



**STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES**

P.O. Box 339  
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February 4, 2019

TO: The Honorable Representative Chris Lee, Chair  
House Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **HB1307 – RELATING TO AN OFFICE OF ADMINISTRATIVE HEARINGS**

Hearing: February 13, 2019, 2:01 p.m.  
Conference Room 325, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the legislature's intent to require the Legislative Reference Bureau (LRB) to conduct a study on establishing a state central hearing agency to be known as the Office of Administrative Hearings and provides comments. DHS Administrative Appeals Office provides extensive administrative review process for the multiple benefits and programs that DHS administers. Administrative review is also available to certain providers of services. DHS is concerned that the study considers the complicated nature of DHS administrative procedure and processes, the fiscal impacts, and the impact of a centralized office on DHS applicants and recipients.

**PURPOSE:** The purpose of this bill is to require the Legislative Reference Bureau (LRB) to conduct a study on establishing a state central hearing agency to be known as the Office of Administrative hearings and submit a report of its findings and recommendations, including any proposed legislation, to the Legislature prior to the Regular Session of 2020. The LRB study is required to review the exiting administrating hearing system to:

- (1) Identify the departments and agencies that conduct hearings or delegate that authority to another agency;
- (2) Determine and identify the placement of the hearing agency in the department's organization;

- (3) Identify and quantify the personnel and state resources that are necessary to operate each hearing agency;
- (4) Identify and determine the types of issues and subjects that are subject to the hearings agencies' jurisdiction;
- (5) Identify and determine the process to appeal a decision of each agency's administrative hearing, including chapter 91, Hawaii revised Statutes, and the rights to and process for judicial appeals; and
- (6) Identify potential legal conflicts and barriers that affect each agency's administrative hearings jurisdiction.

In accordance with section 346-12, Hawaii Revised Statutes (HRS), DHS applicants and recipients are entitled to timely request administrative review of any adverse decision. The Administrative Hearing Office (AAO) of DHS conducts administrative hearings for the Benefit Employment and Support Services (BESSD), Social Services Division (SSD), Med-QUEST Divisions (MQD), and Division of Vocational Rehabilitation (DVR). Hearing issues involve food stamps (SNAP), Medicaid, and financial assistance application denials, reduction, suspension, or termination of benefits, fraudulent receipt of benefits, recovery of benefit overpayments, or vocational rehabilitation issues.

Providers of medical services or supplies may also request hearings with AAO; these cases are often extensive and involve appropriateness of medical billing.

For Child Welfare Services (CWS) hearings, the issues involve minor children and claimants are individuals identified as perpetrator of physical and/or sexual abuse of children. For Adult Protective Services (APS), issues involve individuals identified as perpetrator of physical abuse and/or financial exploitation of seniors or physically or mentally disabled adults.

AAO processes approximately over 1,900 hearing requests a year. In 2018, only six (6) decisions were appealed to Circuit Court, per Chapter 91, HRS. Only one (1) case was returned to AAO for a remand hearing and the case was ultimately withdrawn.

AAO administrative hearings are required to be scheduled and decisions issued within a very short period. Unless the record is kept open for additional evidence, the hearing officers must issue written decisions within two (2) weeks of the hearing to comply with federal and state decision deadline rules and laws. Due to the time sensitive decision deadlines, it is

imperative that the hearing officers conducting AAO hearings have acquired and developed knowledge and expertise of numerous and complex BESSD, SNAP, MQD, CWS, APS, and DVR rules and laws to efficiently and correctly adjudicate and promptly issue fair, correct, and timely final written decisions.

The majority of BESSD claimants continue to receive benefits pending the hearing decisions. If the hearing decision is in the State's favor and issued timely, the Department is entitled to recover benefits from the client. However, if the decision is not made in a timely manner, the Department is not allowed to recover the assistance benefits that were paid to the client past the decision due date, resulting in a negative impact on State revenues and federal SNAP and Medicaid funding. Therefore, it is imperative that AAO decisions be timely issued within 60 or 90 days of the hearing requests to ensure either the prompt termination of benefits to ineligible applicants or the prompt issuance of benefits to eligible recipients.

Hearings are held statewide at the unit location nearest to where claimants reside. It will be very challenging and difficult for DHS clients if DHS clients are required to go to a central Hearing Office for their administrative hearings instead of the hearing officers traveling to the units.

Most of DHS clients requesting hearings do not own a car and the majority of AAO hearings are General Assistance applicants or clients seeking financial assistance due to psychiatric or physical disability. Therefore, requiring clients with financial and physical/psychiatric challenges to appear timely for their hearing at a central hearing office in a new location they are not familiar will be most difficult for DHS clients. DHS applicants and clients are the most vulnerable and it is critical that they receive prompt and timely hearings and decisions.

Thank you for this opportunity to provide comments on this bill.