

Meeting With LA ALJ Staff

Re:

SHD Internal Assessment and Strategic

Planning Process:

November 26, 2012, 10AM

I. Pre-Hearing Topic, Issues and Recommendations:

1. Issue: Claimants complain about not being able to get through to Public Inquiry and Response or the 1-800 # to file a request for State hearing.

Fix:

1. Get a better phone system that offers the caller with these options:
 - a) Caller's ability to provide a call back #.
 - b) Ability for caller to leave a message.
 - c) System providing caller with approximate waiting time.
 - d) Background music for the caller to hear while waiting.
 - e) Frequent interruptions by system to caller that the call is important while waiting and offering additional options for the caller.
2. Establish a call-in center in the region to handle the calls.
3. Review the FTB phone system that appears to work well for it.
4. Place a FAX # on the NA Back 9, and reference that provision on the Acknowledgement Letter and PUB 412 so claimant can file electronically.
2. Issue: Staff who receives hearing requests is not familiar with or trained on the subject-matter so not all issues are captured.

Fix:

1. Provide training for staff.
2. Provide issue related scripts to assist identification of issues.
3. It was explained that Intake was intended to ID the program and get some idea about the county's intended action. The best source for that information is the NOA and staff should ask the claimant to read what the NOA states.
4. It was also explained that issue identification lies with the county representative for purposes of discussions with the claimant, preparation of the SOP and its presentation at the hearing.
3. Issue: Cases are needlessly delayed on the queue because there are not enough interpreters present and there are problems with the use of Tele-Interpreter Services.

Fix:

1. Assign more all day interpreters, particularly Spanish.
2. Use Tele-Interpreters only when necessary because:
 - a) When the hearing involves complex issues and voluminous documents, the hearing is impossible to conduct because the document must be read

into the record with the interpreter providing interpreter services with pauses and breaks.

- b) Tele-Interpreters are not present pre-hearing to translate the documents including the county's SOP for the claimant before the hearing commences.
 - c) Documents cannot be sent to the Tele-Interpreter during the hearing.
 - d) Tele-Interpreters do not disclose their full name so the stated view is that a legally binding oath for the interpreter cannot be given which arguably could lead to a potential breach of confidentiality and a HIPAA PII violation.
 - e) ALJs are not sure where the Tele-Interpreter is located so transfer of documents and their protection could be compromised.
 - f) Tele-Interpreters are not familiar with Public Assistance and Medical terms and how to correctly interpret them. There needs to be Interpreter and Translator Handbooks with Glossaries of Terms provided to interpreters and translators.
 - g) ALJs need training on the role of the interpreter, how to gauge whether or not an interpreter is doing a good job, and what options the ALJ can use to rectify the situation, including assigning a new interpreter.
 - h) ALJs agreed that Language Services should be used to review recordings of hearings to determine the adequacy/correctness of interpreter performance. A bad evaluation could lead to dropping an interpreter from the Division's list.
 - i) ALJs believe the interpreter is neutral and should only be addressed by the ALJ for direction/instruction.
4. Issue: Bifurcation requests are difficult to decide and/or grant because:

Most requests involve a jurisdiction issue and there is incomplete or insufficient evidence available for the PJ to make a decision. For example; the county representative alleges it sent an adequate and language compliant NOA, the claimant's request for hearing is untimely, so the matter should be dismissed at hearing. If the PJ bifurcates, and claimant at hearing argues convincingly that the NOA was not received, the matter must be continued in order for the county to prepare a SOP on the county's action and have it available for the claimant two days in advance to the rescheduled hearing. ALJ would rather there be no bifurcation and entire matter dealt with at the hearing.

Timeliness of a request for hearing depends on the NOA used in jurisdiction cases so if the NOA is not sent by the county, it's not possible to determine whether the 90 day or 180 day period was used in the NOA.

Fix:

1. Don't bifurcate hearings when jurisdiction is at issue-Note: There could be a huge county reaction to this fix as the whole idea of bifurcations for untimely filings enables them to bifurcate thereby avoiding the necessity of preparing a SOP for the bifurcated hearing on the action it took. It can limit its SOP to the issue of jurisdiction.
2. Better instructions/guidelines/criteria are needed to define the circumstances where bifurcation should be considered other than homeless assistance, emergency assistance and emergency CalFresh issues.

II. Hearing Topic:

1. Issue: While most Scope of Benefit cases are done by Sacramento ALJs, occasionally a claimant with a Scope issue appears in person so the new ALJ staff needs training.
2. Issue: Is there a remedy for a claimant when the ALJ fails to address an issue in the decision and as a result, the county continues to pay aid pending on the unresolved issue, potentially increasing a recoverable overpayment, and the claimant's subsequent request to reinstate the issue is deemed untimely?

III. Post-Hearing Topic: Rehearings

1. Issue: Rehearings should not be granted for obscure legal issues that do not affect outcome.
2. Issue: The rehearing letters to the claimant and county granting or denying the request should provide what the specific issue(s) is/are and the specific basis/reason for the decision. This will provide the parties with information necessary for them to make an informed decision as to how to prepare for the rehearing or to consider further relief.
3. Rehearings are valuable to discover issue trends that should be examined by program or the need for individual or general ALJ training.
4. Issue: Should the analysis prepared by the reviewer be made available to the claimant and the county? Note: The analysis has traditionally been viewed by the Department as attorney work product and subject to the executive deliberative privilege.

IV. Other Topics:

ALJ Survey:

1. Issue: How will the information gathered by the survey be used?
 - a) Is this a performance tool? If it is, will the ALJ be able to respond?
 - b) ALJs believe the survey will lower their esteem.
 - c) Will the survey focus on process and not on ALJ performance? If yes, how will the information be used? For trends and training?
 - d) It was observed that the point in time in the administrative hearing process when the survey is administered could skew the results. For example, it after the decision is issued, at least one party will have a negative bias.
 - e) It was noted that in the situation where the ALJ has to conduct a compressed calendar, the press of time may give the parties a negative impression of the ALJs demeanor.
 - f) It was noted that ALJs should not react negatively to the survey so long as they treat the parties with courtesy, respect and dignity, that the parties have been given opportunity to present their evidence, and they leave the hearing believing they have been treated fairly.

Training:

1. Issue: ALJs need training on Social Security related issues, UIB and Low Income Health Care.
2. Pararegs are now being prepared by RAs.

3. Issue: Training, Quality Improvement, Development Bureau: It needs more resources to provide new and ongoing training to State and county staff and the Bureau should do the statewide survey asking staff of their desired training needs.
4. Issue: Is there or will there be a study about engagement of staff? Apparently, a draft plan will hone in on the focus group results.

Awards:

1. Issue: How can the Division reward staff for good works when cash awards and promotions are not available?
 - a) Send Acknowledgement Letters.
 - b) Schedule events to praise/recognize staff and/or individuals accomplishments.
 - c) Publication of the praise in the Division newsletter.
 - d) Provide better equipment such as laptops, larger monitors and keyboards.

Equipment:

1. Laptops present problems:
 - a) Firewall application at boot-up is way too slow and frustrating.
 - b) ALJs need better or external power microphones.
 - c) Used for telephone hearings, the recordings have very low volume.
 - d) Suggested use of the 1-800 # resulted in a request that its availability and use be published along with instructions.
 - e) ALJs need better up-to-date speaker phones in the hearing rooms. There needs to be discussion with LA County about the need and installation.

Penalties:

ALJs were briefed that the Division BCP request for 21 positions was in process and use of King/Ball penalty payments could be redirected and penalty payments suspended at the present levels and used to fund the positions.

Organizational Scheme:

Issue: Do we continue with centralization of functions (like Scope hearings) or return to the region handling its own hearings?

The ALJs were in favor of decentralization as long as there were adequate resources in the region to handle the workload including a contingency plan for when there are unexpected increases in workload.