

Enrolled
House Bill 2127

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)

CHAPTER

AN ACT

Relating to notices in contested cases.

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

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

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

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

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

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

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

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

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

(b) Refer the request for hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the party received the written notice or had actual knowledge of the notice. The department must show that the party had actual knowledge of the notice or that the department mailed the notice to the party's correct address.

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

Passed by House April 9, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 12, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State