

## CHAPTER 119

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**SOCIAL SERVICES**


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**HOUSE BILL 93-1001**

BY REPRESENTATIVES Anderson, Kerns, Ratterree, and Martin;  
also SENATORS Gallagher and Martinez.

**AN ACT****CONCERNING APPEAL OF DECISIONS REGARDING AGENCY ACTION BY THE DEPARTMENTS OF SOCIAL SERVICES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 26-1-106 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-1-106. Final agency action - administrative law judge - authority of executive director - direction to seek waiver of single state agency requirement.**

(1) (a) The executive director may appoint one or more persons to serve as administrative law judges for the state department pursuant to section 24-4-105, C.R.S., and pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations made to the department of administration. Except as provided in subsection (2) of this section, hearings conducted by the administrative law judge shall be considered initial decisions of the state department which shall be reviewed by the executive director or ~~his~~ A designee. ~~pursuant to~~ IN THE EVENT EXCEPTIONS TO THE INITIAL DECISION ARE FILED PURSUANT TO SECTION 24-4-105 (14) (a) (I), C.R.S., SUCH REVIEW SHALL BE IN ACCORDANCE WITH section 24-4-105 (15), C.R.S. IN THE ABSENCE OF ANY EXCEPTION FILED PURSUANT TO SECTION 24-4-105 (14) (a) (I), C.R.S., THE EXECUTIVE DIRECTOR SHALL REVIEW THE INITIAL DECISION IN ACCORDANCE WITH A PROCEDURE ADOPTED BY THE STATE BOARD. SUCH PROCEDURE SHALL BE CONSISTENT WITH FEDERAL MANDATES CONCERNING THE SINGLE STATE AGENCY REQUIREMENT. Review by the executive director IN ACCORDANCE WITH SECTION 24-4-105 (15), C.R.S., OR THE PROCEDURE ADOPTED BY THE STATE BOARD PURSUANT TO THIS SECTION shall constitute final agency action. The administrative law judge may conduct hearings on appeals from decisions of county departments

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

brought by recipients of and applicants for public assistance and welfare which are required by law in order for the state to qualify for federal funds, and he may conduct other hearings for the state department. Notice of any such hearing shall be served at least ten days prior to such hearing.

**SECTION 2.** 26-1-106 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-1-106. Final agency action - administrative law judge - authority of executive director - direction to seek waiver of single state agency requirement.**

(2) Hearings initiated by a licensed or certified provider or vendor of services shall be conducted by an administrative law judge for the state department and shall be considered final agency action and subject to judicial review in accordance with the provisions of section 24-4-106, C.R.S., FOR ANY PARTY, INCLUDING THE STATE DEPARTMENT, WHICH SHALL BE CONSIDERED A PERSON FOR SUCH PURPOSES.

**SECTION 3.** 24-4-105 (14), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-4-105. Hearings and determinations.** (14) (a) For the purpose of a decision by an agency which conducts a hearing or an initial decision by an administrative law judge or a hearing officer, the record shall include: All pleadings, applications, evidence, exhibits, and other papers presented or considered, matters officially noticed, rulings upon exceptions, any findings of fact and conclusions of law proposed by any party, and any written brief filed. The agency, administrative law judge, or hearing officer may permit oral argument. No ex parte material or representation of any kind offered without notice shall be received or considered by the agency, the administrative law judge, or by the hearing officer. The agency, an administrative law judge, or hearing officer, with the consent of all parties, may eliminate or summarize any part of the record where this may be done without affecting the decision. In any case in which the agency has conducted the hearing, the agency shall prepare, file, and serve upon each party its decision. In any case in which an administrative law judge or a hearing officer has conducted the hearing, the administrative law judge or the hearing officer shall prepare and file an initial decision which the agency shall serve upon each party, except where all parties with the consent of the agency have expressly waived their right to have an initial decision rendered by such administrative law judge or hearing officer. Each decision and initial decision shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief, or denial thereof. Each promulgation of rules shall be in accordance with the requirements of section 24-4-103 (4). ~~In the absence of an appeal to the agency by filing exceptions within thirty days after service of the initial decision of the administrative law judge or hearing officer upon the parties, unless extended by the agency, or a review upon motion of the agency within thirty days after service of the initial decision of the administrative law judge or the hearing officer, every such initial decision shall thereupon become the decision of the agency. In such case the evidence taken by the administrative law judge or the hearing officer need not be transcribed.~~ AN APPEAL TO THE AGENCY SHALL BE MADE AS FOLLOWS:

(I) WITH REGARD TO INITIAL DECISIONS REGARDING AGENCY ACTION BY THE STATE

OR COUNTY DEPARTMENT OF SOCIAL SERVICES UNDER SECTION 26-1-106 (1) (a), C.R.S., BY FILING EXCEPTIONS WITHIN FIFTEEN DAYS AFTER SERVICE OF THE INITIAL DECISION UPON THE PARTIES, UNLESS EXTENDED BY THE STATE DEPARTMENT OR UNLESS A REVIEW HAS BEEN INITIATED IN ACCORDANCE WITH THIS SUBPARAGRAPH (I) UPON MOTION OF THE STATE DEPARTMENT WITHIN FIFTEEN DAYS AFTER SERVICE OF THE INITIAL DECISION. IN THE EVENT A PARTY FAILS TO FILE AN EXCEPTION WITHIN FIFTEEN DAYS, THE STATE DEPARTMENT MAY ALLOW, UPON A SHOWING OF GOOD CAUSE BY THE PARTY, FOR AN EXTENSION OF UP TO AN ADDITIONAL FIFTEEN DAYS TO RECONSIDER THE FINAL AGENCY ACTION.

(II) WITH REGARD TO INITIAL DECISIONS REGARDING AGENCY ACTION OF ANY OTHER AGENCY, BY FILING EXCEPTIONS WITHIN THIRTY DAYS AFTER SERVICE OF THE INITIAL DECISION UPON THE PARTIES, UNLESS EXTENDED BY THE AGENCY OR UNLESS REVIEW HAS BEEN INITIATED UPON MOTION OF THE AGENCY WITHIN THIRTY DAYS AFTER SERVICE OF THE INITIAL DECISION.

(b) IN THE ABSENCE OF AN APPEAL PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (14), THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OF SOCIAL SERVICES SHALL REVIEW THE INITIAL DECISION IN ACCORDANCE WITH A PROCEDURE ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 26-1-106 (1). IN THE ABSENCE OF AN APPEAL PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (14), THE INITIAL DECISION OF ANY OTHER AGENCY SHALL BECOME THE DECISION OF THE AGENCY AND IN SUCH CASE, THE EVIDENCE TAKEN BY THE ADMINISTRATIVE LAW JUDGE OR THE HEARING OFFICER NEED NOT BE TRANSCRIBED.

**SECTION 4. Effective date - applicability.** This act shall take effect upon passage. Sections 1 and 3 shall apply to initial decisions rendered on or after said date, and section 2 shall apply to any legal or administrative proceedings commenced prior to, on, or after said date.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993