

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 419
HOUSE BILL 456

AN ACT TO AMEND THE PROVISIONS ON ACCESS TO PUBLIC ASSISTANCE AND SOCIAL SERVICES RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-120(e)(4) as recodified by Chapter 275 of the 1981 Session Laws is amended to read:

"(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-121."

Sec. 2. G.S. 108A-120(i)(l) as recodified by Chapter 275 of the 1981 Session Laws is amended to read:

"(1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-121."

Sec. 3. The last two sentences of G.S. 108A-120(k) as recodified by Chapter 275 of the 1981 Session Laws are deleted and the following language inserted in lieu thereof:

"The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-120(e)(4) or G.S. 108A-120(i)(l) 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 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 and after reasonable written notice to the Department of Human Resources and the appellant."

Sec. 4. G.S. 108A-121 as recodified by Chapter 275 of the 1981 Session Laws is hereby amended by adding a new subsection (d) to read as follows:

"(d) The Social Services Commission shall have the authority to adopt rules and regulations governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Human Resources shall have the authority to adopt rules and regulations governing access to medical assistance case files."

Sec. 5. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of May, 1981.