



MEMORANDUM

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TO: Sen. Ruth Hardy, Chair, Senate Committee on Government Operations
FROM: Joseph Reinert, Chief Hearing Officer, Human Services Board (HSB)
DATE: January 23, 2024
RE: S.55 Testimony

Thank you for the opportunity to present testimony regarding Senate Bill No. 55. I serve as the Chief Hearing Officer for the Human Services Board. The Board has three (3) hearing officers, including myself, who hear appeals from a variety of programs within the Agency of Human Services. This includes programs such as Medicaid, the Vermont Health Insurance Exchange, General Assistance emergency housing, 3SquaresVT, Reach Up Financial Assistance, Fuel Assistance, DCF Family Services substantiations for child abuse, Department of Disabilities, Aging and Independent Living substantiations for vulnerable adult abuse, Choices for Care, Developmental Services, and various licensing entities within AHS. In 2023, the HSB received over 1,000 fair hearing requests.

A large percentage of appeals are resolved without the need for a final Board decision. In matters that remain unresolved after a fair hearing is requested and heard by the hearing officer, the hearing officers submit recommended decisions to the Board for consideration at their periodic meetings. The Board itself is comprised of seven (7) members appointed by the Governor. The Board has historically met once per month but is currently meeting twice per month, remotely, due to the increase in caseload and corresponding mandatory timelines for resolving appeals. Parties are advised in advance of the date and time of the Board meeting and are requested to contact the Board's administrative office if they wish to participate and, if so, they will be contacted by telephone—absent a request for another mode of participation—when their case is heard.

The issues heard by the Board typically relate to confidential, protected and often highly sensitive personal information, such as medical and mental health information,

personal income, and abuse allegations. The individuals involved in both the fair hearing process and the Board's bi-monthly meetings are the parties themselves—the appellant, their representative(s), if they have one, the applicable AHS Department attorney, and, usually, an institutional representative of the applicable Department. The hearing officers and the Board have considerable discretion to determine who may participate in any given fair hearing or meeting. Witnesses may appear for either party during the fair hearing process but the bi-monthly Board meetings do not involve taking witness testimony or other evidence, by rule. The only business the Board hears, deliberates upon, and takes action upon are individual appeals. All Board decisions are published with names redacted on the public HSB website. Final Board decisions are appealable to the Vermont Supreme Court.

Turning to S. 55, the primary issue I see is whether any requirement to hold meetings in a hybrid fashion and the designation of a standing electronic platform for participation is consistent with the practical functioning of the Board and the Board's Fair Hearing Rules. Under the Board's Fair Hearing Rules, Board meetings, as well as fair hearings conducted by the Board's hearing officers, are held in closed session, except in very limited circumstances. As a practical matter, most cases heard by the HSB also involve matters—such as Medicaid, public assistance, DCF Family Services—that are confidential and protected based on other state or federal rules. While it is certainly possible to establish a regular physical location for meetings which also includes the possibility of hybrid participation—the mode in which hearings and meetings are held is subject to the various individual positions and needs of the parties and, ultimately, the discretion of the assigned hearing officer and the Board, in proceedings that are generally closed to the public by rule. In this respect such requirements may impose an administrative burden without a clear benefit to participants.

Overall, I view the option of remote hearings and meetings as beneficial to our processes. It has made participating in hearings and meetings more accessible for appellants, who are often low-income and unrepresented. We are also able to accommodate requests by parties and witnesses for various modes of participation, as needed.

I am glad to answer any questions the Committee may have during my testimony. Thank you.

References:

<https://humanservices.vermont.gov/human-services-board>
https://governor.vermont.gov/boards_and_commissions/human_services
<https://legislature.vermont.gov/assets/Legislative-Reports/HSB-Annual-Report-CY24-House-Cmte-on-Human-Services.pdf>

Attached: HSB Fair Hearing Rules