

By: Naishtat, Turner, Hartnett, et al.

H.B. No. 75

A BILL TO BE ENTITLED

AN ACT

relating to administrative and judicial review of certain decisions about public assistance benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.019 to read as follows:

Sec. 531.019. ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN DECISIONS. (a) In this section, "public assistance benefits" means benefits provided under a public assistance program under Chapter 32 or 33, Human Resources Code.

(b) The proceedings of a hearing related to a decision regarding public assistance benefits contested by an applicant for or recipient of the benefits that is conducted by the commission or a health and human services agency to which the commission delegates a function related to the benefits must be recorded electronically. Notwithstanding Section 2001.177, the cost of preparing the record and transcript required to be sent to a reviewing court may not be charged to the applicant for or recipient of the benefits.

(c) Before an applicant for or recipient of public assistance benefits may appeal a decision of a hearing officer for the commission or a health and human services agency related to those benefits, the applicant or recipient must request an administrative review by an appropriate attorney of the commission

1 or a health and human services agency, as applicable, in accordance
2 with rules of the executive commissioner. Not later than the 15th
3 business day after the date the attorney receives the request for
4 administrative review, the attorney shall complete an
5 administrative review of the decision and notify the applicant or
6 recipient in writing of the results of that review.

7 (d) Except as provided by this section, Subchapters G and H,
8 Chapter 2001, govern an appeal of a decision made by a hearing
9 officer for the commission or a health and human services agency
10 related to public assistance benefits brought by an applicant for
11 or recipient of the benefits.

12 (e) For purposes of Section 2001.171, an applicant for or
13 recipient of public assistance benefits has exhausted all available
14 administrative remedies and a decision, including a decision under
15 Section 32.035, Human Resources Code, is final and appealable on
16 the date that, after a hearing:

17 (1) the hearing officer for the commission or a health
18 and human services agency reaches a final decision related to the
19 benefits; and

20 (2) the appropriate attorney completes an
21 administrative review of the decision and notifies the applicant or
22 recipient in writing of the results of that review.

23 (f) For purposes of Section 2001.171, an applicant for or
24 recipient of public assistance benefits is not required to file a
25 motion for rehearing with the commission or a health and human
26 services agency, as applicable.

27 (g) Judicial review of a decision made by a hearing officer

1 for the commission or a health and human services agency related to
2 public assistance benefits is under the substantial evidence rule
3 and is instituted by filing a petition with a district court in
4 Travis County, as provided by Subchapter G, Chapter 2001.

5 (h) An appeal described by Subsection (d) takes precedence
6 over all civil cases except workers' compensation and unemployment
7 compensation cases.

8 (i) The appellee is the commission.

9 SECTION 2. Section 2001.223, Government Code, is amended
10 to read as follows:

11 Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT
12 ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and
13 Subchapters C through H do not apply to:

14 (1) except as provided by Section 531.019, the
15 granting, payment, denial, or withdrawal of financial or medical
16 assistance or benefits under service programs that were operated by
17 the former [of the] Texas Department of Human Services before
18 September 1, 2003, and are operated on and after that date by the
19 Health and Human Services Commission or a health and human services
20 agency, as defined by Section 531.001;

21 (2) action by the Banking Commissioner or the Finance
22 Commission of Texas regarding the issuance of a state bank or state
23 trust company charter for a bank or trust company to assume the
24 assets and liabilities of a financial institution that the
25 commissioner considers to be in hazardous condition as defined by
26 Section 31.002(a) or 181.002(a), Finance Code, as applicable;

27 (3) a hearing or interview conducted by the Board of

1 Pardons and Paroles or the pardons and paroles division of the Texas
2 Department of Criminal Justice relating to the grant, rescission,
3 or revocation of parole or other form of administrative release; or

4 (4) the suspension, revocation, or termination of the
5 certification of a breath analysis operator or technical supervisor
6 under the rules of the Department of Public Safety.

7 SECTION 3. The changes in law made by this Act apply only to
8 an appeal of a final decision by the Health and Human Services
9 Commission or a health and human services agency to which the
10 commission delegates a function related to public assistance
11 benefits under Chapter 32 or 33, Human Resources Code, that is
12 rendered on or after the effective date of this Act. A final
13 decision rendered by the commission or a health and human services
14 agency before the effective date of this Act is governed by the law
15 in effect on the date the decision was rendered, and the former law
16 is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2007.