bill requires that the attorney complete an administrative review of the decision and notify the applicant or recipient in writing within fifteen business days after receiving the request for administrative review. An applicant for or recipient of public assistance benefits has exhausted all available administrative remedies and a decision is final and appealable on the date that, after a hearing, the hearing officer reaches a final decision related to the public assistance benefits; and the appropriate attorney has completed administrative review of the decision and notified the

applicant or recipient in writing of the results of that review. Judicial review of a decision made by a hearing officer for the commission 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. An appeal takes precedence over civil cases except workers' compensation and unemployment compensation cases. The appellee is the commission.

The changes in law apply only to an appeal of a final decision of the Texas Health and Human Services Commission, or other delegated agency, that is rendered on or after the effective date of this Act.

**EFFECTIVE DATE**

September 1, 2007.