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HEARING OFFICERS IN STATE GOVERNMENT

In fiscal year (FY) 1998-99, the State spent an estimated \$17.3 million and employed 206.1 full-time equivalent employees—including 103.3 hearing officers—to hear approximately 24,900 contested cases related to employment, social services, corrections, civil rights and discrimination, and other areas it regulates. Contested cases are legal proceedings that address disputes in which individuals or parties believe they have been adversely affected by some state regulatory action or other decision. These disputes can involve denial of unemployment insurance or worker's compensation benefits; administrative suspensions of driver licenses for operating a motor vehicle while intoxicated; violations of probation and parole; and disciplinary proceedings against practitioners in a range of professions, such as social workers, doctors, dentists, and barbers. Two agencies, the Department of Workforce Development (DWD) and the Department of Administration's (DOA's) Division of Hearings and Appeals, account for more than 80 percent of hearing-related staff and expenditures.

Efforts to Measure Hearing Officer Performance Have Been Uneven

Measurable standards are important to ensure the timeliness and quality of hearing officer performance. However, agency efforts to establish measurable performance standards and to evaluate hearing officer performance have been uneven. While most hearing officers are subject to performance standards established under state or federal law or by state agencies, not all agencies use established standards to ensure either the timeliness or the quality of hearing officer decisions.

We identified 97 standards that apply to various aspects of the contested case hearing process. Of these, 64 apply to activities performed by hearing officers; the remaining 33 apply to activities that are the responsibility of support or investigative staff or apply to the entire process, which may include time that is not controlled by a hearing officer. Only one measurable performance standard we identified was related to the quality of the decisions issued by hearing examiners; all others related to timeliness and productivity.

Agencies maintained statistics for 53 of the 97 standards we identified and met 38 standards in FY 1998-99. Because the development of standards and the collection of data for measuring performance are important components of the effective operation of any state agency or program, we recommend all state agencies that conduct contested case hearings both develop performance standards and periodically measure performance against these standards.

Because nearly all standards measure timeliness rather than quality of decisions, oversight that can help ensure quality decisions is especially important. We found that annual evaluations were not conducted for hearing officers in DWD's Worker's Compensation Division in 1999, as required by state law. The Department of Administration completed annual evaluations for its hearing officers during the period we reviewed.

Most Hearing Officer Decisions Are Upheld on Appeal

Although concerns have been raised about the quality of some hearing officers' decisions, and despite the lack of measurable performance standards related to quality, we found that relatively few decisions issued by hearing officers were reversed by higher legal authorities such as the Labor and Industry Review Commission or the circuit courts. The highest reversal rate was for DWD's Worker's Compensation Division: between 1995 and 1998, 11.9 percent of its hearing officers' decisions that had been appealed were reversed, at least in part, by the Labor and Industry Review

Commission. However, when reversal rates are measured as a percentage of all decisions issued by DWD hearing officers, rather than as a percentage of appeals, the Worker's Compensation Division, Equal Rights Division, and Division of Unemployment Insurance had comparable reversal rates.

[full report, PDF file \(358KB\)](#)