

Item 03-03-01A -- DHS Delegation

The Department of Health Services has prepared the following list of those categories and subject areas in which Judges are to prepare Proposed Decisions. Most of the categories of cases listed below have already been specifically identified in the delegation order between our two Departments. The few that are not specifically enumerated in the delegation instrument nonetheless fall within one of the broad exceptions set forth in that document. Health Services noted that DSS Administrative Law Judges may not adopt decisions:

- Based on constitutional grounds
- That overrule statutes or promulgated regulations
- That overrule or make exception to DHS policy

Additionally, DHS noted that Administrative Law Judges must submit the following types of cases to DHS as proposed decisions:

- In-Home Medical Care Program cases
- Cases, except for disability determinations, based on other than state regulations (i.e., statutes, federal regulations, or case law)
- Cases with mental health issues
- Cases with issues involving beneficiaries who are covered by a Medi-Cal prepaid health plan, county organized health system, primary care case management contract or other managed health care plan and relate to contractual matters (i.e., medical necessity, utilization control, access to care, benefit coverage, payment of claims, health plan enrollment or disenrollment, health plan marketing activity or the health care options program)
- Early and Periodic Screening Diagnosis and Treatment (EPSDT) benefits cases
- Orthodontic related cases
- Erectile dysfunction cases, excluding Viagra
- Transplant services cases, including solid organ and bone marrow
- Immunocal (dietary supplement) cases
- Bariatric surgery cases
- Sex change surgery/treatment cases
- Cases applying SB 87 to an SSI/SSP discontinuance
- Serostim cases
- Viagra cases
- Any decision that addresses a Medi-Cal issue that is also being prepared as a proposed decision for purposes of review by the Director of another department or agency, including but not limited to decisions involving the Personal Care Services Program.