

Meeting with NVO ALJ Staff

Re:

SHD Internal Assessment and Strategic

Planning Process:

November 30, 2012, 9:00AM

I. Pre-Hearing Topic, Issues and Recommendations:

1. Issue: Is there a better way of getting the county's SOP to the claimant prior to the hearing?

The ALJs were concerned that most claimants are coming to the hearing without having seen or read the SOP prepared by the county. It seems that although the county has its SOP ready two days in advance of the hearing (except Medi-Cal cases where the SOP only has to be available on the day of the hearing), claimant's are not coming to the county's office to get it.

How to Fix:

- a) Have the county put the SOP on a secure website that the claimant will have access by password.
- b) Claimants not having a computer can go to their public library for access to the SOP.
- c) SHD should contact the claimant before hearing to make sure the claimant has received the SOP and intends to attend the hearing, and reminded to bring relevant documents.
- d) Notices to the claimant about the type of hearing, with a full explanation of what to expect at that type of hearing (in person, telephone, or video) and should tell the claimant (via guidelines) to bring critical documents (what is needed) to the hearing or where and when to send them in advance if the hearing is done by telephone or video.
- e) The SOPs should be faxed, e-mailed or available on the SHD system (county would electronically transmit the SOP to the SHD in advance of the hearing), provided the claimant has the equipment available to receive the SOP and security, HIPAA-PII and confidentiality issues can be solved.
- f) SOPs should be available to the ALJ and advocates in advance of the hearing. It was suggested that the SOP be placed on the server.

II. Hearing Topic, Issues and Recommendations:

1. Issue: Types of hearings preferred by the ALJs.

The ALJs preferred in-person and video hearings. Telephone hearings would be improved if conducted by webcam (this of course requires the claimant to have

access to a computer with a webcam-(this would be a longer range interest with availability and technological advances).

### III. Post-Hearing Topic, Issues and Recommendations:

#### 1. Issue: Rehearings

ALJs questioned the standard of review for rehearings.

It was explained that staff will be providing better information on the transmittal to the claimant/AR and the county about the basis for the rehearing being granted or denied.

The Division will focus on certain issues from time to time because of attention being given by program or legal.

ALJs recommended that Precedential Decisions would be a valuable resource. There was no disagreement but limited resource issues prevent emphasis at this time.

#### 2. Are rehearings required?

Response: Rehearings are required by statute and regulation. A recent court decision confirmed this requirement ordering the Department to comply and setting some standards.

### IV. Other Topic, Issues and Recommendations:

#### 1. Issue: The ALJs wanted to know how their caseload compared with the caseloads of ALJs in other regional offices.

It was explained that there has been a substantial increase in filings, now in the area of 97,000 with decisions now issued in the range of 17,000. Data about the caseloads by region will be made available so the NVO staff can compare it against the other regions.

#### 2. Issue: Decision writing quality standards.

An ALJ raised the issue that the content requirements for decisions in much too long. It is believed that the present review requirements necessitate that a Cadillac be produced when a Ford might be appropriate. In other word, the decisions could be much shorter and still be adequate and legally correct.

Response: This requirement may be imposed as a condition for new ALJs during their training and development.

In a close case, what should the ALJ do as to the result in the decision?

Response: The Division and Department Mission Statements recognize that the recipient population is vulnerable, so in a close case, the ALJ should lean toward granting the claim.

3. Issue: Decision writing tools.

ALJs say that decision writing is chaotic at times. They recommend the following:

- a) Better search tools.
- b) Case summaries that is indexed and available in folders that are easily accessible. ALJ should be able to search by folder or topic.
- c) Centralized library of decisions that can be sorted by issue code, words and phrases, etc.
- d) While use of prior decisions can be a great aid as a production tool, they must be reviewed and updated against the para-regulations for recent law and/or program changes.

4. Issue: Why is there a requirement that a new ALJ must complete one year on staff before being given "final decision" authority?

An ALJ indicated that the learning curve for some new ALJs is much faster so the one year term should be relaxed depending on individual development. This will reduce the time it takes for decisions to be processed for those ALJs.

5. Issue: The tele-work rule should be relaxed (shortened) for new ALJs when they show readiness for greater independence.

6. Issue: The Division should look into application of the 4-10 Rule. UIAB allows its ALJs its use after 6 months. PUC also allows it.

7. Issue: Training.

- a) Training has been very good!
- b) A refresher session on decision writing and access to existing decision writing tools.
- c) Mentors are needed for the new ALJs.
- d) After the initial phase of training has been completed, the SHD should certify the new ALJs for the 5% pay differential under the Unit 2 Contract.
- e) The ALJs were not sure about the protocols and who to contact for technical assistance. They were told by colleagues that RAs and QIB staff and their PJ were available resources.
- f) New ALJs need "full scope" training so they can be used to hear the full range of issues.
- g) Use of RAs for training and support is essential but the SHD should have a transition plan to train new staff to provide these needs as the RAs will not always be available.

8. Issue: Equipment.

- a) ALJs need monitors for their laptops.

- b) ALJs should have use of and training for “Dragon” to avoid the heavy typing requirements for decision writing.
9. Issue: Recognition.
- a) ALJ having a sense of mission takes care of recognition.
  - b) Training, equipment and procedures that reduce work requirements are morale boosters.
  - c) Supervisory recognition is most important.
  - d) Pot lucks improve esprit de corp.
  - e) Improved classification promotional levels-Equivalent to Attorney IV and/or ALJ III.
10. Issue: ALJ Survey.
- a) ALJs agreed it should not be used for performance/discipline.
  - b) Agreed it should coincide with the Strategic Planning” review schedule.
  - c) The survey should be given at the end of the hearing and received by the SHD before the decision is issued. The survey should never be used at the decision point as the result of the decision could skew the response.  
Response: The parties should leave the hearing feeling that they were treated with dignity and respect, that they were given the opportunity to be heard, and that they do not know the result (however, it is recognized that this may not always be the case in every hearing).
  - d) The survey should be completed by all the parties.
  - e) The survey needs to be designed to avoid being viewed as a “popularity” process.
  - f) The survey should be anonymous as to the ALJ.
  - g) The ALJs recommended that the claimant/AR should be given a survey tool to comment on the performance of the **County Representative**.
  - h) The DRAFT survey needs to be sent to the ALJs for comment before it is finalized and used.
11. Issue: Interpreters.
- a) ALJs want more training on the use of interpreters, the ALJs responsibilities, the expectations of interpreters, how to gauge whether an interpreter is doing a good/bad job, what to do if the ALJ determines that interpreter is doing a bad job, and the alternatives available to the ALJ when an interpreter is dismissed.
  - b) The ALJs believe the interpreter needs to have access to all the documents during the hearing so that translations can occur as necessary without the ALJ having to read the document into the record so the interpreter can communicate it to the claimant. This is extremely time-consuming and not a best practice.
  - c) Transfer of documents to a tele-interpreter is not now possible and steps should be taken to facilitate scanning.
  - d) Doing a survey and independent review of digital recordings to evaluate the performance of interpreters are good ideas.
  - e) Interpreter and Translator Handbooks with glossaries of programmatic, legal and medical terms are needed.