



Senate

General Assembly

File No. 304

February Session, 2024

Substitute Senate Bill No. 220

Senate, April 8, 2024

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CLARIFYING THE APPEALS PROCESS UNDER THE PAID FAMILY AND MEDICAL LEAVE STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-49p of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Any covered employee aggrieved by a denial of compensation
4 under the Paid Family and Medical Leave Insurance Program or any
5 person aggrieved by the imposition of a penalty imposed pursuant to
6 section 31-49r may file an appeal with the Labor Commissioner not
7 more than twenty-one calendar days after issuance of the denial or
8 penalty decision, unless good cause exists for the late filing.

9 (b) Upon receipt of any such appeal, the commissioner, or the
10 commissioner's designee, shall decide the appeal based upon the file
11 record, except that the commissioner, or the commissioner's designee,
12 may do one or both of the following: (1) Supplement the file record, or

13 (2) conduct a hearing. The commissioner, or the commissioner's
14 designee, may require the attendance of witnesses and the production
15 of documents in connection with the appeal, and may issue subpoenas.
16 For purposes of this section, "file record" means any documents
17 submitted to the Paid Family and Medical Leave Insurance Authority or
18 to the private plan administrator, any documents relied upon by the
19 authority or the private plan administrator in making its determination,
20 and any other documents the commissioner, or the commissioner's
21 designee, deems necessary to dispose of the appeal. [The commissioner
22 or designee may require the attendance of witnesses and the production
23 of documents in connection with the appeal, and may issue subpoenas.
24 The Labor Department shall adopt regulations, in accordance with the
25 provisions of chapter 54, concerning the rules of procedure for the
26 disposition of appeals filed under the provisions of this section.]

27 (c) After determination of the appeal, the commissioner, or the
28 commissioner's designee, shall send each party a written copy of the
29 decision. The commissioner, or the commissioner's designee, may
30 award the covered employee or person all appropriate relief, including,
31 but not limited to, any compensation or benefits to which the employee
32 otherwise would have been eligible if such denial had not occurred.
33 [Any party aggrieved by the decision of the commissioner or designee
34 may appeal the decision to the superior court for the judicial district of
35 Hartford or for the judicial district in which the appellant resides, not
36 later than thirty days after issuance of the decision.]

37 (d) (1) Any decision of the commissioner, or the commissioner's
38 designee, in the absence of a timely appeal from a party aggrieved by
39 such decision shall become final on the thirty-first calendar day after the
40 date on which a written copy of the decision is sent to each party. At any
41 time prior to when the decision of the commissioner, or the
42 commissioner's designee, becomes final, any party aggrieved by the
43 decision may appeal such decision to the superior court for the judicial
44 district of Hartford or for the judicial district wherein the appealing
45 party resides. The appealing party shall file the original appeal with the
46 commissioner, or the commissioner's designee, and shall state the

47 grounds on which review is sought. The commissioner, or the
48 commissioner's designee, shall, on or before the fourteenth calendar day
49 thereafter, cause the original appeal to be mailed to the clerk of the
50 Superior Court and a copy sent to each party listed in the decision being
51 appealed by mail or electronically through the Connecticut Labor
52 Department Leave Complaint and Appeal Portal. The clerk shall docket
53 such appeal as returned to the next return day after the receipt of such
54 appeal.

55 (2) In any appeal to the Superior Court taken pursuant to this
56 subsection, the commissioner, or the commissioner's designee, shall
57 certify the record to the court. The record shall consist of the following:
58 (A) The notice of appeal to the commissioner, or the commissioner's
59 designee, (B) the file record, (C) the findings of fact and any decision of
60 the commissioner, or the commissioner's designee, and (D) any
61 documents submitted to the commissioner, or the commissioner's
62 designee, prior to the filing of the appeal. Upon request of the court, the
63 commissioner, or the commissioner's designee, shall, in cases in which
64 a hearing was conducted before the commissioner, or the
65 commissioner's designee, prepare and verify to the court a transcript of
66 such hearing before the commissioner, or the commissioner's designee.

67 (3) Any appeal to the Superior Court taken under this subsection shall
68 be claimed by the party taking such appeal for the short calendar unless
69 the court orders the appeal placed on the trial list. It shall not be
70 necessary in any judicial proceeding under this section that exceptions
71 to the rulings of the commissioner, or the commissioner's designee, shall
72 have been made or entered and no bond shall be required for entering
73 an appeal to the Superior Court. In any appeal in which one of the
74 parties is not represented by counsel and in which the party taking the
75 appeal does not claim the case for the short calendar or trial within a
76 reasonable time after the return day, the court may, of its own motion,
77 dismiss the appeal, or the party ready to proceed may move for nonsuit
78 or default as appropriate.

79 (4) Any appeal to the Superior Court taken under this subsection shall

80 be heard by the court upon the certified copy of the record filed by the
81 commissioner, or the commissioner's designee. The court shall not retry
82 the facts or hear any evidence other than such record certified to the
83 court by the commissioner, or the commissioner's designee. Any review
84 by the court shall be limited to determining (A) whether the findings of
85 the commissioner, or the commissioner's designee, should be corrected,
86 or (B) whether there is any evidence in the record to support in law the
87 conclusions reached. The court shall not substitute its judgment for that
88 of the commissioner, or the commissioner's designee, as to the weight of
89 the evidence on questions of fact. The court may only determine
90 whether the decision of the commissioner, or the commissioner's
91 designee, incorrectly applied the law to the facts found or if such
92 decision is clearly erroneous and could not have reasonably or logically
93 followed from the evidence in the record certified to the court by the
94 commissioner, or the commissioner's designee. In any such appeal,
95 corrections of the commissioner's, or the commissioner's designee's,
96 findings, by the court shall only be made upon (i) refusal by the
97 commissioner, or the commissioner's designee, to find a material fact
98 that was an admitted or undisputed fact, (ii) the commissioner's, or the
99 commissioner's designee's, finding of a fact in language of doubtful
100 meaning so that its real significance may not clearly appear, or (iii) the
101 finding of a material fact by the commissioner, or the commissioner's
102 designee, without evidence.

103 (5) The appealing party may request that any finding of the
104 commissioner, or the commissioner's designee, be corrected on appeal
105 by filing a motion for the correction of such finding with the
106 commissioner, or the commissioner's designee, within fourteen calendar
107 days after the record has been filed in the Superior Court, unless the
108 time is extended for cause by the commissioner, or the commissioner's
109 designee. Such motion shall include portions of the evidence the
110 appealing party deems relevant and material to the corrections
111 requested. The commissioner, or the commissioner's designee, shall file
112 such motion along with the commissioner's, or the commissioner's
113 designee's, decision with the court within a reasonable time upon
114 receiving such motion. If the court denies such motion in whole or in

115 part and such denial is appealed, the commissioner, or the
116 commissioner's designee, shall, within a reasonable time thereafter, file
117 copies of evidence filed by the appealing party, together with such
118 additional evidence as may have been taken before the commissioner,
119 or the commissioner's designee.

120 (6) In any appeal taken under this subsection, unless the court shall
121 otherwise order after motion and hearing, the final decision of the court
122 shall be the decision as to all parties to the original proceeding before
123 the commissioner, or the commissioner's designee. When an appeal is
124 taken to the Superior Court, the clerk thereof shall, in writing, notify the
125 commissioner, or the commissioner's designee, of any action of the court
126 thereon and of the disposition of such appeal whether by judgment,
127 remand, withdrawal or otherwise and shall, upon the decision on the
128 appeal, furnish the commissioner, or the commissioner's designee, with
129 a copy of such decision.

130 (7) The court may remand the case to the commissioner, or the
131 commissioner's designee, for proceedings de novo, or for further
132 proceedings on the record, or for such limited purposes as the court may
133 prescribe. The court may retain jurisdiction by ordering a return to the
134 court of the proceedings conducted in accordance with the order of the
135 court or the court may order final disposition. A party aggrieved by a
136 final disposition made in compliance with an order of the Superior
137 Court, by the filing of an appropriate motion, may request the court to
138 review the disposition of the case.

139 (e) Any party aggrieved by a decision of the Superior Court may
140 appeal such decision to the Appellate Court in the same manner as is
141 provided in section 51-197b.

142 (f) The Labor Department shall adopt regulations, in accordance with
143 the provisions of chapter 54, concerning the rules of procedure for the
144 disposition of appeals filed under the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	31-49p
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LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill does not result in any fiscal impact to the Department of Labor, the Connecticut Paid Family and Medical Leave Insurance Authority, and the Judicial Department as it clarifies the already existing appeal process for all agencies.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 220*****AN ACT CONCERNING CLARIFYING THE APPEALS PROCESS UNDER THE PAID FAMILY AND MEDICAL LEAVE STATUTES.*****SUMMARY**

By law, anyone aggrieved by the Paid Family Medical Leave Authority's denial of program benefits or by the imposition of penalties for certain program-related fraud may appeal to the labor commissioner. The commissioner or her designee (collectively referred to as the Department of Labor (DOL) below) must decide the appeal, and a party aggrieved by DOL's decision may then appeal, within 31 days, to the Superior Court for the Hartford Judicial District or the judicial district where they live.

This bill specifies certain procedural steps and other criteria that must be followed in these appeals to the court. Among other things, the bill:

1. requires the appealing party to also file the appeal with DOL,
2. specifies what must be included in the record and requires DOL to certify it,
3. sets a process for the appealing party to request corrections for findings in the record,
4. generally limits what the court considers in the appeal to certain factors (e.g., whether DOL incorrectly applied the law to the facts it found), and
5. specifies what actions the court may take in deciding the appeal.

Lastly, the bill requires DOL to adopt regulations on procedural rules

for the disposition of the appeals.

EFFECTIVE DATE: Upon passage

APPEALS PROCESS

Filing the Appeal

The bill specifies that DOL's initial decision becomes final on the 31st calendar day after DOL sends a written copy of it to each party. For timely appeals before then, the appealing party must file the original appeal with DOL and state the grounds for seeking the review. Within 14 calendar days after that, DOL must mail the original appeal to the Superior Court clerk and send a copy to each party listed in the appealed decision by mail or electronically through the department's Leave Complaint and Appeal Portal. The clerk must docket the appeal as returned to the next return day after receiving it.

For these appeals, the bill requires DOL to certify the record to the court. The record must include (1) the notice of appeal to DOL, (2) the file record, (3) DOL's findings of fact and decision, and (4) any documents submitted to DOL before the appeal was filed. If the court requests it, DOL must also prepare and verify a transcript of the DOL hearing (if one was held).

The bill requires the appealing party to claim the appeal for the court's short calendar unless the court orders it to be placed on the trial list. For these proceedings, exceptions to DOL's rulings do not have to have been made or entered, and no bond may be required for entering an appeal to the Superior Court. If one of the parties is not represented by counsel and the appealing party does not claim the case for the short calendar or trial within a reasonable time after the return day, the court may dismiss the appeal on its own motion, or the party ready to proceed may move for nonsuit or default.

Court Guidelines

Under the bill, the court must hear the appeal upon the certified copy of the record DOL filed. The court cannot retry the facts or hear any evidence other than DOL's certified record. The court's review must be

limited to determining whether (1) DOL's findings should be corrected or (2) there is any evidence in the record to support in law the conclusions reached. The court cannot substitute its judgment for DOL's about the weight of the evidence on questions of fact. It may only determine whether DOL's decision incorrectly applied the law to the facts found or if the decision is clearly erroneous and could not have reasonably or logically followed from the evidence in DOL's certified record. The court may only correct DOL's findings if (1) DOL refused to find a material fact that was an admitted or undisputed fact, (2) the finding of a fact is in language of doubtful meaning so that its real significance may be unclear, or (3) DOL found a material fact without evidence.

Motions to Correct Findings

The bill allows an appealing party to request that a DOL finding be corrected on appeal by filing a motion for the correction with DOL within 14 calendar days after the record has been filed in the Superior Court, unless DOL extends the deadline for cause. The motion must include portions of the evidence the appealing party deems relevant and material to the corrections requested. DOL must file the motion and its decision with the court within a reasonable time upon receiving it. If the court denies the motion in whole or in part, and the denial is appealed, DOL must, within a reasonable time, file copies of evidence filed by the appealing party, and any additional evidence that may have been brought before DOL.

Court Decisions

Unless the court orders otherwise after a motion and hearing, the court's final decision must be the decision for all parties to the original proceeding before DOL. When an appeal is taken to the Superior Court, the court clerk must (1) notify DOL in writing about any action the court takes on it and the disposition of the appeal whether by judgment, remand, withdrawal, or otherwise, and (2) give DOL a copy of the decision when the appeal is decided.

The bill allows the court to remand the case to DOL for (1)

proceedings de novo (from the beginning), (2) further proceedings on the record, or (3) any limited purposes the court may set. The court may keep jurisdiction by ordering that the proceedings conducted under the court's order be returned to the court, or it may order final disposition. A party aggrieved by a final disposition made in compliance with a Superior Court order may ask the court to review the case's disposition by filing an appropriate motion.

Any party aggrieved by the Superior Court's decision may appeal it to the Appellate Court in the same way the law allows for administrative appeals.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/19/2024)