

**A-Engrossed**  
**House Bill 2127**

Ordered by the House April 6  
Including House Amendments dated April 6

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits Department of Human Services to serve contested case notice by regular mail. Allows contested case notice served by department to become final order if specified criteria are met.

**A BILL FOR AN ACT**

1  
2 Relating to notices in contested cases.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) The Department of Human Services may serve a notice described in ORS**  
5 **183.415 by regular mail. The legal presumption described in ORS 40.135 (1)(q) does not apply**  
6 **to a notice that is served by regular mail under this section.**

7 **(2) Except as provided in subsection (3) of this section, a contested case notice served in**  
8 **accordance with subsection (1) of this section that complies with ORS 183.415 but for service**  
9 **by regular mail becomes a final order against a party and is not subject to ORS 183.470 (2),**  
10 **upon the earlier of the following:**

11 **(a) If the party fails to request a hearing, the day after the date prescribed in the notice**  
12 **as the deadline for requesting a hearing.**

13 **(b) The date the department or the Office of Administrative Hearings mails an order**  
14 **dismissing a hearing request because:**

15 **(A) The party withdraws the request for hearing; or**

16 **(B) Neither the party nor the party's representative appears on the date and at the time**  
17 **set for hearing.**

18 **(3) The department shall prescribe by rule a period of not less than 60 days after a notice**  
19 **becomes a final order under subsection (2) of this section within which a party may request**  
20 **a hearing under this subsection. If a party requests a hearing within the period prescribed**  
21 **under this subsection, the department shall do one of the following:**

22 **(a) If the department finds that the party did not receive the written notice and did not**  
23 **have actual knowledge of the notice, refer the request for hearing to the Office of Adminis-**  
24 **trative Hearings for a contested case proceeding on the merits of the department's intended**  
25 **action described in the notice.**

26 **(b) Refer the request for hearing to the Office of Administrative Hearings for a contested**  
27 **case proceeding to determine whether the party received the written notice or had actual**  
28 **knowledge of the notice. The department must show that the party had actual knowledge of**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **the notice or that the department mailed the notice to the party's correct address.**

2 **(4) If a party informs the department that the party did not receive a notice served by**  
3 **regular mail in accordance with subsection (1) of this section, the department shall advise**  
4 **the party of the right to request a hearing under subsection (3) of this section.**

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