Report to

The Vermont Legislature

Human Services Board Legislative Report

In Accordance with Sec. 7 of Act 22 (2025)

Submitted to: House Committees on Health Care and Human Services

Senate Committee on Health and Welfare

Submitted by: Jenney Samuelson, Secretary of Human Services

Agency of Human Services

Report Date: January 8, 2026

VERMONT

AGENCY OF HUMAN SERVICES

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Executive Summary

Act 22, Sec. 7 (2025) directed the Agency of Human Services (AHS) to consult with the Human Services Board (HSB), the Office of the Attorney General, community partners, and individuals with lived experience, and to submit recommendations to the Legislature addressing attorney training, appeals processes, data collection, early resolution of appeals, and any additional legislative changes needed to improve the HSB system.

The HSB is a citizen panel consisting of seven members that act as the fair hearing board for appeals brought by individuals aggrieved by decision of the Agency of Human Services (AHS). 3 V.S.A. §3090. The HSB employs three hearing officers who conduct hearings when the issues present factual disputes. The hearing officers issue written recommendations that are reviewed by the HSB, which may affirm, modify, or reverse decisions of AHS. Decisions related to Temporary Assistance for Needy Families (TANF), child support, Medicaid, and the Vermont Health Benefit Exchange are subject to review and approval by the AHS Secretary.

In accordance with Act 22, Sec. 7 (2025), this report outlines requested proposals for improving the function of the HSB, along with stakeholder feedback. AHS affirms its commitment to a fair, respectful, and trauma-informed appeals process, while proposing meaningful improvements through formalized procedures, enhanced educational materials, improved data collection, and targeted reforms to authority, consistency, and timeliness. The following information is included within the report:

1. *Training and Education.* AHS provides recommendations for training and education that would improve parties' experience during HSB hearing. AHS does not recommend mandating additional

specialized training for AHS attorneys, who are already subject to robust ethical rules, professional oversight, and continuing legal education requirements. Instead, AHS proposes focusing on appellant understanding and access. AHS recommends collaborative creation of appellant educational materials ("*A Guide to Practicing Before the Human Services Board"*) and a requirement that key documents be provided to appellants in plain language. AHS also recommends HSB hearing officers attend a nationally recognized training or certification to promote neutrality, professionalism, and effective hearing management.

2. *Department Appeal Processes.* Five AHS departments appear before the HSB, each with program-specific internal review processes that occur prior to an HSB appeal. These internal reviews are critical to resolving disputes early, correcting errors, reducing HSB workload, and providing timely outcomes. While processes necessarily vary by program due to differing legal and clinical requirements, internal reviews benefit all parties as they provide a forum to resolve errors, seek additional information, and offer expedited outcomes.

3. *Data.* AHS recommends expanding the use of HSB's existing case management system to track appeal types, timeliness, continuances, HSB action, and workload indicators. Improved reporting will support the identification of patterns and potential systemic issues. AHS is open to exploring department specific data solutions to track appeals prior to HSB filing. Uniform data collection for cross-program comparisons would provide little value due to the disparate hearing requirements among AHS departments and divisions.

4. *Resolution Prior to HSB Involvement.* AHS discusses internal appeal, reconsideration, or other informal resolutions processes that exist in each department. AHS supports continued reliance on department-specific internal appeal and informal resolution processes. These internal reviews play a critical role in ensuring accurate and timely outcomes while preserving appellants' rights. AHS outlines the various internal appeals processes in *Appendix I.*

5. *Additional Recommendations.* AHS identifies four areas requiring additional legislative attention, (I) authority, (II) consistency, (III) timeliness, and (IV) exclusion of child victim testimony:
    I. Authority and Jurisdiction. AHS recommends clarifying that HSB's role is limited to adjudicating individual benefit appeals and does not include determining the legality or validity of statutes, regulations, or policies— matters properly reviewed by the judiciary.
    II. Consistency. AHS recommends formalizing HSB procedures through clearer rules or statute, including adherence to timelines, standardized forms, limits on continuances, prohibition of ex parte communications, and expanded Secretary review to ensure oversight and consistency.
    III. Timeliness. AHS recommends addressing persistent decision delays by enforcing mandatory deadlines, deciding cases in the order received, increasing HSB meeting frequency, and conducting an independent efficiency assessment. Failure to adhere to required timelines harms appellants, jeopardizes program integrity, and risks federal compliance.
    IV. Exclusion of Child Victim Testimony. AHS recommends amending the statute to protect child victims. Specifically, prohibiting the requirement of testimony from any child victim

or witness in abuse or neglect substantiation hearings, regardless of age, to prevent traumatization and protect child welfare.

6. *Appendix I.* AHS outlines the appeal processes for Medicaid and non-Medicaid appeals before the HSB, which illustrates the breadth and complexity of determinations that are appealed.

AHS's recommendations aim to strengthen fairness, predictability, and efficiency in the HSB appeals process while protecting vulnerable appellants and safeguarding state and federal program integrity. By prioritizing clear authority, consistent procedures, timely decisions, and improved data, these reforms seek to enhance trust in the system and ensure equitable outcomes for Vermonters.

Legislative Charge

Act 22, Sec. 7 (2025) required AHS to submit a written report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare. Specifically, AHS was charged with consulting with the Human Services Board, Office of the Attorney General, community partners, and individuals with lived experience as appellants before the Board, and submitting the following information:

1. A proposal that attorneys representing the Agency or departments participate in training that balances the attorney's ethical obligation to zealously represent the attorney's client with the respectful, trauma-informed treatment of appellants.
2. An analysis of varying appeals processes specific to the Agency and each department with cases before the Board, including proposals and any legislative action necessary to improve consistency.
3. A proposal to identify and collect currently unavailable data in a manner that ensures uniform data collection across the Agency and departments with cases before the Board, including data regarding cases resolved prior to reaching the stage of hearing officer or full Board involvement.
4. Recommendations for resolving potential appeals prior to reaching the Board.
5. Any other recommendation requiring legislative action.

Responses and Recommendations

1. Training and Education

REQUEST: A proposal that attorneys representing the Agency or departments participate in training that balances the attorney's ethical obligation to zealously represent the attorney's client with the respectful, trauma-informed treatment of appellants.

RECOMMENDATION: AHS agrees that professionalism and respect are fundamental to the work of government attorneys. However, AHS does *not* support mandating additional specialized training for attorneys practicing before the Board. Instead, the Agency recommendations focus on a more effective approach to ensure that appellants understand the process, are respected throughout, and receive fair and timely outcomes.

I. Adhering to Existing Attorney Responsibilities and Standards

AHS attorneys practicing before the HSB must treat all appellants with civility, professionalism and respect. AHS attorneys are bound by extensive professional, ethical, and educational requirements. The Vermont Judiciary is responsible for the regulation of licensed attorneys and requires compliance with the Vermont Rules of Professional Conduct and Rules for Mandatory Continuing Legal Education. Additionally, AHS offers a variety of trauma-informed training opportunities for staff.[1] Attorney ethical obligations emphasize civility and respectful treatment of all participants. Respectful treatment is also a core Agency value and a fundamental duty of AHS attorneys as public servants. An AHS attorney's duty is not simply to prevail, but to support the fair and lawful administration of Agency programs.

Appellants often navigate the appeals process without legal representation (also known as "self-represented" or "pro se" litigants), and many face significant economic or personal challenges. Treating appellants with dignity builds trust in the fairness of the HSB process and reinforces the legitimacy of AHS decisions. Existing professional oversight and the Board of Professional Responsibility already provide strong safeguards against attorney misconduct. Providing more robust educational resources and managing the expectations of appellants throughout the process are more effective approaches to providing meaningful change in appellant experience.

II. Improving Appellant Understanding and Access

Most appellants with appeals at the HSB are self-represented; however, HSB proceedings rely on legal concepts, evidentiary standards, and procedural requirements that can be difficult to navigate without legal counsel. Ethical rules prevent AHS attorneys from explaining these procedural issues or providing legal advice to appellants. While hearing officers can explain procedure, their assistance is limited, as they must avoid offering any advice that could compromise their neutrality. This dynamic often creates confusion and misaligned expectations.

To reduce these barriers, AHS recommends:

A. Creation of Plain-Language Educational Materials

A comprehensive, accessible "Guide to Practicing Before the Human Services Board," modeled on the content of Vermont Small Claims Court guides and instructional videos should be developed. The guide should explain: (1) the fair hearing process and key deadlines, (2) roles of the HSB, hearing officers, and AHS attorneys; (3) basic evidentiary concepts, (4) common legal terminology, and (5) appellant rights and responsibilities.

[1] Trauma-informed trainings offered from the Department of Mental Health, Director of Trauma Prevention and Resilience Development from 2021-2025 included: 1. Moving beyond ACEs; 2. Historical Trauma; 3. Understanding ACEs, Expanded ACEs, Generational Trauma, and Social Drivers of Health; 4. Care of Self; 5. Resilience and Self-Care; 6. Vicarious Trauma; 7. Understanding Traumatic Stress; 8. A five-part trauma series; 9. Working with Anger and Frustration; 10. Managing vicarious trauma, burnout and compassion fatigue; 11. Trauma Responsive Supervision; 12. Understanding trauma, resilience, and compassion fatigue; 13. Adolescent trauma and mental health; 14. COVIC and youth mental health; 15. Creating trauma responsive organizations; 16. Youth Resilience; and 17. Lateral violence, othering, and belonging

AHS suggests a collaborative effort between AHS, the HSB, and Vermont Legal Aid (VLA) to write and design these educational materials. Such collaboration would promote accuracy, inclusivity, and accessibility for all.

Additionally, 3 V.S.A. § 3091 should be reviewed to require hearing notices and HSB documents to be written in plain language so all appellants, including those with limited literacy, can understand and effectively participate in the process.

B. Hearing Officer Training and Certification

Hearing officers are tasked with maintaining the professionalism and decorum of HSB proceedings. To promote consistency, fairness, and effective hearing management, AHS recommends that HSB hearing officers obtain certification through the National Association of Hearing Officials (NAHO) or a comparable program. NAHO provides practical training on impartial decision-making, managing hearings with unrepresented parties, communicating procedural requirements, and navigating language barriers and complex cases. This training would further establish the credibility of the process and equip hearing officers with nationally recognized standards and tools to conduct hearings with neutrality and clarity, improving the appellant experience.

Including an optional closing statement in hearing procedure, as outlined in Section 5(II)(B)(a), would also serve to improve appellant experience.

STAKEHOLDER FEEDBACK: VLA and HSB support the development of a "Guide to Practicing Before the Human Services Board" and are willing to collaborate with AHS on its creation. Available resources were cited as a limiting factor both VLA and HSB. Additionally, VLA recommends that AHS ensure the AGOs representing AHS before the HSB attend the trauma-informed trainings offered pursuant to the AHS *Trauma Informed System of Care* policy. HSB is supportive of additional training opportunities but would like to ensure the training is appropriate for their specific role. End Homelessness Vermont's (EHVT) support for an educational guide is limited to documents created only by entities that represent litigants.

CONCLUSION: AHS strongly supports a fair, respectful, and trauma-informed hearing process. AHS attorneys practice under comprehensive ethical standards enforced by the Vermont Judiciary that limit their interactions with pro-se appellants. Maintaining professionalism and decorum during hearings is the responsibility of the hearing officer. Meaningful improvements will come from empowering appellants with clearer information, strengthening hearing officer training, and ensuring consistent, accessible procedures. Prioritizing these efforts will enhance fairness, reduce confusion, and improve the overall integrity of the HSB process.

2. Department Appeal Processes

REQUEST: An analysis of varying appeals processes specific to the Agency and each department with cases before the Board, including proposals and any legislative action necessary to improve consistency.

RECOMMENDATION: AHS recommendations related to consistency are outlined in Section 5 of this report. Here, AHS provides an analysis of relevant appeals processes with detailed inventory of department and program specific processes included in *Appendix I.*

Five AHS departments conduct hearings before the HSB: Department of Disabilities, Aging and Independent Living (DAIL), Department for Children and Families (DCF), Department of Mental Health (DMH), Department of Vermont Health Access (DVHA), and Department of Health (VDH). Each department has its own internal review processes before a case reaches the HSB. Once an appeal is filed with the HSB, all hearings follow the procedures established in 3 V.S.A. § 3091. DCF housing appeals are the notable exception to this process, as the HSB holds expediated hearing for those cases.

Internal reviews offer several benefits. They encourage early resolution, reduce the number of HSB hearings and HSB workload, and provide timely outcomes for participants. They enable error correction, enhance information gathering, and provide more accurate determinations informed by clinical and/or program expertise. They ensure that department or program decisions are compliant with applicable rules. They engage participants in the review process by allowing the department or program to contact participants to explain department or program decisions, discuss procedure, solicit additional information, and give participants the opportunity to be heard, while preserving participants' rights. Reviews are conducted within defined timelines that vary by program, for example, 10 business days for DVHA and 2 business days for DCF ESD, with the goal of effectively resolving disputes before an HSB hearing.

Processes vary by department, program, and type of benefit, and ensuring transparency and participant understanding, tracking appeals, and documenting outcomes uniformly remains difficult throughout AHS. Departments must balance clinical or programmatic judgment with legal standards, and the lack of standardized data on timeliness, appeal type, outcomes, and error basis limits cross-department evaluation of internal processes effectiveness. Certain complex programs, such as child protection, Medicaid services for medically complex needs, and residential programs, involve multi-step reviews and specialized expertise, which often results in extended timelines.

In developing this report, AHS conducted an inventory of department programs with HSB hearings. Detailed information about each department, program, and appeal process is provided in *Attachment 1*.

STAKEHOLDER FEEDBACK: VLA is supportive of internal appeal processes that resolve cases prior to reaching the HSB.

CONCLUSION: Each AHS department that appears before the HSB engages in its own internal review processes. Each department's internal review process is specific to the issue being appealed to ensure compliance with relevant state and federal regulations. Internal reviews benefit all parties as they provide a forum to resolve errors, seek additional information, and offer expedited outcomes.

3. Data

REQUEST: A proposal to identify and collect currently unavailable data in a manner that ensures uniform data collection across the Agency and departments with cases before the Board, including data regarding cases resolved prior to reaching the stage of hearing officer or full Board involvement.

RECOMMENDATION: AHS recommends relying on the existing HSB system to capture and report all appeals filed with the HSB. Creating a uniform data collection system at the department level would offer limited value because departmental appeal types and processes vary significantly, making their

data difficult to compare in a meaningful way. AHS is open to exploring data solutions that work for the processes within each department.

I. HSB Data

3 V.S.A. § 3090(e) specifies the data the HSB must collect and report to the Legislature.[2] The HSB currently uses a case management system to compile this information. In addition to these statutory requirements, AHS recommends that the HSB expand its data collection and reporting to better identify patterns and potential systemic issues.

AHS recommends the HSB expand the use of its current data system to include tracking information for the following:

A. *Types of appeals.* Tracking the issue on appeal; whether appeals are standard or expedited; and the state and/or federal deadlines applicable to each appeal.
B. *Timeliness.* Tracking the lifecycle of each appeal, including dates for initial filings, status conferences, continuances, withdrawals/resolutions, hearings, recommendations issued, board hearings, and final decision issued.
C. *Continuances*. Tracking detailed information about continuances, including the requester, basis for request, approval/denial, and time the event is extended.
D. *Board Action*. Tracking whether hearing officer recommendations are adopted, modified, or overturned by the Board
E. Workload data. AHS supports tracking data that would support workload management and resource planning, for example, tracking time spent in hearings.

By collecting and analyzing this information, the HSB can identify opportunities to streamline processes, ensure timely issuance of final orders, and improve the overall effectiveness of the appeals system. The HSB should also make this data available for review and establish feedback loops with departments to identify systemic concerns.

To support this work, AHS recommends that the HSB expand its use of the existing case management system—similar to the Judiciary's model—to track all appeals, including those resolved before Board action, and reduce the need for manual data entry. If feasible, adding an e-filing option within the system would enhance security, improve access for both attorneys and self-represented appellants, and support the consistency and timeliness recommendations outlined in Section 5.

II. AHS Department Data

Internal appeals that do not reach the HSB are tracked by individual departments according to the processes specific to each programs benefit or determination. Internal appeal and informal resolution processes vary widely across programs. AHS is open to exploring department specific data solutions and is in the procurement phase of a new integrated eligibility system that will track appeals and outcomes for some AHS programs, starting with DCF and DVHA.

[2]Title 3 V.S.A. § 3090(e) requires the HSB to report the following data: total number of hearings in certain time periods, the number of appeals of agency decisions and decisions from each department (with special emphasis on health related appeals), and the number of hearings regarding specified issues (e.g., eligibility, benefits, coverage, financial assistance, child support, and other types of appeals).

STAKEHOLDER FEEDBACK: The current case management system used by HSB is designed for internal use, but HSB is open to exploring expansion of the system. In any expansion, HSB noted that considerations would include available resources and ensuring any system updates are not a barrier to pro-se litigants. VLA is interested in comprehensive reporting of case resolutions. EHVT is interested in alternative data collection requirements.

CONCLUSION: AHS recommends expanding the use of the already existing HSB case management system to capture and report appeals data. AHS does not recommend creating a uniform data collection system at the department level due to inconsistencies in appeal requirements, but AHS is open to exploring individualized data solutions.

4. Resolution Prior to HSB Involvement

REQUEST: Recommendations for resolving potential appeals prior to reaching the Board.

RECOMMENDATION: Each department maintains an internal appeal, reconsideration, or informal resolution process that reduces the need for HSB hearings and provides more timely outcomes for beneficiaries. Internal appeals play a critical role in ensuring accurate and fair benefit determinations, allowing clinicians and department staff to gather additional information, consult with care providers, and address issues before an appeal reaches the HSB. These processes help avoid HSB hearings and improve outcomes for beneficiaries. Because internal appeals can sometimes result in increased benefits, it is important to maintain transparency and consistent standards in how they are conducted. The internal appeal processes for each department are outlined in *Appendix I*.

STAKEHOLDER FEEDBACK: No stakeholder feedback received.

CONCLUSION: AHS recommends continuing to provide consistent, department/program specific internal review of appeals prior to HSB filing.

5. Recommendations

REQUEST: Any other recommendations requiring legislative action.

RECOMMENDATION: AHS recommends improvements to the HSB processes in the following areas: (I) authority; (II) consistency; (III) timeliness; and (IV) exclusion of child victim testimony. AHS recommendations focus on areas where clarity, improved efficiency, and adherence to already existing state and federal laws will establish enhanced processes and more timely outcomes.

I. Authority and Jurisdiction

Vermont is an outlier in authority granted to the HSB. The current statute, read broadly, grants the HSB the ability to find state policy is in conflict with state and federal law, while neither its hearing officers nor board members are required to be licensed attorneys in Vermont.

AHS recommends that the HSB authority be more clearly defined. The HSB is an administrative hearing forum designed to address individual appeals of state benefit determinations. The HSB

should not have the authority to issue a decision on the validity or legality of a department regulation, state law, or federal law. It is a disservice to appellants to allow the HSB to determine the outcome of these legal or policy challenges in a case-by-case fact-based forum. These decisions should be left to the judiciary. The HSB is not a policy-making or law-making body, but the broadly written authorizing statute has led to HSB created law, granting an administrative forum a power that other states explicitly withhold.

For example, in Massachusetts, a hearing officer "must not render a decision regarding the legality of federal or state law including, but not limited to, the [Medicaid] regulations." In Pennsylvania, the prohibition on hearing officers making law is stated even more explicitly: "Hearing officers may not render a decision on the validity of a Departmental regulation, nor may they invalidate or modify a Departmental regulation."

This limitation exists to ensure that state laws are made by the Legislature and state policy is made by Administrative Agencies, rather than developed case-by-case on singular facts. It prevents a single HSB decision from overriding a program's specialized policy and clinical expertise, or the broader system-wide perspective that informs those decisions. Appendix I outlines the broad scope and complexity of work that AHS appeals encompass, which illustrates the need for Agency deference. Allowing isolated, outlier circumstances to drive policy would substitute non-expert judgment for the comprehensive, evidence-based analysis used by Medicaid and other agencies. This not only undermines coherent statewide policymaking but also risks creating inconsistent, inequitable, or unsustainable program standards shaped by exceptional cases rather than sound, system-level judgment. Judicial review of broad legal challenges to the validity of a state policy or state statute is available, and the legislature can explicitly grant the authority for judicial review in the relevant circumstances by statutory reference to Vermont Rule of Civil Procedure 74.

STAKEHOLDER FEEDBACK: AHS modified this section based on initial stakeholder feedback. As it relates to the remaining content, VLA and EHVT are opposed to modifications of HSB authority.

II. Consistency

Consistency in the HSB process would establish predictability for appellants and departments. The current process is unpredictable, required timelines are not adhered to and HSB hearing officers do not issue decisions in the order in which appeals are filed or hearings are held (an issue that overlaps significantly with timeliness, Section 5(III)).

Formalizing the process—which can then be outlined in a "Guide to Practicing Before the Human Services Board" (See Section 1)—would establish that consistency. AHS recommends formalizing the process for HSB hearings to establish this consistency, including:

A. *Strict Adherence to Timelines*. AHS recommends that hearing timelines be published in the "Guide to Practicing Before the Human Services Board" and strictly adhered to, including length of hearings, timeline for issuing recommendations, and timeline for Board decisions. These timelines will vary by appeal type. The need for decision-timeline adherence is three-fold: it will

establish predictability in the system, alleviate HSB workload concerns, and avoid the negative consequences of untimely decisions (outlined in Section 5(III)).

B. *Formal Procedures.* AHS recommends that the HSB adopt a more formal procedure either through rule or legislative action. This would include form filings, closing statements*, limitation of and specific parameters for status conferences, notification timelines for hearings (allowing proper time for preparation to avoid multiple continuances), clear standards for continuances, time limits for hearing presentation, only one recommendation issued by hearing officers before Board review, and clarification that only the parties may withdraw a case prior to Board review (hearing officers may not unilaterally eliminate the mandatory Board review of their recommendation). Form filings similar to those used in Small Claims Court could provide an increased level of consistency and expectation management and assist with data collection. For example, a form filing that articulates the basis of the appeal will provide a clear notice of the hearing parameters and a form filing for withdrawal of an appeal would identify the date, as well as potentially including the reason, for data tracking.
    a. *Closing Statements.* An optional five-minute closing statement for each party, would offer self-represented appellants and enhanced opportunity to be heard during these proceedings. Closing statements are not considered evidence, rather they are an argument about the evidence that has been presented. If properly instructed, there will be virtually no need to object during a closing statement, providing uninterrupted time to the parties.

C. *Impartiality.* AHS recommends that there be an explicit prohibition on "ex-parte communication" where one party provides information to the hearing officer or Board without the knowledge of the other party. Additionally, AHS recommends amending 3 V.S.A. § 3091 to explicitly state that hearing officers must serve as impartial adjudicators responsible for ensuring a fair process grounded in the evidence presented, applicable state policy, and established procedure. This clarification is necessary to avoid actual or perceived bias in the existing process— for example, when hearing officers raise new issues or legal theories "sua sponte", of their own accord— which can compromise neutrality.

D. *Expanding Secretary Reversal.* AHS recommends expanding the Secretary Reversal statute to include all hearings before the HSB. This statute is rarely and cautiously invoked (twice in the past four years). Secretary Reversal involves short timelines, significant investment of resources, and is limited to specific circumstances under which Secretary intervention is appropriate. Currently, the statute provides for Secretary Reversal specifically in TANF, Child Support, Medicaid, and Vermont Health Benefit Exchange decisions. This lack of oversight of similarly situated programs coupled with the expanded authority (outlined in Section 1) has the potential to lead to an influx of unnecessary litigation and create scenarios in which an administrative board's decisions exist without any subsequent means for review. Consider the following examples:

    Supplemental Nutrition Assistance Program (SNAP) benefits are a salient example of this concern. The ever-changing federal landscape around these benefits may lead to mass appeals when benefit amounts are altered. Requiring the HSB to determine the applicability of federal law and guidance, rather than adherence to state policy, without AHS Secretary oversight could lead to an influx of cases to the Vermont Supreme Court. SNAP benefits in particular are an area where an inaccurate determination on an

individual's appeal could negatively impact the entire program by altering the state's error rate, resulting in a substantial loss of federal funding.

HSB decisions in Emergency/General Assistance Housing appeals are currently poised to exist without *any* means of subsequent review. A recent Vermont Supreme Court decision in *In re: Appeal of H.D.,* case no. T-06/25-549 declined substantive review of an HSB decision because the case was moot (having no live controversy) because the individual had exceeded their 80-days of eligibility by the time the Court could hear the issue. The court's declination to review the substantive issue— interpretation of the GA Housing statute— creates uncertainty for all parties in future GA housing appeals. This case highlights the need for both clarity on the role of HSB authority (see Section 5(I) and Secretary Reversal. In this case HSB made a decision, not on an individual's specific eligibility, but HSB's interpretation of the statutory scheme applied to GA housing and applied that broad analysis to an individual's benefit review. This issue is likely to be replicated in future GA housing appeals with no judicial guidance to rely on.

The recommendations provided in Section 5(I) *Authority and Jurisdiction* would also serve to ensure consistency among hearings.

STAKEHOLDER FEEDBACK: VLA is opposed to expansion of Secretary reversal. EHVT is opposed to most, if not all, recommendations in this section.

III. Timeliness

Timely HSB decisions are a major concern for AHS. Many programs reviewed by the HSB are subject to strict federal and state deadlines. For example, SNAP decisions must be issued within 60 days (with a possible 30-day extension), and TANF and Medicaid decisions must be issued within 90 days. Missing these deadlines can harm appellants—through tax-liability or required paybacks—and expose the State to financial risk, including overpayment of benefits and loss of federal matching funds.

The HSB routinely exceeds the required timelines, particularly in complex Medicaid appeals such as institutional level-of-care determinations.[3] Delays may also violate 42 C.F.R. § 431.250, putting federal funding at risk. These delays appear driven by staffing constraints, structural inefficiencies, and an appeals model that leaves hearing officers with far less practical time than the 90-day statutory window suggests.

AHS recommends:

A. Strict adherence to decision deadlines and careful consideration of continuances pursuant to clear and consistent standards aligned with federal law.
B. Scheduling hearings and issuing recommendations in the order received / heard.
C. Increasing Board meeting frequency to at least twice monthly to reduce backlogs.

[3] In 2025, DVHA received 25 appeals related to Disabled Children's Home Care (Katie Beckett Medicaid). Eighteen (18) of those appeals were sent to the HSB and seven (7) were resolved internally. Twelve (12) of those eighteen (18) appeals exceeded the federal requirement to complete the appeal within ninety (90) days.

D. An independent assessment to review HSB process efficiency, including how procedures can be streamlined to ensure timely, compliance decisions and what changes, if any, are necessary to meet the requirements in complex appeals.

Delays create uncertainty for appellants, jeopardize programs, and impose financial burdens on the State. For example, DVHA resolves more than 80% of appeals internally; cases that proceed to fair hearing often involve core Medicaid policies. In 2024, DVHA experienced delays ranging from 30 to 300 days beyond the 90-day requirement. In one case, the Department paid $12,888 in continuing benefits later deemed ineligible. While DVHA may recoup funds under 42 C.F.R. § 431.230(b), it generally avoids doing so because of the hardship it would cause appellants, many of whom are vulnerable. Without timely decisions, however, the State may eventually need to consider implementing Medicaid recovery procedures to avoid mounting financial losses. AHS has concerns that the federal government will require rather than allow this recoupment of funds in its effort to stem fraud, waste, and abuse, which will negatively impact individuals who cannot afford repayment. Long delays also compound financial consequences for some appellants. For example, individuals receiving advance premium tax credits may owe repayments to the IRS for periods of ineligibility; prolonged HSB timelines increase the size and severity of these liabilities for both the State and appellants.

Delayed decisions also disrupt programs that rely on regular reassessments. In Children's Personal Care Services (CPCS), internal appeals must be resolved within 30 days and reassessments are often annual or triggered by changes in a child's needs. When HSB decisions lag far beyond the 90-day requirement, beneficiaries and programs are left unable to proceed. For example, a CPCS beneficiary appealed a decision in December 2024, with an internal appeal held within seven days. The fair hearing request was filed in January 2025, but the HSB did not hold a hearing until August 2025—already months beyond federal requirements—and no recommendation or Board decision has been issued as of this report. The delay has prevented the required reassessment from occurring, leaving the beneficiary and program in limbo and creating financial uncertainty for both.

Persistent HSB delays undermine program integrity, jeopardize federal compliance, and create avoidable harm for appellants and Vermont taxpayers. AHS urges structural and procedural reforms to ensure timely and consistent decisions.

STAKEHOLDER FEEDBACK: HSB believes this concern may be able to be addressed without legislative action, as timelines for decisions are written into existing regulations. HSB cited caseload increase and delays in hearing officer recruitment and hiring as obstacles to meeting the existing deadlines. VLA recommends increasing staffing to address case backlog and would be supportive of the HSB meeting more frequently.

IV. Exclusion of Child Victim Testimony

Individuals substantiated for child abuse or neglect may request a fair hearing before the HSB. In these cases, child victims have sometimes been asked to testify, and substantiations have been dismissed or overturned when a child was unable or unavailable to do so.

AHS recommends amending 33 V.S.A. § 4916b to prohibit requiring testimony from any child victim or witness who disclosed abuse or neglect. Current law allows hearsay statements from children under age 12 to be admitted if sufficiently trustworthy, and from children ages 13–15 if testifying

would cause trauma or the child is physically unavailable. AHS proposes extending the prohibition requiring testimony from any child victim or witness who disclosed abuse or neglect to all children, regardless of age, in substantiation hearings.

Requiring children to testify forces them to relive traumatic experiences despite the existence of recorded interviews and other evidence that the HSB can weigh without their presence. Most victims know the accused—often a family member or caregiver—and testifying in front of them can severely disrupt healing, exacerbate trauma-related behaviors, and create opportunities for coercion or interference. The long delay before HSB hearings further burdens children by asking them to revisit traumatic events they may actively be working hard to recover from.

Allowing substantiations to be overturned solely because a child cannot or will not testify harms the child, undermines accountability for perpetrators, and increases the risk of future victimization. For these reasons, AHS recommends amending 33 V.S.A. § 4916b so that no child of any age is required to endure the trauma associated with testifying in HSB substantiation hearings.

STAKEHOLDER FEEDBACK: No stakeholder feedback received.

Appendix 1: Appeal Processes

Five AHS departments conduct hearings before the Human Services Board (HSB): the Department of Disabilities, Aging and Independent Living (DAIL), the Department for Children and Families (DCF), the Department of Mental Health (DMH), the Department of Vermont Health Access (DVHA), and the Department of Health (VDH). Although each department has its own internal review processes before a case reaches the HSB, once an appeal is filed with the Board, all hearings follow the procedures established in 3 V.S.A. § 3091.

1. Human Services Board Process

Most HSB processes are outlined in the Fair Hearing Rules (09/01/2008) which were created by and can be modified by HSB through administrative rule making procedures.

When the HSB receives an appeal, it assigns a hearing officer to manage the appeal, schedule the hearing, and make recommendations to the Board- a volunteer panel that reviews recommendations from hearing officers and issues a final decision adopting, modifying, or reversing the recommendation.

If facts are in dispute, the hearing officer must conduct an evidentiary hearing. After the record closes, the hearing officer submits a recommendation to the Board. The Board hears the appeal at a scheduled meeting and then must issue an order affirming, modifying, or reversing that recommendation.

For Medicaid, Qualified Health Plan (QHP), TANF, and Child Support appeals, the AHS Secretary has 15 days to adopt the initial order as final or, in limited circumstances specified in statute, to modify or reverse it. In most cases, the Secretary takes no action, and the initial order becomes final after 15 days. Parties may then appeal the final order to the Vermont Supreme Court.

Certain Medicaid and health-care-related cases qualify for expedited review under federal and state law. In these cases, 3 V.S.A. § 3091(e)(3) requires the Board to delegate both fact-finding and final decision-making authority to the hearing officer, whose written findings and orders become that of the Board. This delegation is necessary to ensure compliance with state and federal expedited timelines. HSB also schedules GA Housing appeals on an expedited basis, however, there is no statutory authority requiring or supporting that expedited review.

2. Medicaid and Qualified Health Plan (QHP) Appeals

A Vermont Medicaid appeal is a formal request to review a Medicaid decision—either about the services Medicaid will pay for (services appeals) or whether someone qualifies for Medicaid coverage (eligibility appeals).

I. Medicaid Service Appeals

The Medicaid service appeals process is described in HCAR Rules § 8.100. A service appeal is when a Medicaid member disagrees with a decision about the *type, amount, or level of medical services* they can receive. This includes decisions to deny a requested service, reduce or change an existing service, or stop a service the member is already receiving.
AHS is Vermont's single state Medicaid agency. AHS and its departments issue an *adverse benefit determination* when a decision denies, reduces, or terminates a Medicaid-covered service. Members

have 60 days from the date of that notice to file an appeal. In most cases, the department's internal appeal process must occur prior to an HSB fair hearing.

Federal and state rules require an impartial internal appeal process where the member may present evidence, testimony, and arguments, and the reviewer must not have been involved in the original decision. Each department's internal appeal process includes clinical or program staff reviewing decisions for accuracy, eligibility, and rule compliance. Members are contacted to explain decisions, discuss appeal procedures, or request reassessment and often have the opportunity to provide additional supporting documentation. If the internal appeal decision is unfavorable or partially unfavorable, the member may request an HSB fair hearing within 120 days of the date the internal appeal decision was mailed.

Federal timelines require that the final administrative order must generally be issued within 90 days of the date the internal appeal was filed, excluding any time the member takes to request a fair hearing after the internal appeal decision is mailed.

The following AHS programs adhere to the Medicaid Service Appeals processes:

A. DVHA - Medicaid Services
    - In 2024, DVHA received 2,026 appeals and 1,554 (76.7%) were resolved through an internal appeal process. Another 245 appeals were settled or withdrawn prior to a decision of the HSB. Less than 12% of DVHA's appealed determinations resulted in a decision from the HSB.
B. DAIL - Choices for Care; Developmental Disabilities Services
    - In fiscal year 2025, DAIL received forty-eight (48) Medicaid-related appeals and forty-six (46) were resolved through an internal appeals process. Another twenty-six (26) appeals were filed directly with HSB and seventeen (17) were resolved prior to an HSB fair hearing.
C. DMH - Medicaid for Individuals with Serious Mental Illness; Children's Mental Health Services (Therapeutic Foster Care, Staffed Living, children's hospital diversion or crisis program extensions, and children's residential assessment and treatment)
    - In 2025, DMH received nine (9) appeals and eight (8) were resolved without an HSB fair hearing.
D. VDH - Children Personal Care Services (CPCS); Pediatric Palliative Nursing (PPN); Pediatric High-Tech Nursing (HTN)
    - In 2024, CPCS received nineteen (19) appeals. All were resolved internally and there were no fair hearing requests. PPN and HTN received no appeals or fair hearing requests.

II. Medicaid and Qualified Health Plan (QHP) Eligibility Appeals

The eligibility appeals process for Medicaid and QHP coverage, including advanced premium tax credit (ATPC) issues, is described in HBEE § 80.00 et seq. An eligibility appeal is when a person disagrees with a decision about whether they qualify for coverage at all, including decisions to deny an application for Medicaid and ATPC, terminate or reduce existing coverage, or find someone ineligible after a renewal.

Members may appeal adverse eligibility decisions—such as the denial, termination, suspension, or reduction of Medicaid or QHP coverage. Unlike service appeals, eligibility appeals go directly to the

HSB and do not require an internal appeal. Members have 90 days from the date of the adverse action notice to file an appeal with the agency or the HSB.

Before sending an eligibility appeal to the HSB, the Medicaid agency may take up to 15 days to review the case for possible agency error. If an error is found, the agency corrects the decision, issues a new notice, and asks the member whether this resolves the appeal. If not, the appeal proceeds to the HSB. A final administrative order must be issued within 90 days of the date the Medicaid agency (including the HSB) receives the appeal.

3. Non- Medicaid Appeals

I. Department of Disabilities, Aging and Independent Living (DAIL)

DAIL's non-Medicaid appeals generally involve Adult Protective Services substantiations, Vocational Rehabilitation services, and licensing matters such as long-term care facility sanctions or resident discharges. Although procedures vary, each type of appeal receives at least an optional independent review by DAIL before being filed with the HSB.

II. Department for Children and Families (DCF)

Each division within DCF has its own process for reviewing fair hearing requests.

A. Economic Services Division*: 3SquaresVT; Reach Up; General Assistance; Fuel Assistance.*

Within two business days of a fair hearing request, a district management team member reviews the case to ensure it was correctly processed. The district office contacts the individual to explain the decision, the rules applied, and the fair hearing process. If the issue is not resolved, the fair hearing packet—containing all documents used in the determination—is sent to the appropriate program team for review.

If the program team reverses the decision, it notifies the district office and the Department's AAG. The district then informs the individual of the reversal and asks whether they wish to withdraw the hearing request; if they do, the district notifies the AAG and updates the case. If the program team upholds the decision, or if the individual does not withdraw after a reversal, the case proceeds to a hearing before the HSB.

B. Family Services Division (FSD): *Child-Placing Agencies; Commissioner-Designated Shelters; Adoption-Assistance Payments; Residential Treatment*

When FSD denies an application for a foster home license or takes adverse action against a foster care licensee, the affected person may request a fair hearing before the HSB. Additionally, when FSD proposes to revoke a license, the licensee may request a hearing with the Commissioner before the effective date of the revocation. If a licensee disagrees with the Commissioner's decision, the licensee may request a fair hearing, or alternatively, the licensee can entirely forego the Commissioner's review and directly appeal a proposed revocation to the HSB.

On rare occasions, other FSD decisions are appealed to the HSB, including licensing decisions concerning child-placing agencies, commissioner-designated shelters, and residential treatment programs. Parents may also appeal FSD denials of adoption-assistance payments to the HSB.

C. Commissioner's Registry Review Unit (CRRU): *Child Abuse or Neglect Substantiations*

The CRRU reviews FSD's decisions to substantiate allegations of child abuse or neglect after receiving a request by the individual who is determined to have caused the child maltreatment. The reviews are conducted by independent registry reviewers through contracts with DCF. If the reviewer agrees that the substantiation determination meets law and policy criteria, the individual's name is placed on the Child Protection Registry. The individual may appeal that decision to the HSB. The CRRU sends notification to the petitioner that they may appeal a decision to place their name on the Registry within 30 days of the notice.

The CRRU also considers petitions for expungement of registry records on behalf of the Commissioner. The individual must prove that a reasonable person would believe they no longer present a risk to the safety or wellbeing of children. They may appeal the denial of their petition to the Board, and this process is the same as the appeal process for initial substantiations.

D. Child Development Division (CDD)*: Child Care Financial Assistance Program and Licensing*

When a Child Care Financial Assistance Program decision is appealed, CDD staff review the case for errors. If staff determine an error was made, the decision is reversed, and CDD contacts the individual. If the decision is not reversed, or the individual wants a fair hearing despite the reversal, the appeal is heard before the HSB.

If a childcare licensee is aggrieved by any action or intended action of CDD, they may request a Commissioner's review. The licensee may request an HSB fair hearing simultaneous to the Commissioner's review, or if they disagree with the Commissioner's decision.

III. Vermont Department of Health (VDH)

After the dissolution of the Board of Health in 2023 (18 V.S.A. § 101), the HSB agreed to serve as the fair hearing body for the Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) benefit appeals. To date, there are no requests for fair hearings. This is not a negative reflection of the change in hearing body; WIC fair hearing requests are uncommon. The Board of Health handled only a few WIC appeals during its tenure.

In accordance with WIC policies and procedures, if a WIC participant disagrees with a benefit decision, the participant may request an internal conference, which is a meeting with the local office supervisor, the State's WIC Director (or their designee), and the participant. The participant may have a friend, family member, attorney, or another representative with them at the conference. If the participant does not want to request a conference or they disagree with the outcome, the participant can request an HSB fair hearing. Participants must request a fair hearing within 60 days of the decision. In certain circumstances, WIC participants are able to request continuing benefits while an appeal is pending.