CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

STATE HEARINGS DIVISION
Overview
FY 2018-19
FUNCTIONS OF SHD

- State Hearing Division (SHD) provides full and timely hearings to recipients and applicants of California public assistance programs. The primary programs are:
  - CalWORKs
  - CalFresh
  - In-Home Supportive Services (IHSS)
  - Foster Care
  - Adoptions Assistance Programs
  - Medi-Cal
  - Covered California appeals, including Modified Adjusted Gross Income (MAGI) Medi-Cal
• Federal law mandates that all hearings be adjudicated within 90 days of an applicant’s request for a hearing.

• For the CalFresh program all hearings must be adjudicated within 60 days of an applicant’s request for hearing.

• Cases not adjudicated within the federal timelines are deemed late cases and subject to court ordered penalties.
On 9/17/18, the Appeals Case Management System (ACMS) went live.

- ACMS has users in all 58 counties, Covered CA, Department of Health Care Services, multiple advocate agencies throughout the state, and other divisions with CDSS.
- ACMS currently has 5,025 enrolled users (including e-filer accounts), with 802 of these users coming from the counties.
- 3,263 claimants have filed their appeals through ACMS themselves.
- ACMS has had a total of 25,929 appeals entered in to the system since its inception on 9/17/18.
For FY 19-20, CDSS has put forward a BCP requesting three (3) permanent positions to support the ACMS Maintenance & Operations (M&O) functions.

- The positions requested are two (2) Information Technology Specialist Is and one (1) Information Technology Assistant.
- The total amount of requested funding is $395,000, which breaks down to $151,000 Federal, $108,000 State, and $136,000 reimbursement funding.
- These positions are necessary to continue support and development of the ACMS. They will be responsible for:
  - Responding quickly to implement technical changes needed in ACMS due to modifications in laws, regulations, or workload for the State Hearings Division.
  - Provide permanent project management and technical customer support for the thousands of ACMS users.
  - Maintain the first and second tier of M&O for the ACMS.
SIGNIFICANT TRENDS IMPACTING HEARINGS WORKLOAD

• Hearings held and decisions written over past three (3) fiscal years has grown by an average of 25% compared to previous years.

• Effective July 1, 2017, the state adopted federal rules that significantly affected the Managed Care and Scope of Benefits caseload that required 1) review of every appeal to determine whether the appellant has satisfied exhaustion prerequisites, and 2) imposition of a 3-day requirement to process and release ALJ decisions in expedited appeals.

• Increased decision growth rate is concentrated in three (3) major workload appeal areas with resolution rates (RR) significantly below historical RR of 75% or higher for most workloads. These areas are: Covered California, Scopes, and IHSS appeals.

• Low resolution rates, delays resulting from presentation of insufficiently prepared cases, as well as an increase in complexity of issues have resulted in the need for more ALJ resources to hear cases & write decisions.
Based on the trends and changes identified in Slide 6, effective July 1, 2018, SHD received funding for 16 new ALJ permanent positions to address the resulting workload impacts, which have been utilized as follows:

• SHD continues to actively work with the affected programs to increase the resolution rate in the Covered California, Scopes and IHSS workload areas, which, along with continued training on best practices for timely and effective participation in the hearing process, should bring the written decision growth rate down over the course of the next few years.

• The following slides give greater detail on the specific actions that have been undertaken in each of the three workloads, utilizing existing resources and leveraging the additional 16 ALJs.
Covered California appeals:

- SHD has worked closely with Covered California to train appeals staff on best practices, which along with a significant increase by Covered California in appeals staff resources, has resulted in significant improvement in the resolution rate of Covered CA cases, which as gone from 46% in FY 2017-2018 to the current rate of 69%.

- The significant improvement in the resolution rate contributes to improved timeliness in Covered California appeals. This improvement has allowed for the redirection of ALJ resources to address the major workloads of Scopes and IHSS.
Scope of Benefits appeals:

• 8 of the 16 new ALJs positions have been assigned to the Scopes of Benefits Unit, which was created in January 2018. To date, the additional resources have contributed to the Unit’s ability to timely address the Scopes workload, which has resulted in a drop in the daily penalty rate for Medi-Cal late decisions from $62.50 in FY 2017-18 to the current daily rate of $42.50.

• Contributing to the timeliness of decisions is the ongoing work with DHCS management to improve, primarily through training on best practices, the timely and effective participation of DHCS and Managed Care appeals representatives in the hearing process, which over time will also yield improved resolution rates in Scopes cases.
IHSS appeals:

- 4 of the 16 new ALJ positions have been allocated to the Los Angeles Regional Office and 4 to the San Diego Regional Office to assist with the IHSS workload, including working on the backlog of IHSS cases that began developing in Los Angeles County and other southern region counties in the spring of 2018.
- In addition to the 8 new ALJs, SHD has also developed and implemented a plan which is comprised of training all SHD judges on IHSS hearings, and has created a strike team that is working on eliminating the backlog.
- Together with the ongoing collaboration with stakeholders and program on moving forward with implementation of best practices in the processing of IHSS cases, our expectation is that over the course of the next year we will see significant improvement in both resolution rates and the overall timeliness of IHSS cases.
UTILIZATION OF RESOURCES

IHSS Pilot Project:

• It is anticipated that the results of the IHSS Pilot Project will be available in June 2019.

• Preliminary findings indicate:

<table>
<thead>
<tr>
<th>IHSS Requests &amp; Hearings</th>
<th>Requests</th>
<th>Resolved</th>
<th>Hearings</th>
<th>Abandoned</th>
<th>Hearing Rate</th>
<th>Resolution Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control Period May 2017</td>
<td>104</td>
<td>55</td>
<td>41</td>
<td>8</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Treatment Period May 2018</td>
<td>116</td>
<td>88</td>
<td>22</td>
<td>6</td>
<td>19%</td>
<td>81%</td>
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<table>
<thead>
<tr>
<th>Length of Hearings</th>
<th>Average (hrs.)</th>
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</thead>
<tbody>
<tr>
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<td>1:17</td>
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<tr>
<td>Treatment Period May 2018</td>
<td>0:42</td>
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<table>
<thead>
<tr>
<th>Time Writing Decisions</th>
<th>Average (hrs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control Period May 2017</td>
<td>3:12</td>
</tr>
<tr>
<td>Treatment Period May 2018</td>
<td>3:35</td>
</tr>
</tbody>
</table>

Given the complexity of these cases, SHD has developed and is testing on the backlog a decision template to assist ALJs organize their facts and issues and write their decisions more efficiently.
• King v. McMahon holds that CalWorks, CalFresh, and other non-CalWorks (IHSS) late cases are subject to penalties.

• Ball v. Swoap holds that late MediCal cases are subject to penalties.

• PENALTY STRUCTURE:
  • Minimum penalty is $5.00 per day or a minimum of $50.00 whichever is greater.
  • If 95 percent of all decisions in a given month are not issued within the required deadline, the daily penalty rate for that category increases by $2.50 over the penalties paid to claimants the previous month.
  • The $2.50 daily rate increases by $2.50 for every month the Department fails to achieve 95 percent timeliness until the maximum of $100.00 per day is reached.
  • If 95 percent of all decisions in a given program are issued on time in a given month, the penalty rate decreases by $2.50 from the penalty rate paid to the claimant the previous month.
COURT ORDER FOR PENALTIES FOR LATE CASES

• Current penalty rates are:
  • CalWORKs, $5.00 (down from $57.50 on 6/30/13)
  • CalFresh, $7.50 (down from $25.00 on 6/30/13)
  • Medi-Cal, $42.50 (down from $100.00 on 6/30/13)
  • IHSS, $82.50 (down from $100.00 on 6/30/13)

• Penalties paid in previous years:
  • FY 2012/13 - $4,419,840
  • FY 2013/14 - $595,255
  • FY 2014/15 - $240,802
  • FY 2015/16 - $188,135
  • FY 2016/17 - $387,722
  • FY 2017/18 - $141,739
  • FY 2018/19 – $368,859*

*Estimated total through FY 18/19, actuals through December 31, 2018 are 184,430.
Penalties Paid FY 13/14 to FY 18/19

*Estimated total through FY 18/19
DAILY PENALTY RATE BY FY

Daily Penalty Rate FY 13/14 to FY 18/19

*Current Daily Penalty Rate as of December 31st, 2018
HEARING REQUESTS

STATE HEARINGS DIVISION WORKLOAD: HEARINGS REQUESTED FY 13/14 – 18/19

- FY 13-14 Totals, 85,539
- FY 14-15 Totals, 96,920
- FY 15-16 Totals, 100,332
- FY 16-17 Totals, 91,938
- FY 17-18 Totals, 84,433
- *FY 18-19 Estimated Totals, 78,913
WRITTEN DECISIONS

STATE HEARINGS DIVISION WORKLOAD: WRITTEN DECISIONS FY 13/14 - 18/19

FY 13-14 Totals, 15,059
FY 14-15 Totals, 18,978
FY 15-16 Totals, 23,987
FY 16-17 Totals, 25,943
FY 17-18 Totals, 21,255
*FY 18-19 Estimated Totals, 23,684
CALFRESH HEARING REQUESTS RECEIVED

CAL-FRESH HEARING REQUESTS RECEIVED: FY 13/14 - 18/19

- FY 13-14 Totals, 27,577
- FY 14-15 Totals, 28,741
- FY 15-16 Totals, 27,879
- FY 16-17 Totals, 24,314
- FY 17-18 Totals, 22,997
- *FY 18-19 Estimated Totals, 21,081

*Estimated totals

Source: CalFresh
CALFRESH WRITTEN DECISIONS

CAL-FRESH WRITTEN DECISIONS: FY 13/14 - 18/19

- FY 13-14 Totals: 3,043
- FY 14-15 Totals: 2,811
- FY 15-16 Totals: 3,215
- FY 16-17 Totals: 3,211
- FY 17-18 Totals: 3,034
- *FY 18-19 Estimated Totals: 3,105
MEDI-CAL HEARING REQUESTS RECEIVED

MEDI-CAL HEARING REQUESTS RECEIVED: FY 13/14 - 18/19

*Does not include MAGI Medi-Cal or Scopes cases
SCOPES HEARING REQUESTS RECEIVED: FY 13/14 - 18-19

- FY 13-14 Totals: 5,403
- FY 14-15 Totals: 8,236
- FY 15-16 Totals: 8,858
- FY 16-17 Totals: 7,312
- FY 17-18 Totals: 5,856
- *FY 18-19 Estimated Totals: 4,918

Scope
IHSS HEARING REQUESTS RECEIVED

IHSS HEARING REQUEST RECEIVED: FY 13/14 - 18-19

FY 13-14 Totals: 8,016
FY 14-15 Totals: 7,955
FY 15-16 Totals: 8,456
FY 16-17 Totals: 8,479
FY 17-18 Totals: 9,325
*FY 18-19 Estimated Totals: 8,756

*IHSS
IHSS WRITTEN DECISIONS: FY 13/14 - 18/19

- FY 13-14 Totals: 2,800
- FY 14-15 Totals: 2,949
- FY 15-16 Totals: 3,119
- FY 16-17 Totals: 2,978
- FY 17-18 Totals: 2,882
- **FY 18-19 Estimated Totals**: 2,725
RFA Written Decisions FY 13/14 through FY 17/18

- FY 13/14: 200
- FY 14/15: 253
- FY 15/16: 419
- FY 16/17: 244
- FY 17/18: 263

RFA
RFA HEARING REQUESTS RECEIVED

RFA Hearing Requests Received FY 13/14 through FY 17/18

- FY 13/14: 248
- FY 14/15: 420
- FY 15/16: 260
- FY 16/17: 244
- FY 17/18: 216
COVERED CALIFORNIA HEARING REQUESTS RECEIVED: FY 14/15 - 18/19

- FY 14-15 Totals: 7,810
- FY 15-16 Totals: 10,369
- FY 16-17 Totals: 9,798
- FY 17-18 Totals: 7,729
- *FY 18-19 Estimated Totals: 6,849

Covered CA
COVERED CALIFORNIA WRITTEN DECISIONS: FY 14/15 - 18/19

- FY 14-15 Totals: 2,854
- FY 15-16 Totals: 3,693
- FY 16-17 Totals: 5,333
- FY 17-18 Totals: 3,564
- *FY 18-19 Estimated Totals: 2,123

Covered CA
DUAL HEARING REQUESTS RECEIVED

Dual MM-CC HEARING REQUEST RECEIVED: FY 14/15 -18/19

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<th>Fiscal Year</th>
<th>Total Requests</th>
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<td>FY 15-16</td>
<td>5,805</td>
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<tr>
<td>FY 16-17</td>
<td>5,873</td>
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<tr>
<td>FY 17-18</td>
<td>5,468</td>
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<tr>
<td>FY 18-19</td>
<td>5,296</td>
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*FY 18-19 Estimated Totals
Dual MM-CC WRITTEN DECISIONS: FY 14/15 - 18/19

- FY 14-15 Totals: 1,090
- FY 15-16 Totals: 3,191
- FY 16-17 Totals: 3,467
- FY 17-18 Totals: 2,714
- *FY 18-19 Estimated Totals: 2,284

*Note: Dual MM-CC
MAGI MEDICAL HEARING REQUESTS RECEIVED

Magi-Medical HEARING REQUEST RECEIVED: FY 14/15 -18/19

- FY 14-15 Totals: 2,328
- FY 15-16 Totals: 5,416
- FY 16-17 Totals: 5,937
- FY 17-18 Totals: 5,322
- *FY 18-19 Estimated Totals: 5,132
Magi-Medical Written Decisions: FY 14/15 - 18/19

- FY 14-15 Totals: 524
- FY 15-16 Totals: 1,931
- FY 16-17 Totals: 2,329
- FY 17-18 Totals: 1,750
- *FY 18-19 Estimated Totals: 1,985
# ACA HEARING REQUESTS RECEIVED BY TYPE

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<tr>
<th>Action Appealed</th>
<th>FY 16/17</th>
<th>FY 17/18</th>
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<tbody>
<tr>
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<td>Number of Cases</td>
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<th>Action Appealed</th>
<th>FY 16/17</th>
<th>FY 17/18</th>
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<tr>
<td></td>
<td>Number of Cases</td>
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<tr>
<td>Denial</td>
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<td>Eligibility Determination</td>
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<td>Total</td>
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<td>9,854</td>
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<th>FY 17/18</th>
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<td>Number of Cases</td>
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<td>Eligibility Determination</td>
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<td>6,395</td>
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State Hearings Division provides hearings for the entire state of California with Administrative Law Judges located throughout the state to accommodate the needs of those requesting a hearing.

**Current State Hearings staffing:**
- Authorized Positions: 244
- Currently Filled: 223
- Vacant: 21

**ACA Vacancies:**
- ALJ: 0
- Support Staff: 4

**General Jurisdiction Vacancies:**
- ALJ: 8
- Support Staff: 9

Total State Hearings budget for FY 2018/19:

- $40,846,347
- General Fund: 38%
- Federal Fund: 62%