

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 599
HOUSE BILL 727

AN ACT TO AMEND THE SOCIAL SERVICES APPEALS LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-79(c) is amended in the last paragraph by rewriting the second and third sentences to read:

"Failure to give timely notice of appeal constitutes a waiver of the right to a hearing except that, for good cause shown, the county department of social services may permit an appeal notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits."

Sec. 2. G.S. 108A-79(g) is amended by rewriting the third sentence to read:

"Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department except that, for good cause shown, the Department may issue an order permitting a review of the local appeal hearing notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits."

Sec. 3. G.S. 108A-79(k) reads as rewritten:

"(k) ~~Any appellant or county board of social services or board of county commissioners in the case of the food stamp program applicant or recipient~~ who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in superior court of the county from which the case arose. Failure to file a petition within the time stated shall operate as a waiver of the right of such party to review, except that, for good cause shown, a judge of the superior court resident in the district or holding court in the county from which the case arose may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver. The hearing shall be conducted according to the provisions of Article 4, ~~Chapter 150A, Chapter 150B,~~ of the North Carolina General Statutes. The court shall, on request, examine the evidence excluded t the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if the evidence was improperly excluded, the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the ~~appellant is entitled to public assistance~~ final decision is in error under federal and State law, and under the rules and regulations of the Social Services Commission or the Department of Human Resources. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under ~~G.S. 150A-47-G.S. 150B-47~~ and after reasonable written notice to the Department of Human Resources and the ~~appellant~~ applicant or recipient.

Nothing in this subsection shall be construed to abrogate any rights that the county may have under Article 4 of Chapter 150B."

Sec. 4. This act shall become effective January 1, 1988.

In the General Assembly read three times and ratified this the 10th day of July, 1987.