

By: Kolkhorst

H.B. No. 3195

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the review of certain administrative hearings conducted
3 by health and human services agencies.

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

5 SECTION 1. Section 531.019, Government Code, is amended by
6 amending Subsections (c) and (e) and adding Subsections (c-1) and
7 (c-2) to read as follows:

8 (c) Before an applicant for or recipient of public
9 assistance benefits may appeal a decision of a hearing officer for
10 the commission or a health and human services agency related to
11 those benefits, the applicant or recipient must request an
12 administrative review by an appropriate attorney of the commission
13 or a health and human services agency, as applicable, in accordance
14 with rules of the executive commissioner. Subject to Subsection
15 (c-1), not ~~[Not]~~ later than the 15th business day after the date the
16 attorney receives the request for administrative review, the
17 attorney shall complete an administrative review of the decision
18 and notify the applicant or recipient in writing of the results of
19 that review.

20 (c-1) If the attorney performing the administrative review
21 under Subsection (c) determines that the hearing officer's decision
22 resulted in an exception to the affected agency's or program's
23 policies, the attorney shall forward, not later than the 15th
24 business day after making that determination, the decision to the

1 executive commissioner or commissioner for a final review under
2 Subsection (c-2).

3 (c-2) The executive commissioner or commissioner, not later
4 than the fifth business day after the date of receipt of a decision
5 under Subsection (c-1), shall complete a review of the decision to
6 determine if the decision should be affirmed or reversed and notify
7 the applicant or recipient in writing of the results of that review.

8 (e) For purposes of Section 2001.171, an applicant for or
9 recipient of public assistance benefits has exhausted all available
10 administrative remedies and a decision, including a decision under
11 Section 31.034 or 32.035, Human Resources Code, is final and
12 appealable on the date that, after a hearing:

13 (1) the hearing officer for the commission or a health
14 and human services agency reaches a final decision related to the
15 benefits; ~~and~~

16 (2) the appropriate attorney completes an
17 administrative review of the decision and notifies the applicant or
18 recipient in writing of the results of that review; and

19 (3) if applicable, the executive commissioner or the
20 commissioner completes a final review of the decision and notifies
21 the applicant or recipient in writing of the results of that review.

22 SECTION 2. Subchapter A, Chapter 531, Government Code, is
23 amended by adding Section 531.01905 to read as follows:

24 Sec. 531.01905. ADMINISTRATIVE REVIEW OF FAIR HEARING
25 DECISIONS. (a) In this section:

26 (1) "Administrative review" means a desk review
27 performed by an attorney for the commission or a health and human

1 services agency of a fair hearing decision related to benefits
2 provided under an assistance program under Chapter 31, 32, or 33,
3 Human Resources Code.

4 (2) "Fair hearing" means an informal proceeding held
5 before an impartial hearing officer of the commission in which an
6 applicant or client appeals an agency decision.

7 (3) "Procedural review" means a desk review performed
8 by an attorney for the commission or a health and human services
9 agency of a fair hearing decision related to an agency program other
10 than an assistance program under Chapter 31, 32, or 33, Human
11 Resources Code.

12 (b) If an administrative or procedural review shows that a
13 fair hearing decision resulted in an exception to the affected
14 agency's or program's policies, the attorney performing the review
15 shall forward the decision to the executive commissioner or
16 commissioner, as applicable, of the agency, who shall review the
17 decision.

18 (c) The executive commissioner or commissioner, as
19 applicable, of the agency, not later than the fifth business day
20 after receipt of a fair hearing decision forwarded under Subsection
21 (b), shall complete a review of the decision to determine if the
22 decision should be affirmed or reversed and notify the affected
23 benefits applicant or recipient in writing of the results of that
24 review.

25 (d) If after review the executive commissioner or
26 commissioner, as applicable, of the agency affirms a fair hearing
27 decision forwarded under Subsection (b), the decision is effective

1 for not more than 12 months after the date of the fair hearing
2 decision.

3 (e) Not later than September 1 of each even-numbered year,
4 the executive commissioner and the commissioner of each health and
5 human services agency shall each provide a report to the standing
6 committees of the senate and house of representatives having
7 primary jurisdiction over health and human services agency programs
8 that states:

9 (1) the number of decisions reviewed by the executive
10 commissioner or commissioner, as applicable, during the preceding
11 two-year period;

12 (2) the number of reviewed decisions affirmed by the
13 executive commissioner or commissioner, as applicable, during the
14 preceding two-year period; and

15 (3) the total cost to the agency resulting from the
16 decisions affirmed by the executive commissioner or commissioner,
17 as applicable, during the preceding two-year period.

18 SECTION 3. Section 531.019, Government Code, as amended by
19 this Act, and Section 531.01905, Government Code, as added by this
20 Act, apply only to a fair hearing decision made on or after the
21 effective date of this Act. A fair hearing decision made before the
22 effective date of this Act is governed by the law in effect on the
23 date the decision was made, and the former law is continued in
24 effect for that purpose.

25 SECTION 4. The executive commissioner of the Health and
26 Human Services Commission and the commissioners of each health and
27 human services agency, as defined by Section 531.001, Government

1 Code, shall submit the initial reports required by Section
2 531.01905(e), Government Code, as added by this Act, on or before
3 September 1, 2014.

4 SECTION 5. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

10 SECTION 6. This Act takes effect September 1, 2013.