

Meeting With Disability Hearings Bureau ALJ Staff

Re:

SHD Internal Assessment and Strategic

Planning Process:

December 4, 2012, 9:00AM

I. Pre-Hearing Topic, Issues and Recommendations:

1. Issue: Should the Docket System used by the DHB be maintained?
Staff argued that it should be maintained for the following reasons:
 - a) It works and provides flexibility for the ALJs in scheduling and hearing cases to meet workload demands.
 - b) ALJs must handle and dispose of all cases assigned. If the ALJ postpones a case, that case must be completed by that same ALJ without regard to the number of cases assigned next.
 - c) This system is fair; it gives the ALJ direct control of the disposition of assigned cases, including rulings as to postponement requests, and is a huge positive morale factor.
 - d) DHB wants Customer Service to forward all requests for postponements involving disability cases to the appropriate ALJ's support staff person.
2. Issue: Scheduling Notice Problem: DHB has noted a problem about claimants complaining about not getting their scheduling notice but do receive the abandonment decision.
 - a) This may be a training issue.
3. Issue: On-lying Problems: Staff who on-line intake makes mistakes when entering data in HWDC. There appears to be no way to determine who made the mistake as no processor code is used for this task?
 - a) Identification of the staff person by processor code should be done for purposes of performance review and training.
4. Issue: Should Bar Codes be used on Case Records?
 - a) Bar Codes would facilitate identification of every person making an entry in processing the file and would specify the place where the file currently is located.
 - b) Staff were in favor is implementing this idea as other agencies (UIAB, PUC and Corrections) apparently are using them successfully.
5. Issue: Should there be a glossary of terms published by SHD for staff to use when making entries in the Notes (HWDC)?
 - a) With the advent of texting and no instructions as to content of terms in messages, staff has difficulty determining the meaning of the message.

- b) Recommendation-Issue a glossary of terms to be used by all staff when making entries in the HWDC. This will eliminate uncertainty about the meaning of a message.
6. Issue: Why do only some counties have access to HWDC? Those that do make entries and many times there is no way to discover the entry without reviewing all scheduled cases. This is very time consuming and results in cases being needlessly heard or incorrectly deemed abandoned.
- a) The situation occurs most often with WD or CWD cases that the county enters into the HWDC but provides no other notice to the SHD. This is without regard as to whether the WD or CWD is fully executed or merely verbal.

How to Fix: Require the county making entries in HWDC to notify the SHD by fax or e-mail of the action (those counties should be identified). Or, in the alternative, nullify county authority to get access to the system.

7. Issue: Claimant's are not getting their SOPs in advance of hearings. This results in claimants not fully understanding the issues and increases the hearing time.
- a) SOPs involving the CDHCS only have to be available to the claimant on the day of the hearing. This is in accord with Welfare and Institutions Code Section 10952.5 and Manual of Policies and Procedures Sections 22-001(c) (5) and 22-073.254.
 - b) There should be some attempt to improve claimant access to the SOP by solving all system confidentiality issues so the SOP can be electronically transmitted to the claimant in advance of the hearing.
 - c) The SOP in disability cases would be improved if the counties were instructed to attach a copy of its NOA as part of its supporting evidence.

II. Hearing Topic, Issues and Recommendations:

1. Issue: The DPA 99's are not being completed by ALJs or if completed, support staff is not reviewing the form to make changes in HWDC resulting in incorrect processing of decisions. For example, address changes and substitution or identification of an AR are not recorded.

How to Fix: Support staff will place the DPA 99 on top of the records on the left side of the file. Management will inform ALJs of the necessity to complete the form. Staff will review and make the changes in the system noted by the ALJ.

2. Issue: Should SHD issue interpreter and translator handbooks with glossaries of program and medical terms?
- a) Staff were in favor of the Division issuing these handbooks for both in-person and telephone interpreters/translators.

III. Post-Hearing Topic, Issues and Recommendations:

1. Issue: What is the correct time frame for the claimant to request a reopening on an abandonment case and/or a CWD?

- a) There is uncertainty about what the time periods are. DHB will consult with Customer Service to resolve and guidelines will be published.
2. Issue: Rehearings: It was noted that Program and Legal may focus attention on specific issues or programs from time to time.
 - a) The type of review accorded those cases (i.e. IHSS Protective Supervision) may be extra-ordinary in order to provide the Department with information about its policies or to avoid litigation.

IV. Other Topic, Issues and Recommendations:

1. Issue: When conducting a telephone hearing, should the ALJ get a waiver from all participants acknowledging that they are aware and approve of the ALJ recording the telephone call?

This issue may have legal implications although it is implicit that when the ALJ provides instructions about how the hearing will be conducted including reference to recording the hearing, the parties can object to the recording and having not done so, there has been a constructive waiver.

2. Issue: Should the SHD do periodic ALJ surveys?
 - a) If they are done, the survey should be process orientated, translated and anonymous as to the identity of the ALJ.
 - b) The surveys should not be done any more often than every two years.
 - c) The survey should go out with the scheduling notice with instructions that it be completed and returned immediately after the hearing. Return of the survey after the decision is received could skew the results of the survey.
 - d) The period for administering the survey and gathering the data should be limited to one month.
 - e) The survey should also be completed by county appeals staff and ARs.
 - f) SHD should get copies of ALJ surveys from other agencies (UIAB, OAH, Soc Sec) as part of its process of developing its survey.
 - g) ALJs want to review the draft survey to provide their suggested edits before the survey is used.
 - h) Detailed guidelines (what is intended /with translations) must be prepared for filling out the survey.
 - i) The results of the survey should be published and used to improve the State hearing process and must not be used as a measure of ALJ performance.
3. Issue: Surveys should be prepared to evaluate rehearing procedures and county compliance.
4. Issue: Survey of interpreter performance should be done by SHD.
 - a) The survey should be completed by the claimant/AR, the county representative and the ALJ.
 - b) It should **not** be anonymous.
 - c) Distinctions should be made as to video, in-person or telephone interpreter services.
5. Issue: How should staff be recognized for good work?

- a) Recognition by supervisory staff should be done privately. That's enough!
 - b) Pep talks within the Unit are good ways to single out the achievements of individual staff.
 - c) A copy of a letter of recognition should be placed in the employees personnel file.
 - d) "The freedom to handle my cases in my own way is recognition and rewards enough for ALJs. No news is good news"!
 - e) There is a feeling that weight is given to General Jurisdiction ALJs vs. DHB ALJs. This has resulted in personality conflicts and lowers DHB ALJ morale. It was suggested that adding other types of cases that DHB ALJs hear could improve their organizational status. IHSS and Scope cases were cited as possible examples.
 - f) Use of the ALJ II Classification would also be a way of providing recognition.
 - g) Use of the Performance Evaluation and Individual Development Plan are also avenues for employee recognition.
 - h) Tele-work is also a method of recognizing staff.
 - i) ALJs were not in favor of division-wide publication of ALJ workload stats. They believe that those stats should be used for performance evaluation between the ALJ and the PJ.
 - j) As to stats, pending cases means nothing if not linked to the number of heard cases. There needs to be a correlation between heard cases, writing time available and pending cases. Pending cases just heard without having writing time available screws the ALJs stats.
6. Issue: Written protocols are needed for support staff so that when backup is needed there is a specific process for staff to pick up the workload.
- a) When a decision adoption date is about to lapse, the ALJ needs to be particularly vigilant to make sure it was timely adopted. Presently this is a workload problem for staff because of inadequate staff and an absence of protocols.
 - b) It was suggested that when a support staff person is out, the ALJ would be altered and provided with backup information.
 - c) Within the protocols, there needs to be standards set for duties. For example, priorities and expectations for support staff must be defined. ALJs must be trained to recognize the role of support staff and the ALJs role when workload demands impose a shift in priorities.
 - d) The protocols must consider the role of support staff in decision quality review. For example, support staff in General Jurisdiction cases have been trained and are required to read their ALJs decisions and correct grammar, spelling and format errors, and make sure that the decision is ready for adoption. The DHB staff doesn't do this review and the ALJs don't want them to. This may be a training issue requiring the need for detailed written standards if a review process were imposed.
7. Issue: Interpersonal relations. ALJs were informed that support staff in other units has complained about the tone and content of e-mail messages from ALJs and that some exhibited rude or condescending behavior.
- a) To the extent necessary, it was pointed out that this is a training issue and offending ALJs should counseled in proper interpersonal relationships and working as a team.