

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE AUGUST 13, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 617

Introduced by Assembly Member Nazarian

February 20, 2013

An act to add Sections 100501.1, 100506.1, 100506.2, 100506.3, 100506.4, and 100506.5 to the Government Code, *and to amend Sections 10950, 10951, and 10960 of the Welfare and Institutions Code*, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 617, as amended, Nazarian. California Health Benefit Exchange: appeals.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. PPACA also requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified. Existing law establishes the California Health Benefit Exchange (Exchange) to implement the federal law. Existing law also requires the Exchange board to establish an appeals process for prospective and current enrollees of the Exchange that complies with all requirements of the federal act concerning the

role of a state Exchange in facilitating federal appeals of Exchange-related determinations.

This bill would require the Exchange board to contract with the State Department of Social Services to serve as the Exchange appeals entity designated to hear appeals of eligibility determination or redetermination for persons in the individual market. The bill would establish an appeals process for ~~initial~~ eligibility or enrollment determinations and redeterminations for insurance affordability programs, as defined, *or exemption determinations within the Exchanges jurisdiction*, including an informal resolution process, as specified, establishing procedures and timelines for hearings with the appeals entity, and notice provisions. The bill would also establish continuing eligibility for individuals during the appeals process. *The bill would make other related changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 100501.1 is added to the Government
- 2 Code, to read:
- 3 100501.1. For purposes of this title, the following definitions
- 4 shall apply:
- 5 (a) “Insurance affordability program” means a program that is
- 6 one of the following:
- 7 (1) The state’s Medi-Cal program under Title XIX of the federal
- 8 Social Security Act (42 U.S.C. Sec. 1396 et seq.).
- 9 (2) The state’s children’s health insurance program (CHIP)
- 10 under Title XXI of the federal Social Security Act (42 U.S.C. Sec.
- 11 1397aa et seq.).
- 12 (3) A program that makes available to qualified individuals
- 13 coverage in a qualified health plan through the Exchange with
- 14 advance payment of the premium tax credit established under
- 15 Section 36B of the Internal Revenue Code.
- 16 (4) A program that makes available coverage in a qualified
- 17 health plan through the Exchange with cost-sharing reductions
- 18 established under Section 1402 of the federal act.
- 19 ~~(b) “MRMIB” means the Managed Risk Medical Insurance~~
- 20 ~~Board, established by Sections 12710 and 12710.1 of the Insurance~~
- 21 ~~Code, or its successor.~~

1 (b) “*Combined eligibility notice*,” means an eligibility notice
2 that informs an individual, or multiple family members of a
3 household, of eligibility for each of the insurance affordability
4 programs and for enrollment in a qualified health plan through
5 the Exchange, for which a determination of eligibility was made.

6 SEC. 2. Section 100506.1 is added to the Government Code,
7 to read:

8 100506.1. An applicant or enrollee has the right to appeal any
9 of the following:

10 (a) Any action or inaction related to the individual’s eligibility
11 for or enrollment in an insurance affordability program, or for
12 advance payment of premium tax credits and cost-sharing
13 reductions, or the amount of the advance payment of the premium
14 tax credit and level of cost sharing, or eligibility for affordable
15 plan options.

16 (b) An eligibility determination for an exemption from the
17 individual responsibility penalty pursuant to Section 1311(d)(4)(H)
18 of the federal act.

19 (c) A failure to provide timely *or adequate* notice of an
20 eligibility determination or redetermination or an enrollment
21 *related* determination.

22 SEC. 3. Section 100506.2 is added to the Government Code,
23 to read:

24 100506.2. (a) The entity making an eligibility or enrollment
25 determination described in Section 100506.1 shall provide notice
26 of the appeals process at the time of application and at the time of
27 eligibility or enrollment determination or redetermination.

28 (b) The entity making an eligibility or enrollment determination
29 described in Section 100506.1 shall also issue a combined
30 eligibility notice, ~~as defined by Section 435.4 of Title 42 of the~~
31 ~~Code of Federal Regulations:~~ *notice*. The combined eligibility
32 notice shall contain all of the following:

33 (1) ~~Information about each insurance affordability program for~~
34 ~~which an eligibility or ineligibility for Medi-Cal, premium tax~~
35 ~~credits and cost-sharing reductions, and, if applicable, eligibility~~
36 ~~for the Medi-Cal Access Program, for each individual, or multiple~~
37 ~~family members of a household have been determined to be eligible~~
38 ~~or ineligible and the effective date of eligibility and enrollment,~~
39 *that has applied, including all of the following:*

1 (A) An explanation of the action reflected in the notice, including
2 the effective date of the action.

3 (B) Any factual bases upon which the decision is made.

4 (C) Citations to, or identification of, the legal authority
5 supporting the action.

6 (D) Contact information for available customer service
7 resources, including local legal aid and welfare rights offices.

8 (E) The effective date of eligibility and enrollment.

9 (2) Information regarding ~~all of~~ the bases of eligibility for
10 ~~non-Modified Adjusted Gross Income~~ *non-modified adjusted gross*
11 *income* (MAGI) Medi-Cal and the benefits and services afforded
12 to individuals eligible on those bases, sufficient to enable the
13 individual to make an informed choice as to whether to appeal the
14 eligibility determination or the date of ~~enrollment~~. *enrollment,*
15 *which may be included with the notice in a separate document.*

16 (3) An explanation that the applicant or enrollee may appeal
17 any action or inaction related to an individual’s eligibility for or
18 enrollment in an insurance affordability program with which the
19 applicant or enrollee is dissatisfied by requesting a state fair hearing
20 consistent with ~~Section 100506.4~~ *this title* and the provisions of
21 Chapter 7 (commencing with Section 10950) of Part 2 of Division
22 9 of the Welfare and Institutions Code.

23 (4) Information on the applicant or enrollee’s right to represent
24 himself or herself or to be represented by legal counsel or an
25 authorized representative as provided in subdivision (f) of Section
26 100506.4.

27 (5) An explanation of the circumstances under which the
28 applicant’s or enrollee’s eligibility shall be maintained or reinstated
29 pending an appeal decision, pursuant to Section 100506.5.

30 SEC. 4. Section 100506.3 is added to the Government Code,
31 to read:

32 100506.3. The board shall enter into a contract with the State
33 Department of Social Services to serve as the Exchange appeals
34 entity designated to hear appeals of eligibility or enrollment
35 determination or redetermination for persons in the individual
36 market, ~~pursuant to Section 100506 and Subpart F of Part 155 of~~
37 ~~Title 45 of the Code of Federal Regulations.~~ *or exemption*
38 *determinations within the Exchange’s jurisdiction.* Except as
39 otherwise provided in this title, ~~the~~ *this* hearing process shall be
40 governed by the Medi-Cal hearing process established in Chapter

1 7 (commencing with Section 10950) of Part 2 of Division 9 of the
2 Welfare and Institutions Code. *Code, Section 100506, Subpart F*
3 *of Part 155 of Title 45 of the Code of Federal Regulations, and*
4 *Article 7 of Chapter 12 of Title 10 of the California Code of*
5 *Regulations to the extent applicable and consistent with the act*
6 *that added this section.*

7 SEC. 5. Section 100506.4 is added to the Government Code,
8 to read:

9 100506.4. (a) (1) Except as provided in paragraph (2), the
10 State Department of Social Services, acting as the appeals entity,
11 shall allow an applicant or enrollee to request an appeal within 90
12 days of the date of the notice of an eligibility or enrollment
13 determination, *or exemption determination within the Exchange's*
14 *jurisdiction, unless there is good cause as provided in Section*
15 *10951 of the Welfare and Institutions Code.*

16 (2) The appeals entity shall establish and maintain a process for
17 an applicant or enrollee to request an expedited appeals process
18 where there is immediate need for health services because a
19 standard appeal could seriously jeopardize the appellant's life,
20 health, or the ability to attain, maintain, or regain maximum
21 function. If an expedited appeal is granted, the decision shall be
22 issued ~~within three working days or as soon as is required by the~~
23 ~~appellant's condition.~~ *no later than five working days unless the*
24 *appellant agrees to a delay to submit additional documents for*
25 *the appeals record.* If an expedited appeal is denied, the appeals
26 entity shall notify the appellant ~~within two~~ *three* days by telephone
27 *or through other commonly available secure* electronic means, to
28 be followed ~~in writing;~~ *by a notice in writing, within five working*
29 *days.* of the denial of an expedited appeal. If an expedited appeal
30 is denied, the appeal shall be handled through the standard appeal
31 process.

32 (b) Appeal requests may be submitted to the appeals entity by
33 telephone, by mail, in person, through the Internet, through other
34 commonly available electronic means, or by facsimile.

35 (c) The staff of the Exchange, the county, ~~or MRMHB~~ *the State*
36 *Department of Health Care Services or its designee* shall assist
37 the applicant or enrollee in making the appeal request.

38 (d) (1) Upon receipt of an appeal, the appeals entity shall send
39 timely acknowledgment to the appellant that the appeal has been
40 received. The acknowledgment shall include information relating

1 to the appellant’s eligibility for benefits while the appeal is
 2 pending, an explanation that advance payments of the premium
 3 tax credit while the appeal is pending ~~are may be~~ subject to
 4 ~~reconciliation~~, *reconciliation if the appeal is unsuccessful*, an
 5 explanation that the appellant may participate in informal resolution
 6 pursuant to subdivision (g), ~~and~~ information regarding how to
 7 initiate informal ~~resolution~~, *resolution, and an explanation that*
 8 *the appellant shall have the opportunity to review his or her entire*
 9 *eligibility file, including information on how an income*
 10 *determination was made and all papers, requests, documents, and*
 11 *relevant information in the possession of the entity that made the*
 12 *decision that is the subject of the appeal at any time from the date*
 13 *on which an appeal request is filed to the date on which the appeal*
 14 *decision is issued.*

15 (2) Upon receipt of an appeal request, the appeals entity shall
 16 send, via secure electronic ~~interface~~, *means*, timely notice of the
 17 appeal to the Exchange and the county ~~and, if related to the Access~~
 18 ~~for Infants and Mothers or the Healthy Families Program, MRMIB,~~
 19 *and the State Department of Health Care Services or its designee*
 20 *if applicable.*

21 (3) Upon receipt of the notice of appeal from the appeals entity,
 22 the entity that made the determination of eligibility or enrollment
 23 being appealed shall transmit, either as a hardcopy or electronically,
 24 the appellant’s eligibility and enrollment records for use in the
 25 adjudication of the appeal to the appeals entity.

26 (e) A member of the board, employee of the Exchange, a county,
 27 ~~MRMIB~~, *the State Department of Health Care Services or its*
 28 *designee*, or the appeals entity shall not limit or interfere with an
 29 ~~applicant~~ *applicant’s* or enrollee’s right to make an appeal or
 30 attempt to direct the individual’s decisions regarding the appeal.

31 (f) An applicant or enrollee may be represented by counsel or
 32 designate an authorized representative to act on his or her behalf,
 33 including, but not limited to, when making an appeal request and
 34 participating in the informal resolution process provided in
 35 subdivision (g).

36 (g) An applicant or enrollee who files an appeal shall have the
 37 opportunity for informal resolution, prior to a hearing, that
 38 conforms with all of the following:

39 (1) A representative of the ~~Exchange, the county, or MRMIB~~
 40 *entity that made the eligibility or enrollment determination* shall

1 contact the appellant *or the appellant's appropriately authorized*
2 *representative* and offer to discuss the determination with the
3 appellant if he or she agrees.

4 (2) The appellant's right to a hearing shall be preserved if the
5 appellant is dissatisfied with the outcome of the informal resolution
6 process. The appellant or the authorized representative may
7 withdraw the hearing request voluntarily or may agree to a
8 conditional withdrawal that shall list the agreed-upon conditions
9 that the appellant and the Exchange, county, or ~~MRMIB~~ *the State*
10 *Department of Health Care Services or its designee* shall meet.

11 (3) If the appeal advances to a hearing, the appellant shall not
12 be required to provide duplicative information or documentation
13 that he or she previously provided during the application,
14 redetermination, *enrollment*, or informal resolution processes.

15 (4) The informal resolution process shall not delay the timeline
16 for a provision of a hearing.

17 (5) The informal resolution process is voluntary and neither an
18 appellant's participation nor nonparticipation in the informal
19 resolution process shall affect the right to a hearing under this
20 section.

21 (6) For eligibility or enrollment determinations for insurance
22 affordability programs based on modified adjusted gross income
23 (MAGI), the appellant *or the appellant's appropriately authorized*
24 *representative* may initiate the informal resolution process with
25 the entity that made the determination, except that all of the
26 following shall apply:

27 (A) The Exchange shall conduct informal resolution involving
28 issues related only to the Exchange, including, but not limited to,
29 exemption from the individual responsibility penalty pursuant to
30 Section 1311(d)(4)(H) of the federal act, offers of affordable
31 employer coverage, special enrollment periods, and eligibility for
32 affordable plan options.

33 (B) Counties shall conduct informal resolution involving issues
34 related to non-MAGI ~~Medi-Cal~~ *Medi-Cal eligibility or enrollment*
35 *decisions*.

36 ~~(C) MRMIB shall conduct informal resolution involving issues~~
37 ~~related only to the Access for Infants and Mothers Program or the~~
38 ~~Healthy Families Program.~~

1 (C) *The State Department of Health Care Services or its*
2 *designee shall conduct informal resolution involving issues related*
3 *to the Medi-Cal Access Program.*

4 (7) The staff involved in the informal resolution process shall
5 try to resolve the issue through a review of case documents, in
6 person or through electronic means as desired by the appellant,
7 and shall give the appellant the opportunity to review case
8 documents, verify the accuracy of submitted documents, and submit
9 updated information or provide further explanation of previously
10 submitted documents.

11 (8) The informal resolution process set forth by the State
12 Department of Social Services' ~~Manual of Policies and Procedures~~
13 ~~Section 22-073 Services for Medi-Cal fair hearings~~ shall be used
14 for the informal resolutions pursuant to this ~~subdivision.~~
15 *subdivision and shall require the Exchange, county representative,*
16 *or the State Department of Health Care Services or its designee*
17 *to do the following:*

18 (A) *Review the file to determine the appropriateness of the action*
19 *and whether a hearing is needed.*

20 (B) *Attempt to resolve the matter if the action was incorrect.*

21 (C) *Determine whether a dual agency appeal is required to*
22 *resolve the matter at hearing and notice the other agency if not*
23 *already included.*

24 (D) *Determine whether interpretation services are necessary*
25 *and arrange for those services accordingly.*

26 (E) *Inform appellants of other agencies that may also be*
27 *available to resolve the controversy.*

28 (h) (1) A position statement, as required by Section 10952.5
29 of the Welfare and Institutions Code, shall be ~~electronically made~~
30 available at least two working days before the hearing on the
31 appeal. *The position statement shall be made available*
32 *electronically by the entity that determined eligibility if the entity*
33 *has the capacity to send information electronically in a secure*
34 *manner.*

35 (2) The appeals entity shall send written notice, electronically
36 or in hard copy, to the appellant of the date, time, and location of
37 the hearing no later than 15 days prior to the date of the hearing.
38 If the date, time, and location of the hearing are prohibitive of
39 participation by the appellant, the appeals entity shall make
40 reasonable efforts to set a reasonable, mutually convenient date,

1 time, and location. The notice shall *explain what format the hearing*
2 *shall be held in, via telephone or video conference or in person,*
3 *and include the right of the appellant to request that the hearing*
4 *be held via telephone or video conference and or in person. The*
5 *notice shall include instructions for submitting the request on the*
6 *notice, by telephone or through other commonly available*
7 *electronic means.*

8 (3) ~~The format of the hearing shall be in person; hearing format~~
9 *may be held via telephone or video conference, unless the appellant*
10 *requests the hearing be held telephonically or via video conference*
11 *in person pursuant to paragraph (2).*

12 (4) The hearing shall be an evidentiary hearing where the
13 appellant may present evidence, bring witnesses, establish all
14 relevant facts and circumstances, and question or refute any
15 testimony or evidence, including, but not limited to, the opportunity
16 to confront and cross-examine adverse witnesses, if any.

17 (5) The hearing shall be conducted by one or more impartial
18 officials who have not been directly involved in the eligibility or
19 enrollment determination or any prior appeal decision in the same
20 matter.

21 (6) The appellant shall have the opportunity to review his or
22 her appeal record, case file, and all documents to be used by the
23 appeals entity at the hearing, at a reasonable time before the date
24 of the hearing as well as during the hearing.

25 (7) Cases and evidence shall be reviewed de novo by the appeals
26 entity.

27 (i) Decisions shall be made within 90 days from the date the
28 appeal is filed and shall be based exclusively on the application
29 of the applicable laws and eligibility and enrollment rules to the
30 information used to make the eligibility or enrollment decision,
31 as well as any other information provided by the appellant during
32 the course of the appeal. The content of the decision of appeal
33 shall include a decision with a plain language description of the
34 effect of the decision on the appellant's eligibility or enrollment,
35 a summary of the facts relevant to the appeal, an identification of
36 the legal basis for the decision, and the effective date of the
37 decision, which may be ~~retroactive~~: *retroactive at the election of*
38 *the appellant if the appellant is otherwise eligible.*

39 (j) Upon adjudication of the appeal, the appeals entity shall
40 transmit the decision of appeal to the entity that made the eligibility

1 or enrollment determination via a secure electronic ~~interface~~.
2 *means.*

3 (k) If an appellant disagrees with the decision of the appeals
4 entity, he or she may make an appeal request regarding ~~issues~~
5 ~~relating to coverage in a qualified health plan through the~~
6 Exchange to the federal *Department* Health and Human Services
7 ~~Agency~~ within 30 days of the notice of decision through any of
8 the methods in subdivision (b).

9 (l) An appellant may also seek judicial review to the extent
10 provided by law. Appeal to the federal Department of Health and
11 Human Services is not a prerequisite for seeking judicial ~~review~~.
12 *review, nor shall seeking an appeal to the federal Department of*
13 *Health and Human Services preclude a judicial review.*

14 (m) Nothing in this section, or in Sections 100506.1 and
15 100506.2, shall limit or reduce an appellant's rights to notice,
16 hearing, and appeal under Medi-Cal, county indigent programs,
17 or any other public programs.

18 SEC. 6. Section 100506.5 is added to the Government Code,
19 to read:

20 100506.5. For appeals of redetermination of Exchange advance
21 premium tax credits or cost-sharing reductions, upon receipt of
22 notice from the appeals entity that it has received an appeal, the
23 entity that made the redetermination shall continue to consider the
24 applicant or enrollee eligible for the same level of advance
25 premium tax credits or ~~costing-sharing~~ *cost-sharing* reductions
26 while the appeal is pending in accordance with the level of
27 eligibility immediately before the redetermination being appealed.

28 SEC. 7. *Section 10950 of the Welfare and Institutions Code is*
29 *amended to read:*

30 10950. (a) If any applicant for or recipient of public social
31 services is dissatisfied with any action of the county department
32 relating to his or her application for or receipt of public social
33 services, if his or her application is not acted upon with reasonable
34 promptness, or if any person who desires to apply for public social
35 services is refused the opportunity to submit a signed application
36 therefor, and is dissatisfied with that refusal, he or she shall, in
37 person or through an authorized representative, without the
38 necessity of filing a claim with the board of supervisors, upon
39 filing a request with the State Department of Social Services or
40 the State Department of Health *Care* Services, whichever

1 department administers the public social service, be accorded an
2 opportunity for a state hearing.

3 *(b) (1) The requirements of Sections 100506.2, 100506.3,*
4 *100506.4 of the Government Code apply to state hearings*
5 *regarding eligibility for or enrollment in an insurance affordability*
6 *program administered by the State Department of Health Care*
7 *Services to the extent that those sections conflict with the state*
8 *hearing requirements under this chapter.*

9 *(2) Notwithstanding Chapter 3.5 (commencing with Section*
10 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
11 *the department, without taking any further regulatory action, shall*
12 *implement, interpret, or make specific this subdivision by means*
13 *of all-county letters, plan letters, plan or provider bulletins, or*
14 *similar instructions until the time regulations are adopted. The*
15 *department shall adopt regulations by July 1, 2017, in accordance*
16 *with the requirements of Chapter 3.5 (commencing with Section*
17 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*
18 *Notwithstanding Section 10231.5 of the Government Code,*
19 *beginning July 1, 2015, the department shall provide a semiannual*
20 *status report to the Legislature, in compliance with Section 9795*
21 *of the Government Code, until regulations have been adopted.*

22 ~~Priority~~

23 *(c) Priority in setting and deciding cases shall be given in those*
24 *cases in which aid is not being provided pending the outcome of*
25 *the hearing. This priority shall not be construed to permit or excuse*
26 *the failure to render decisions within the time allowed under federal*
27 *and state law.*

28 ~~Notwithstanding~~

29 *(d) Notwithstanding any other provision of this code, there is*
30 *no right to a state hearing when either (1) state or federal law*
31 *requires automatic grant adjustments for classes of recipients unless*
32 *the reason for an individual request is incorrect grant computation,*
33 *or (2) the sole issue is a federal or state law requiring an automatic*
34 *change in services or medical assistance which adversely affects*
35 *some or all recipients.*

36 ~~For~~

37 *(e) For the purposes of administering health care services and*
38 *medical assistance, the State Director of Health Care Services*
39 *shall have those powers and duties conferred on the Director of*

1 Social Services by this chapter to conduct state hearings in order
2 to secure approval of a state plan under applicable federal law.

3 ~~The State~~

4 (f) *The* Director of Health *Care* Services may contract with the
5 State Department of Social Services for the provisions of state
6 hearings in accordance with this chapter.

7 ~~As~~

8 (g) *As* used in this chapter, “recipient” means an applicant for
9 or recipient of public social services except aid exclusively financed
10 by county funds or aid under Article 1 (commencing with Section
11 12000) to Article 6 (commencing with Section 12250), inclusive,
12 of Chapter 3 of Part 3, and under Article 8 (commencing with
13 Section 12350) of Chapter 3 of Part 3, or those activities conducted
14 under Chapter 6 (commencing with Section 18350) of Part 6, and
15 shall include any individual who is an approved adoptive parent,
16 as described in subdivision (C) of Section 8708 of the Family
17 Code, and who alleges that he or she has been denied or has
18 experienced delay in the placement of a child for adoption solely
19 because he or she lives outside the jurisdiction of the department.

20 *SEC. 8. Section 10951 of the Welfare and Institutions Code is*
21 *amended to read:*

22 10951. (a) ~~No~~A person ~~shall be~~ *is not* entitled to a hearing
23 pursuant to this chapter unless he or she files his or her request for
24 the same within 90 days after the order or action complained of.

25 (b) (1) Notwithstanding subdivision (a), a person shall be
26 entitled to a hearing pursuant to this chapter if he or she files the
27 request more than 90 days after the order or action complained of
28 and there is good cause for filing the request beyond the 90-day
29 period. The director may determine whether good cause exists.

30 (2) For purposes of this subdivision “good cause” means a
31 substantial and compelling reason beyond the party’s control,
32 considering the length of the delay, the diligence of the party
33 making the request, and the potential prejudice to the other party.
34 The inability of a person to understand an adequate and language
35 compliant notice, in and of itself, shall not constitute good cause.
36 ~~In no event shall the~~ *The* department *shall not* grant a request for
37 a hearing ~~where~~ *for good cause* if the request is filed more than
38 180 days after the order or action complained of.

1 (3) ~~Nothing in this~~ This section shall *not* preclude the application
2 of the principles of equity jurisdiction as otherwise provided by
3 law.

4 (c) Notwithstanding the Administrative Procedure Act (Chapter
5 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
6 Title 2 of the Government Code), the department shall implement
7 this section through an all-county information notice no later than
8 January 1, 2008. The department may also provide further
9 instructions through training notes.

10 *SEC. 9. Section 10960 of the Welfare and Institutions Code is*
11 *amended to read:*

12 10960. (a) Within 30 days after receiving the decision of the
13 director, which is the proposed decision of an administrative law
14 judge adopted by the director as final, a final decision rendered by
15 an administrative law judge, or a decision issued by the director
16 himself or herself, the affected county or applicant or recipient
17 may file a request with the director for a rehearing. The director
18 shall immediately serve a copy of the request on the other party
19 to the hearing and that other party may within five days of the
20 service file with the director a written statement supporting or
21 objecting to the request. The director shall grant or deny the request
22 no later than the 35th working day after the request is made to
23 ensure the prompt and efficient administration of the hearing
24 process. If the director grants the request, the rehearing shall be
25 conducted in the same manner and subject to the same time limits
26 as the original hearing.

27 (b) The grounds for requesting a rehearing are as follows:

28 (1) The adopted decision is inconsistent with the law.

29 (2) The adopted decision is not supported by the evidence in
30 the record.

31 (3) The adopted decision is not supported by the findings.

32 (4) The adopted decision does not address all of the claims or
33 issues raised by the parties.

34 (5) The adopted decision does not address all of the claims or
35 issues supported by the record or evidence.

36 (6) The adopted decision does not set forth sufficient information
37 to determine the basis for its legal conclusion.

38 (7) Newly discovered evidence, that was not in custody or
39 available to the party requesting rehearing at the time of the

1 hearing, is now available and the new evidence, had it been
2 introduced, could have changed the hearing decision.

3 (8) For any other reason necessary to prevent the abuse of
4 discretion or an error of law, or for any other reason consistent
5 with Section 1094.5 of the Code of Civil Procedure.

6 (c) The notice granting or denying the rehearing request shall
7 explain the reasons and legal basis for granting or denying the
8 request for rehearing.

9 (d) The decision of the director, which is the proposed decision
10 of an administrative law judge adopted by the director as final, a
11 final decision rendered by an administrative law judge, or a
12 decision issued by the director himself or herself, remains final
13 pending a request for a rehearing. Only after a rehearing is granted
14 is the decision no longer the final decision in the case.

15 (e) Notwithstanding any other provision of law, a rehearing
16 request or decision shall not be a prerequisite to filing an action
17 under Section 10962.

18 (f) (1) Notwithstanding subdivision (a), an applicant or recipient
19 otherwise may be entitled to a rehearing pursuant to this chapter
20 if he or she files a request more than 30 days after the decision of
21 the director is issued, or if he or she did not receive a copy of the
22 decision of the director, or if there is good cause for filing beyond
23 the 30-day period. The director may determine whether good cause
24 exists.

25 (2) For purposes of this subdivision, “good cause” means a
26 substantial and compelling reason beyond the party’s control,
27 considering the length of the delay, the diligence of the party
28 making the request, and the potential prejudice to the other party.
29 The inability of a person to understand an adequate and
30 language-compliant notice, in and of itself, shall not constitute
31 good cause. The department shall not grant a request for a ~~hearing~~
32 *rehearing for good cause* if the request is filed more than 180 days
33 after the order or action complained of.

34 (3) This section shall not preclude the application of the
35 principles of equity jurisdiction as otherwise provided by law.

36 (g) Notwithstanding the Administrative Procedure Act (Chapter
37 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
38 Title 2 of the Government Code), the department shall implement
39 this section through an all-county information notice no later than

- 1 January 1, 2008. The department may also provide further
- 2 instructions through training notes.

O