

SB 410 WORKGROUP

MINUTES

January 8, 2015 – 1:30 PM

Capitol Building, Room 410

Meeting started at 1:35PM

Present: Sue Garten; Shelly White; Brenda Parrella; Dulce Frazao; Maureen Weaver (by phone); Hon. Eliot Prescott; John Fitzgerald and Chris Drake. Also present, Kelly Sinko (OPM) and John Blair (DSS).

Absent: Anne Foley (first half)

Changes made to minutes of previous meeting to reflect proper spelling of members' names.

John Fitzgerald introduced himself. Some experience practicing before DSS years ago. Previously a CHRO Referee and Investigator. Member of the Connecticut Bar Association Administrative Law Section.

Dulce Frazao and Brenda Parrella presented on the current DSS Fair Hearings process and organizational structure (see attached chart).

When Attorney General's Office represents the department before the Fair Hearings Office, they are representing the eligibility worker who rendered the original determination. If the Hearings Officer has a question, they will ask their supervisor or the division manager. Infrequently, they seek the advice of a staff attorney for the department, but that person would not have had any involvement in the underlying decision and that attorney would not represent the eligibility worker or defend the original decision.

In 2014, the Attorney General's Office represented the department in 7 hearings. 4 dealing with medical necessity and 3 on long-term care.

In 2013, the Attorney General's Office represented the department in 8 hearings. 6 long-term care cases and 2 customized wheelchair cases.

If the matter is appealed to court, the Assistant Attorney General who represented the department at the Fair Hearings stage usually defends the appeal.

Discussion of the Fair Hearings Summary by Sue Garten. Supposed to be provided to the client and/or the client's representative five days before the hearing, but it is often not. Also, it would be helpful if the Summary contained more detailed citations to the rules that will ultimately be at issue in the hearing.

Dulce Frazao presented some statistics about 2014 Fair Hearings requests.

21,338 total requests
11,895 requests withdrawn before hearing
4,793 no-shows
2,177 resolved without decision
1,017 hearings to decision

184 in favor of applicant
806 in favor of department
27 split

Discussion about the types of communications that would have been prohibited by SB 410 (2014) (vetoed) and whether each type of communication is appropriate.

- Hearing Officer to Supervisor communication
- Hearing Officer to Division Manager communication
- Hearing Officer to DSS staff attorneys

In essence, the concern revolves around any communication that would lead the hearing officer to interpret a regulation or law in accordance with an argument that was not raised at the hearing.

Resolved that at the next meeting the legal services attorneys would provide some thoughts on language that would address the issues of concern.

Other members encouraged to think about possible solutions.

Meeting ended at 4:00PM