

Overview of Human Services Board Statutes

March 26, 2025

3 V.S.A. § 3090(a) & (b): Human Services Board

- Created within AHS as successor to/ continuation of Social Welfare Board
- Consists of 7 members, appointed by the Governor, with the Senate's consent, to six-year terms (in a manner that prevents more than 3 terms expiring in the same biennium)
- Governor appoints the Chair
- Board's duty is "to act as a Fair Hearing Board on appeals brought pursuant to section 3091 of this title"

3 V.S.A. § 3090(c) & (d): Human Services Board

- Meetings held at times/places warned by Chair or upon request of two Board members or the Governor
- Four members constitute a quorum, except three may be a quorum upon written authorization of the Chair
- With approval of the Governor, Board may appoint 1+ hearing officer(s), who are outside classified service, and may employ secretarial assistance as it deems necessary

3 V.S.A. § 3090(e): Human Services Board

- Annual report of the Board to HHS/SHW/HAC/SAC regarding fair hearings conducted by the Board during the preceding three years, including:
 - Total # of fair hearings;
 - # of hearings per year involving appeals of decisions by AHS and each department within AHS, with appeals and decisions relating to health insurance through the VT Health Benefit Exchange reported distinctly from other programs;
 - # of hearings per year based on appeals of decisions on eligibility, benefits, coverage, financial assistance, child support, and other appeals categories;
 - # of hearings per year based on appeals of decisions regarding each State program that the Board has jurisdiction over;
 - # of decisions per year made in favor of appellant; and
 - # of decisions per year made in favor of the department/Agency.

3 V.S.A. § 3091(a): Hearings

- Applicant for or recipient of assistance, benefits or social services from DCF, DVHA, DAIL, DMH, or VDH's WIC program, or a licensee or an applicant for a license from any of the listed departments (except VDH) may file a request for a hearing from the Board
- Fair hearing is granted to:
 - any individual requesting a hearing due to the individual's claim for assistance, benefits, or services being denied, or not acted upon with reasonable promptness; OR
 - an individual who is aggrieved by any other AHS action that affects the individual's receipt assistance, benefits, services, or license/license renewal; OR
 - an individual aggrieved by AHS policy as it affects the individual's situation

3 V.S.A. § 3091(b): Hearings

- Specifies that a hearing shall be conducted by the Board or a hearing officer
- Chair may compel, by subpoena, the attendance and testimony of witnesses and production of books/records
- Witnesses shall be examined under oath
- Requires Board to adopt rules “with reference to appeals”
 - Rules must provide for reasonable notice to parties and an opportunity to be heard and represented by counsel

3 V.S.A. § 3091(c): Hearings

- Requires the Board or hearing officer to issue written findings of fact
- If a hearing is conducted by a hearing officer, the hearing officer's findings must be reported to the Board, which must approve and adopt them as findings of the Board, unless good cause is shown for disapproving them
- Board shall enter an order based in the findings

3 V.S.A. § 3091(d): Hearings

- After the fair hearing, Board may:
 - Affirm, modify, or reverse decision of AHS;
 - Determine whether an alleged delay was justified; and
 - Make orders consistent with this title requiring AHS to provide appropriate relief, including retroactive and prospective benefits
- Board shall consider, and have authority to reverse or modify, decisions of AHS based on rules that the Board believes conflicts with State/federal law
- Board shall not reverse or modify AHS decisions that are in compliance with applicable law, even if the Board disagrees with the results effected by those decisions

3 V.S.A. § 3091(e): Hearings

- (1): Requires the Board to give written notice of decision to AHS and person applying for hearing
- (2): Unless a continuation is requested or consented to by the person requesting a hearing, an order shall be issued by the Board within 75 days after the request for the hearing (for orders concerning TANF & Medicaid)
- (3): Notwithstanding provisions of subsecs. (c), (d), or subdiv.(e)(1) to the contrary, in the case of an expedited Medicaid fair hearing, the Board must delegate both its fact-finding AND decision-making authority to a hearing officer, whose finding and order shall constitute the Board's decision/order in accordance with federal timelines

3 V.S.A. § 3091(f): Hearings

- AHS or the appellant may appeal Board decisions to the VT Supreme Court
- While the Court's final determination is pending, AHS must follow the Board's order (except as it related to retroactive benefits)

3 V.S.A. § 3091(g): Hearings

- The Board or a party to the Board's order (or both) can petition the Court for relief against disobedience of or noncompliance with the order
- Where there is disobedience or noncompliance, the Court shall hear/consider the petition make order a writ of mandamus, writ of prohibition, or injunction concerning enforcement of a Board order

3 V.S.A. § 3091(h)(1): Hearings

- Notwithstanding subsecs. (d) & (f), the Secretary of AHS must review all Board decisions/orders concerning TANF, Office of Child Support, Medicaid, and the VT Health Benefit Exchange
- Secretary must adopt a decision/order, except that the Secretary may reverse or modify if:
 - Board's findings of fact lack support in record; or
 - Decision/order misinterprets/misapplies State or federal policy/rule;
- Secretary must issue a written decision addressing legal, factual, or policy basis for reversal/modification of Board decision/order

3 V.S.A. § 3091(h)(2) & (3): Hearings

- Notwithstanding subsecs. (d) & (f), Board decisions/orders concerning TANF, Office of Child Support, Medicaid, and the VT Health Benefit Exchange are final and binding decisions of AHS upon approval of the Secretary
- Secretary must approve, modify, or reverse Board's decisions/orders within 15 days of it being issued by the Board
 - If there is not action by the Secretary within 15 days, the Board's decision is deemed approved by the Secretary
- Notwithstanding subsec. (f), allows only the claimant to appeal Secretary's decision to the Court
- Court can stay Secretary's decision upon claimant's showing of a fair ground for litigation on the merits, but not insofar as it related to denial of retroactive benefits

3 V.S.A. § 3091(g): Hearings

- Where appeal pertains to a Medicaid covered service decision made by DVHA (or entity under contract with DVHA), the right to a fair hearing shall be available to the aggrieved party only after the party has exhausted DVHA's internal appeals process and has received a notice that the adverse benefit determination was upheld

Other statutory references to HSB?

3 V.S.A. § 809. Contested cases; notice; hearing; records

3 V.S.A. § 816. Exemptions

3 V.S.A. § 3002. Creation of Agency

3 V.S.A. § 3090. Human Services Board

3 V.S.A. § 3091. Hearings

3 V.S.A. § 3092a. Appeals from Divisions of Vocational Rehabilitation, Blind and Visually Impaired

18 V.S.A. § 8727. Complaints; appeals

21 V.S.A. § 1633. Rights of the State

32 V.S.A. § 1010. Members of certain boards

33 V.S.A. § 1132. Notice and appeal

33 V.S.A. § 1805. Duties and responsibilities

33 V.S.A. § 1827. Administration; enrollment

33 V.S.A. § 2073. VPharm assistance program

33 V.S.A. § 3605. Rights of the State

33 V.S.A. § 4913. Reporting child abuse and neglect; remedial action

33 V.S.A. § 4916a. Challenging substantiation

33 V.S.A. § 4916b. Human Services Board hearing

33 V.S.A. § 4916c. Petition for expungement from the Registry

33 V.S.A. § 5117. Records of juvenile judicial proceedings

33 V.S.A. § 6321. Attendant care services

33 V.S.A. § 6906. Assessment and investigation

33 V.S.A. § 6911. Records of abuse, neglect, and exploitation

33 V.S.A. § 6916. Annual report

33 V.S.A. § 6917. Written communications

33 V.S.A. § 7118. Appeals

Examples of References to HSB in Statute

- Board is exempt from contested cases statute (see [3 V.S.A. § 816](#), with exception of subsec. (h) of [3 V.S.A. § 809](#))
- Notwithstanding certain provisions on HSB fair hearings:
 - Appeals from Divisions of Vocational Rehabilitation, Blind and Visually Impaired ([3 V.S.A. § 3092a](#))
- Additions/modifications to HSB procedure:
 - Complaints and appeals within the Developmental Disabilities Act ([18 V.S.A. § 8727](#))
 - Reach Up notice and appeal ([33 V.S.A. § 1132](#))
 - Reporting abuse of children ([33 V.S.A. § 4916b](#))