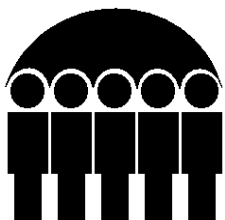


Revised May 18, 1999

Employees' Manual  
Title 1  
Chapter E

# APPEALS AND HEARINGS



Iowa  
Department  
of  
Human Services

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## **OVERVIEW**

The United States Constitution mandates that the Department guarantee due process of law to people whom we serve. “Due process of law” requires that people be allowed to:

- ◆ Present their complaints at a hearing,
- ◆ Be heard by testimony or otherwise, and
- ◆ Have an opportunity to cross-examine the Department’s representative regarding actions taken on their case.

Iowa law also requires that certain procedures be followed when state or federal constitution or law requires the Department to provide the opportunity for a hearing.

The appeals process is divided into three areas of responsibility between the different state agencies:

- ◆ The Department of Human Services (DHS) Appeals Section is responsible for logging in the appeal, determining if it is timely, and identifying the issue being appealed.
- ◆ Once all of these steps are completed, the appeal is certified to the Department of Inspections and Appeals, Division of Administrative Hearings, for the appeal hearing to be scheduled.
- ◆ Upon issuance of a proposed decision, the file is returned to the DHS Appeals Section for issuance of all final decisions.

This chapter applies to all Department appeals and hearings as required by the Iowa Administrative Procedures Act, under the federal regulations and state laws that apply to the programs administered by the Department. Hearing procedures for Food Assistance intentional program violations are found in Employees’ Manual 7-J.

## **Legal Basis**

The Fourteenth Amendment to the United States Constitution provides for appeals and hearings. The provisions of the Fourteenth Amendment are interpreted in the Code of Federal Regulations (CFR). The portions of the Code specifically dealing with appeals and hearings for each program are:

- ◆ Food Assistance, 7 CFR 273.15;
- ◆ Medicaid, 42 CFR 431.200.

Iowa’s authorizing legislation is found at Iowa Code Chapter 17A. The Department has promulgated rules on appeals and hearings at 441 Iowa Administrative Code Chapter 7.

**Definitions**

**Legal reference:** 441 IAC 7.1(217)

“**Administrative hearing**” means a type of hearing that an appellant may elect in which the presiding officer reviews the written record only and makes a decision based on the facts available within the appeal file. An administrative hearing does not require an in-person or teleconference hearing. The Appeals Section or the presiding officer makes the final determination to establish whether an administrative hearing may be held.

“**Administrative law judge**” means an employee of the Department of Inspections and Appeals who conducts appeal hearings.

“**Aggrieved person**” means a person against whom the Department has taken an adverse action. This includes a person who meets any of the following conditions:

- ◆ For **financial assistance** (including the Family Investment Program, Refugee Cash Assistance, Child Care Assistance, Diversion, Emergency Assistance, Family or Community Self-Sufficiency Grants, Family Investment Program hardship exemptions, and state Supplementary Assistance dependent person, in-home health related care, and residential care facility benefits), a person:
  - Whose request to be given an application was denied.
  - Whose application for assistance has been denied or has not been acted on in a timely manner.
  - Who contests the effective date of assistance.
  - Who contests the amount of benefits granted.
  - Who has been notified of a suspension, reduction, or cancellation of assistance.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.

- ◆ For **Food Assistance**, a person:
  - Whose request to be given an application was denied.
  - Whose application has been denied or has not been acted on in a timely manner.
  - Who contests the effective date of assistance.
  - Who contests the amount of benefits granted.
  - Who has been notified of a suspension, reduction, or cancellation of benefits.
  - Whose request to replace benefits that were lost in the mail has been denied.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.
  
- ◆ For **Medicaid, *hawk-i*, and waiver services**, a person:
  - Whose request to be given an application was denied.
  - Whose application has been denied or has not been acted on in a timely manner.
  - Who has been notified that level of care requirements have not been met.
  - Who has been aggrieved by a failure to take into account the appellant's choice in assignment to a coverage group.
  - Who contests the effective date of assistance, services, or premium payments.
  - Who contests the amount of health insurance premium payments, *hawk-i* premium payments, Medicaid for employed people with disabilities premium payments, or the spenddown amount under the medically needy program.
  - Who contests the amount of client participation.
  - Whose claim for payment or prior authorization has been denied.
  - Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
  - Who has received notice from the Medicaid hotline that services not received or services for which an individual is being billed are not payable by Medicaid.
  - Who has been notified that there will be a suspension, reduction, or cancellation of assistance or waiver services.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.

- ◆ For **social services**, including, but not limited to, adoption, foster care, rehabilitative treatment and supportive services, a person):
  - Whose request to be given an application was denied.
  - Whose application for services or payment for adoption subsidy or foster care has been denied or has not been acted on in a timely manner.
  - For whom it is determined that the person must participate in a service program.
  - Whose social work case manager failed to make a referral to the review organization for the rehabilitative treatment services requested or who is dissatisfied with the necessity, amount, duration, or scope of services as authorized by the review organization. Providers and referral workers who are dissatisfied with the authorized amount, duration, or scope of rehabilitative treatment services are not considered aggrieved persons.
  - Whose claim for payment of services has been denied.
  - Who has been notified that a protective or vendor payment will be established.
  - Who has been notified of a suspension, reduction, or cancellation of services.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.
  - Who applies for an adoption subsidy after the adoption has been finalized.
  - Who alleges that the adoptive placement of a child has been denied or delayed when an adoptive family is available outside the jurisdiction handling the child's case.
- ◆ For **child support recovery**, a person:
  - Who is not entitled to a support payment in full or in part because of the date of collection, or whose dispute based on the date of collection has not been acted on in a timely manner.
  - Who is contesting a claim or offset by alleging a mistake of fact. "Mistake of fact" means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral or submission. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court.
  - Whose name has been certified for passport sanction.
  - Who has been notified that there will be a termination in services.

- ◆ For PROMISE JOBS, a person:
  - Whose claim for participation allowances has been denied, reduced, or canceled.
  - Who claims that the contents of the family investment agreement are not sufficient or necessary for the family to reach self-sufficiency.
  - Who is dissatisfied with the results of informal grievance resolution procedures, or who fails or refuses to receive informal grievance resolution procedures.
  - Who has been notified that PROMISE JOBS services will be canceled due to imposition of a limited benefit plan.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.
  - Who alleges acts of discrimination on the basis of race, creed, color, sex, age, physical or mental disability, religion, national origin, or political belief.
  - Who claims displacement by a PROMISE JOBS participant.
- ◆ For **providers**, a person or entity:
  - Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
  - Whose claim for payment or request for prior authorization of payment has been denied.
  - Whose contract as a Medicaid patient manager has been terminated.
  - Who has been notified that an overpayment has been established and repayment is requested.
  - Who has been notified that the reconsideration process has been exhausted and remains dissatisfied with the outcome.
  - Whose claim for payment was not paid according to Department policy. Providers of Medicaid services must accept reimbursement based on the Department's methodology without making any additional charges to the recipient.

- ◆ For the **child or adult abuse registry, juvenile sex offender registry or criminal records check evaluation**, a person:
  - Who has been denied expungement or correction of child abuse or adult abuse registry information.
  - Who has been restricted or denied employment in a health care facility, state institution, or other facility based on a record check.

“Employment” includes, but is not limited to, service as an employee, a volunteer, a provider, or a contractor.

“Facilities” include, but are not limited to, county or multicounty juvenile detention homes and juvenile shelter care homes, child-placing agencies, substance abuse treatment programs, group living foster care facilities, child development homes, child care centers, state resource centers, mental health institutes, and state training schools.
  - Who is contesting a risk assessment decision by alleging that the risk assessment factors have not been properly applied, the information relied upon to support the assessment findings is inaccurate, or the procedures were not correctly followed.
- ◆ For **mental health and developmental disabilities**, a person:
  - Whose application for State Payment Program benefits or state community mental health or mental retardation service funds has been denied or has not been acted upon in a timely manner.
  - Who has been notified that there will be a reduction or cancellation of state payment program benefits or state community mental health or mental retardation service funds.
- ◆ For **HIPAA** (Health Insurance Portability and Accountability Act) decisions, who is a current or former applicant or recipient of Medicaid or *hawk-i*, or who is currently or previously in a department facility whose request:
  - To restrict use or disclosure of health information was denied.
  - To change how health information is provided was denied.
  - To amend health information was denied.
  - To receive an accounting of disclosures of health information was denied.

- To access the person's health information was denied.

**Note:** When the denial for access is subject to reconsideration under 1-C, **Review Process for a Denial of Access Due to Probable Harm**, a person denied access due to a licensed health practitioner's opinion that the information would constitute a danger to that person or another person must exhaust the reconsideration process before being considered an aggrieved person.

Individuals and providers that are not listed above may meet the definition of an aggrieved person if the Department has taken an adverse action against that individual or provider.

**"Appeal"** denotes a review and hearing request made by a person who is affected by a decision made by the Department or its designee. An appeal is considered a contested case within the meaning of Iowa Code Chapter 17A.

**"Appeals advisory committee"** means a committee consisting of central office staff who represent the Department in the screening of proposed decisions for the director.

**"Appeals section"** means the unit within the Department of Human Services that receives appeal requests, certifies requests for hearing, and issues final appeal decisions.

**"Appellant"** denotes the person who claims or asserts a right or demand (files the appeal) or the party who takes an appeal from a hearing to an Iowa district court.

**"Attribution appeal"** means an appeal to determine if additional resources can be allocated for the community spouse when the other spouse has entered a medical institution or is applying for home- and community-based waiver services. The result of the attribution appeal may affect Medicaid eligibility. An appellant may elect to have an attribution appeal held by administrative hearing.

**"Contested case"** means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a "no factual dispute" contested case under Iowa Code section 17A.10A.

**"Department"** means the Iowa Department of Human Services (DHS).

**"Department of Inspections and Appeals" (DIA)** means the state agency which contracts with the Department to conduct appeal hearings.

**“Due process”** denotes the right of a person affected by a Department decision to receive a notice of decision and an opportunity to be heard at an appeal hearing and to present an effective defense.

**“Ex parte communication”** means written, oral, or other forms of communication between a part to the appeal and the presiding officer while an appeal is pending when all parties were not given the opportunity to participate.

**“Food Assistance administrative disqualification hearing”** means a type of hearing used to determine if an individual fraudulently received benefits for which the individual was not eligible. A presiding officer shall determine if the individual will be banned from participating in the Food Assistance program for a period of time.

**“In-person or face-to-face-hearing”** means an appeal hearing conducted by an administrative law judge who is physically present in the same location as the appellant.

**“Intentional program violation”** means deliberately making a false or misleading statement; misrepresenting, concealing, or withholding facts; or committing an act that is a violation of the Food Stamp Act, food stamp program regulations, or any state rule relating to the use, presentation, transfer, acquisition, receipt, or possession of a benefit transfer instrument. An intentional program violation is determined through a Food Assistance administrative disqualification hearing.

**“Issues of fact or judgment”** denote disputed issues of facts or of the application of state or federal law or policy to the facts of the individual’s personal situation.

**“Issues of policy”** denote issues of the legality, fairness, equity or constitutionality of state or federal law or Department policy where the facts and applicability of the law or policy are undisputed.

**“Joint or group hearings”** denotes an opportunity for several persons to present their case jointly when all have the same complaint against Department policy.

**“Local office”** means the county, institution, or district office of the Department.

**“Presiding officer”** means an administrative law judge employed by the Department of Inspections and Appeals. The presiding officer may also be the Department’s director or the director’s designee. The presiding officer has the authority to conduct appeal hearings and render proposed and final decisions.

**“Presumption”** denotes an inference as to the existence of a fact not known or drawn from facts that are known.

**“PROMISE JOBS discrimination complaint”** means any written complaint by a PROMISE JOBS participant or the participant’s representative which alleges that an adverse action was taken against the participant on the basis of race, creed, color, sex, national origin, religion, age, physical or mental disability, or political belief.

**“PROMISE JOBS displacement grievance”** means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives which alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers.

**“Reconsideration”** means a review process that must be exhausted before an appeal hearing is granted. This includes, but is not limited to, a reconsideration request through:

- ◆ The Iowa Foundation for Medical Care.
- ◆ Magellan Behavioral Health Care.
- ◆ A health maintenance organization.
- ◆ A prepaid health plan.
- ◆ Medicaid patient management services.
- ◆ The Managed Health Care Review Committee.
- ◆ A division or bureau within the Department.
- ◆ The Mental Health and Developmental Disabilities Commission.
- ◆ The child or adult abuse registry.
- ◆ A licensed health professional as specified in 1-C, **Review Process for a Denial of Access Due to Probable Harm.**

Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

**“Teleconference hearing”** means an appeal hearing conducted by an administrative law judge over the phone.

**“Timely notice period”** is the time from the date a notice is mailed to the effective date of action. That period of time shall be at least ten calendar days, except in the case of probable fraud of the appellant. When probable fraud of the appellant exists, “timely notice period” shall be at least five calendar days from the date a notice is sent by certified mail.

**“Vendor”** means a provider of health care under the Medicaid program or a provider of service under the service program.

## **THE RIGHT TO APPEAL**

**Legal reference:** 441 IAC 7.5(217), 7 CFR 273.15(a)

Any person or group of persons has the right to appeal any Departmental decision and to request an appeal hearing. No one may limit or interfere with this right. A person or group must never be denied the right to appeal. However, the right to appeal does not guarantee that an appeal hearing will be granted.

The Department determines whether a hearing will be granted. The Department will grant a hearing to any appellant when state or federal law or constitution grants the right to a hearing, except as provided at **Right of the Department to Deny or Dismiss an Appeal**.

The Department must advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status. Examples of adverse action include:

- ◆ Failure to act on the client's application with reasonable promptness.
- ◆ Denial of Food Assistance, financial assistance, Medicaid or services.
- ◆ Denial of expungement or correction of child abuse registry information.
- ◆ Denial or revocation of a license, certification, approval or accreditation.
- ◆ Determination due to record check evaluation that a person may not be employed.
- ◆ Determination that a person must participate in a service program.
- ◆ Determination to make or continue a protective vendor or two-party payment.
- ◆ Failure to take account of the appellant's choice in assignment to a program.
- ◆ Retention of state or federal income tax refund monies or other state or federal warrants.
- ◆ Suspension, reduction, or termination of Food Assistance, financial assistance, Medicaid or services.

The following sections give more information on:

- ◆ Informing persons about their appeal rights.
- ◆ Publicizing hearing procedures.

### **Informing Persons of Their Rights**

**Legal reference:** 441 IAC 7.6(1), 7 CFR 273.15(I)

All Department application forms, notices, pamphlets, and brochures must contain information on the appeals process.

Give written notification regarding the appeal process on application forms and pamphlets prepared by the Department for applicants and recipients. Give an oral explanation of the appeals policy during the application process and at the time of any contemplated action by the Department when a need for an explanation is indicated.

Give written notification of the following at the time of application and at the time of any Department action affecting the claim for assistance:

- ◆ The right to request a hearing.
- ◆ The procedure for requesting a hearing.
- ◆ The right to be represented by others at the hearing, unless otherwise specified by statute or federal regulation.
- ◆ Provisions for payment of legal fees by the Department, if any.
- ◆ How to have assistance continued while the appeal is pending.

Provide a translation for persons not familiar with English into the language they understand. This can be in the form of a written pamphlet or orally.

### **Publication of Hearing Procedures**

**Legal reference:** 441 IAC 7.4(217); 7 CFR 273.15(f) and 7 CFR 273.15(I)

The Department publishes and widely distributes hearing procedures. Make this information available to all applicants, recipients, appellants, and other interested groups and individuals. The process for filing an appeal can be found on all *Notices of Decision* issued by the Department. Procedures regarding the appeal hearing can be found on the *Notice of Hearing*.

## **NOTICE OF DECISION**

**Legal reference:** 441 IAC 7.7(1)

- | Whenever the Department proposes to approve or deny an application for food assistance, financial assistance, Medicaid, or services, give adequate notice of the action. (See **Adequate Notice** for specific requirements.)
- | Whenever the Department proposes to terminate, reduce or suspend ongoing food assistance, financial assistance, Medicaid, or services, give timely and adequate notice of the pending action, except as listed under **Dispensing With Timely Notice**. “Timely” means that the notice is mailed at least ten calendar days before the date the action becomes effective. The timely notice period begins on the day after the notice is mailed.
- | Expedited Food Assistance benefits may be issued without a notice of decision. However, once action is completed on the application, timely and adequate notice must be issued.

The following sections explain:

- ◆ Requirements for an “adequate” notice.
- ◆ Definition of a timely notice and exceptions to when it is required.
- ◆ Holding a conference during the timely notice period.
- ◆ Actions that do not require a notice of decision.
- ◆ Reinstatement requirements.

### **Adequate Notice**

**Legal reference:** 441 IAC 7.7(1)“b”

“Adequate” means a written notice that includes:

- ◆ The action taken and the reasons for it.
- ◆ The DHS manual chapter number and subheading giving the policy basis for the action.
- ◆ The administrative rule reference.
- ◆ The client’s right to request a fair hearing.
- ◆ When assistance is continued if an appeal is filed, if applicable.
- ◆ The effective date of the intended action, if applicable.

Every notice the Department issues must be adequate. Failure to issue an adequate notice may invalidate the action appealed. The appeal rights statement is required on all notices of adverse action and must consist of the elements listed above.

Notice is issued to clients to offer them an opportunity to correct the reason for the intended adverse action and to allow sufficient notice to properly prepare a defense for an administrative hearing. Failing to state the reason for the action and the specific manual reference denies the client the information necessary to cure the reason for the intended action or to know about what or how to prepare a defense for an administrative hearing.

Manually prepared notices of decision must meet all of these criteria. Tailor manually prepared notices to match computer-generated notices as closely as possible. A reference to the name of a manual chapter is not sufficient. The reference should include the manual subheading of the action taken. It is not necessary to list the page number.

### **Dispensing With Timely Notice**

**Legal reference:** 441 IAC 7.7(1)“a,” 7.7(2); 7 CFR 273.13(a); 273.12(a)(i)(vii)

You may dispense with timely notice (but you must send adequate notice no later than the date benefits would have been issued) when:

- ◆ The Department approves or denies an application for assistance.
- ◆ The Department determines that a Food Assistance household has moved from the project area.
- ◆ There is evidence confirming that a participant died.
- ◆ The Family Investment Program payee died and no relative can serve as a new payee.
- ◆ The person provides a clear, written, signed statement that the person no longer wants assistance.
- ◆ The person gives information that requires termination or reduction of assistance, and the participant has indicated, in writing, that the participant understands the consequence of supplying the information.
- ◆ The person has been admitted or committed to an institution which does not qualify for payment under an assistance program.

- ◆ The person has been placed in skilled nursing care, intermediate care, or long-term hospitalization.
- ◆ The person's physician prescribes a change in the level of medical care.
- ◆ The person's whereabouts are unknown and the post office retrieved mail directed to the person indicating no known forwarding address. If the person is located within the payment month, reissue any undelivered warrant.
- ◆ The person has been accepted for assistance in a new jurisdiction.
- ◆ Cash assistance or Food Assistance are changed because a child is removed from the home as a result of a judicial determination or voluntarily placed in foster care.
- ◆ The Department terminates, reduces, or suspends benefits or makes changes based on a completed report form. (This can be the *Public Assistance Eligibility Report (PAER)*, form 470-0454, 470-0455, or 470-3719 (Spanish); the *Review/Recertification Eligibility Document (RRED)*, form 470-2881; or the *Food Assistance Interim Report (FAIR)*, form 470-4026.)
- ◆ The Department terminated benefits for failure to return a completed report form. (This can be can be form 470-0454, 470-0455, 470-3719, 470-2881, or 470-4026.)
- ◆ The Department terminates a special allowance or service granted for a specific predetermined period, and the person was informed in writing at the time of initiation that the allowance or service will terminate at the end of the specified period.

### **Conference During the Timely Notice Period**

**Legal reference:** 441 IAC 7.7(4)

During the timely notice period, the client may have a conference to discuss the Department's proposed action in the *Notice of Decision*. The Department must provide a full explanation of the reasons for the pending action and give the client an opportunity to offer facts to support the contention that the pending action is not warranted.

A representative, legal counsel, friend or other person may accompany the client. This person may represent the client when the client is not able to be present, unless otherwise specified by statute or federal regulation. (See **Representation**.)

A client does not have to appeal a decision to request a conference to discuss the intended action of the Department. When the client requests the conference during the timely notice period, the Department must schedule a time to meet with the client to answer the client's concerns. Conferences held once an appeal is filed are covered at **Prehearing Conference**.

### **Notice Not Required**

**Legal reference:** 441 IAC 7.7(5), 7 CFR 273.13(b)

Notification is not required when:

- ◆ Services in the Social Service Block Grant Pre-Expenditure Report are changed from one plan year to the next, or the Plan is amended because funds are no longer available.
- ◆ Service has been time-limited in the Social Service Block Grant Pre-Expenditure Report, and as a result, the service is no longer available.
- ◆ The Department changes the placement of a person in foster care.
- ◆ Payment has been in accordance with the Medicaid payment schedule for the service billed (because there is no adverse action).
- ◆ It has been determined, based on reliable information, that the Food Assistance household has moved from the project area.

### **Reinstatement**

**Legal reference:** 441 IAC 7.7(6), 40.2(5), 40.22(5), 65.19(13), 65.119(13)

Whenever a previously canceled case must remain canceled for a reason other than that covered by the original notice, send timely and adequate notice of the new cancellation, except as specified under **Dispensing With Timely Notice**.

When a household has been reinstated for Food Assistance pending the outcome of an appeal and the decision upholds the Department, issue a timely and adequate *Notice of Decision* advising the household that its Food Assistance case is being canceled again based on the appeal decision.

Whenever a previously canceled case is eligible for reinstatement at a lower level of benefits for a reason other than that covered by the original notice, send timely and adequate notice of reinstatement, except as listed under **Dispensing With Timely Notice**.

Reinstatement of a Food Assistance household can occur before the effective date of cancellation when:

- ◆ The reasons that caused the cancellation no longer exists, and
- ◆ Eligibility can be determined.

FIP assistance must be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished.

When eligibility factors are met, FIP assistance must be reinstated when the local office receives the completed forms 470-0455, 470-0454, and 470-3719 (Spanish) *Public Assistance Eligibility Report*, or 470-2881, 470-2881(M), 470-4083(M), *Review/Recertification Eligibility Document*, within ten days of the date a cancellation notice is sent to the participant because the form was incomplete or not returned.

## **OPPORTUNITY FOR HEARING**

**Legal reference:** 441 IAC 7.8(1), 7 CFR 273.15(h)

An appeal is an expression by the household or its representative that the household wishes to appeal a decision or desires an opportunity to present its case to a higher authority. No one shall limit or interfere with the freedom to request an appeal in any way.

When a person (or the person's authorized representative) expresses in writing dissatisfaction with any decision, action, or failure to act with reference to the case, the Department must determine whether the person wishes to appeal and receive an appeal hearing before an administrative law judge.

A request for a Food Assistance appeal may be expressed verbally or in writing. All other appeal requests must be in writing.

The following sections give more information:

- ◆ Procedures for filing an appeal.
- ◆ The Department's right to deny or dismiss an appeal.
- ◆ Time limits for granting an appeal hearing.
- ◆ Withdrawing an appeal request.

### **Filing an Appeal**

**Legal reference:** 441 IAC 7.8(2), 7 CFR 273.15(h)

Encourage the appellant to make a written appeal on Part I of form 470-0487, *Appeal and Request for Hearing*. However, use of this form is not required. When the appellant is unwilling to complete or sign this form, this does not preclude the right to file the appeal, as long as the appeal is in writing and has been communicated to the Department by the appellant or appellant's representative.

**Exception:** Food Assistance households may verbally request an appeal. If a client verbally requests a Food Assistance appeal, complete the form on behalf of the client.

Provide any instructions or assistance required in completing the form. If the appellant submits the written appeal on another paper, attach it to the appeal form.

The office where the appeal is received must document the receipt date of all appeals. Document the filing date by saving the envelope with the postmark and date-stamping the date received at any Department office. Attach the envelope to the appeal form and submit it to the DHS Appeals Section **within 24 hours of receipt**.

A written appeal is considered filed on the date postmarked on the envelope that is sent to the Department. When the postmarked envelope is not available, a written appeal is filed on the date the appeal is date-stamped received by the Department.

### **Registration and Acknowledgment of Appeal**

**Legal reference:** 441 IAC 7.10(1) and (2)

Upon receipt of an appeal, the DHS Appeals Section registers the appeal and sends an acknowledgment of receipt of the appeal to the appellant, representative, and all parties to the appeal, including the appropriate Department offices.

### **Right of the Department to Deny or Dismiss an Appeal**

**Legal reference:** 441 IAC 7.5(2), 7.5(4), 7.8(6); 7 CFR 273.15(a), 273.15(j)

The DHS Appeals Section has the responsibility for determining whether or not a hearing will be granted based on the following criteria. A hearing will not be granted when:

- ◆ Upon review, the Appeals Section determines that the appellant does not meet the criteria of an aggrieved person. (See **Definitions.**)
- ◆ State or federal law or regulation provides for a different forum for appeals.
- ◆ The appeal is filed prematurely, when there is no adverse action by the Department or the appellant has not exhausted the reconsideration process.
- ◆ The appeal is not timely. (See **Time Limit for Granting an Appeal Hearing.**)
- ◆ Either state or federal law requires automatic grant adjustments for classes of recipients.
- ◆ Payment for a medical claim has been made in accordance with the Medicaid payment schedule for the service billed.
- ◆ A person is appealing a notice received from the Federal Treasury Offset Program.
- ◆ Children have been removed from or placed in a specific foster care setting or preadoptive family.
- ◆ The service is no longer available from the Department.
- ◆ A request for an exception to policy has been denied.
- ◆ The appeal involves patent treatment interventions outlined in the patient handbook of the Civil Commitment Unit for Sexual Offenders.

When the DHS Appeals Section receives a request for appeal and determines that there is no right to a hearing because of one of the above reasons, the DHS Appeals Section will issue a written denial.

The DHS Appeals Section or the Department of Inspections and Appeals also has the right to deny or dismiss the appeal when:

- ◆ The appellant has withdrawn the appeal in writing.
- ◆ The Department, by written notice, withdraws the action appealed and restores the appellant's status that existed before the action appealed was taken.

- ◆ The Department implements the action and issues a *Notice of Decision* to correct an error made by the Department that resulted in the appeal.
- ◆ The sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.
- ◆ The appeal has been abandoned. Abandonment may be deemed to have occurred when the appellant or the appellant's authorized representative fails to appear at the hearing without good cause.

### **Time Limit for Granting an Appeal Hearing**

**Legal reference:** 441 IAC 7.5(4), 7 CFR 273.15(g)

The DHS Appeals Section has the responsibility for determining whether or not an appeal shall be considered timely. Subject to the provisions of **Right of the Department to Deny or Dismiss an Appeal**, the granting of a hearing is governed by these time standards:

- ◆ For child support debt setoffs: A hearing will be granted on appeals made within 15 days of the date of the letter of notification for state or federal tax offset or offset of any other warrant. **Note:** Hearings are held for offset of federal tax warrants or other federal warrants only if the offset is due to a child support debt.
- ◆ For Food Assistance:
  - A hearing will be held on any action or loss of benefits that occurred in the previous 90 days. "Action" includes a denial or a request for restoration of any Food Assistance benefit loss more than 90 days but less than a year before the request.
  - A household may request a hearing to dispute the current level of benefits at any time within a Food Assistance certification period.
- ◆ For all other cases:
  - A hearing will be held if the appeal is filed within 30 days after official notification of an action or before the effective date of the action.
  - When the appeal is filed more than 30 days, but less than 90 days after notification, the director will determine whether a hearing will be held. (See **Reasons to Grant a Hearing**.)
  - Appeals filed more than 90 days after notification will not be heard.

The first day of the period within which an appeal must be filed is the day after the date the official notice is issued. When the last day of the period falls on a holiday or weekend, the time is extended to the next working day.

Ms. A receives a notice of decision dated May 10, canceling her Family Investment Program grant effective June 1. The first day of the period within which she can appeal is May 11. The last day she can file an appeal and still be considered timely would be June 9. Since June 9 falls on a Saturday, the time is extended to the following Monday, June 11.

The following sections explain:

- ◆ Circumstances when the director may grant a hearing on an appeal request filed more than 30 days after the action.
- ◆ Special circumstances governing the timeliness of appeals of:
  - Imposition of a FIP limited benefit plan.
  - Collection of FIP and Food Assistance overpayments.
  - Collection of Medicaid and State Supplementary Assistance overpayments.
  - Job discrimination or displacement through PROMISE JOBS.

### **Reasons to Grant a Hearing**

**Legal reference:** 441 IAC 7.5(4)“b” and 7.5(5)

The director may grant a hearing if one of the following conditions existed during the 30-day timely appeal period:

- ◆ There was a serious illness or death of the appellant or a member of the appellant’s family.
- ◆ There was a family emergency or household disaster, such as fire, flood, or tornado.
- ◆ The appellant offers a good cause that was beyond the appellant’s control and can be substantiated.
- ◆ There was a failure to receive the Department’s notification for a reason out of the appellant’s control. (Lack of a forwarding address is in the appellant’s control.)

The following are factors to consider in determining if good cause exists:

- ◆ Did the appellant have the intent to appeal the decision?
- ◆ Is the appellant claiming that the DHS action was wrong and does the appellant present a basis for claiming the Department's action was wrong?
- ◆ Did the appellant fail to file the appeal within 30 days as a result of a mistake (regardless of whether the mistake was made by the appellant or someone helping the appellant with the appeal), or did the appellant willfully ignore the time frames?

The time limit for filing an appeal is not extended while attempts at informal settlements are in progress. For further information on informal settlements, refer to **Prehearing Conference** later in this chapter.

### **Appeals of Limited Benefit Plans**

**Legal reference:** 441 IAC 7, 93.140(249C)

A person has the right to appeal the establishment of the limited benefit plan **only once**. However, there are two different times when the person can appeal a **first** limited benefit. A person may appeal the first limited benefit at **one** of the following times:

- ◆ When a *Notice of Decision* establishes the beginning date of the limited benefit.
- ◆ When a *Notice of Decision* establishes the six-month period of ineligibility.

A person may appeal a second or subsequent limited benefit **only** when a *Notice of Decision* establishes the beginning date of the limited benefit.

If another appeal is filed after the limited benefit appeal, a hearing may be granted only if the appeal involves worker error, such as an incorrect grant computation or an error in determining the eligible group.

When the reason for a subsequent appeal is based on an incorrect grant computation, an error in determining the eligible group, or other worker error, a hearing may be granted.

### **Appeals of FIP and RCA Overpayments**

**Legal reference:** 441 IAC 7.5(6)

A person's right to appeal the existence, computation, and amount of a Family Investment Program or Refugee Cash Assistance overpayment begins when the person receives the first notice from the Department informing the person of the overpayment, on:

- ◆ Form 470-2616, *Demand Letter for FIP/RCA Agency Error Overissuance*, or
- ◆ Form 470-3490, *Demand Letter for FIP/RCA Client Error Overissuance*.

A hearing will not be held if an appeal is filed in response to a second or subsequent *Demand Letter*. The right to appeal is subject to the 30-day time limit described under **Time Limit for Granting an Appeal Hearing**.

A person's right to appeal the recovery of an overpayment through benefit reduction, as described in 4-H, **Methods of Recovery**, begins when the person receives form 470-0486, *Notice of Decision*, informing the person that benefits will be reduced to recover a FIP or RCA overpayment.

### **Appeals of Food Assistance Overpayments**

**Legal reference:** 7 CFR 273.15(g)

A person's right to appeal the existence, computation, and amount of a Food Assistance overpayment begins when the person receives the first notice from the Department informing the person of the overpayment, on:

- ◆ Form 470-3487, *Demand Letter for Food Stamp Inadvertent Household Error Error Overissuance*, or
- ◆ Form 470-3490, *Demand Letter for Food Stamp Intentional Program Violation Overissuance*, or
- ◆ Form 470-0328, *Demand Letter for Food Stamp Agency Error Overissuance*.

A hearing may be held if an appeal is filed in response to a second or subsequent *Demand Letter* if the appeal is filed within the 90-day time limit described under **Time Limit for Granting an Appeal Hearing**.

### **Appeals of Medicaid and State Supplementary Assistance Overpayments**

**Legal reference:** 441 IAC 7.5(7)

A person's right to appeal the existence and amount of a Medicaid or SSA overpayment begins when the person receives the first notice from the Department informing the person of the Medicaid or SSA overpayment. Notice is issued on form 470-2891, *Notice of Overpayment: Demand Letter for the Medicaid or State Supplementary Assistance Overpayment*.

A hearing will not be held if the appeal is filed in response to a second or subsequent *Demand Letter*. The right to appeal is subject to the 30-day time limit described under **Time Limit for Granting an Appeal Hearing**.

### **PROMISE JOBS Displacement and Discrimination Appeals**

**Legal reference:** 441 IAC 7.5(4)“e”

PROMISE JOBS displacement and discrimination appeals will be granted hearing on the following basis:

- ◆ An appeal of an informal grievance resolution decision on a PROMISE JOBS displacement grievance must be made in writing within 24 days of the filing of the displacement grievance or within ten days of mailing date of the resolution decision, whichever is sooner.
- ◆ An appeal by a PROMISE JOBS participant alleging discrimination must be made within the time frames described under **Time Limit for Granting an Appeal Hearing**, in relation to the action alleged to have involved discrimination. Good cause may be allowed as described in **Reasons to Grant a Hearing**.

### **Withdrawal of Appeal Request**

**Legal reference:** 441 IAC 7.8(8)

When the appellant desires to withdraw the appeal voluntarily and is in the local office, have the appellant sign form 470-0492, *Request for Withdrawal of Appeal*. Submit the signed form to DHS Appeals Section. If the request is made directly to the DHS Appeals Section, the DHS Appeals Section will secure the signed form and notify the local office and DIA that the appeal is withdrawn.

## **RESPONSIBILITIES OF DEPARTMENT'S REPRESENTATIVE**

The worker or office that took the action being appealed or provided information on the client is responsible for representing the Department in the appeal process. This may include the PROMISE JOBS worker on a limited benefit plan, the CSRU worker on a noncooperative FIP case, IFMC, MBCI, or other contract staff.

Representing the Department involves:

- ◆ Submitting the appeal request and a summary of the action to the Appeals Section and the appellant.
- ◆ Coordinating with an attorney from the Attorney General's office when one is assigned.
- ◆ Conducting a prehearing conference, if the appellant requests it.
- ◆ Continuing assistance pending the final decision, if the appellant qualifies.

The following sections explain these duties in more detail.

### **Submitting Information**

**Legal reference:** 441 IAC 7.8(9), 7 CFR 273.15(i)(1)

Unless the appeal is voluntarily withdrawn, the Department worker or agent responsible for representing the Department at the hearing must complete the appropriate forms and send them to DHS Appeals Section at 1305 E. Walnut Street, 5<sup>th</sup> Floor, Des Moines Iowa 50319.

- ◆ Within one working day of receipt of the appeal, complete Part II of form 470-0487, *Appeal and Request for Hearing*, if the written appeal is not on the form, and attach a copy of the notice of decision on the adverse action being appealed.
- ◆ Within ten days of the receipt of the appeal complete a summary and attach supporting documentation of the worker's factual basis for the action being appealed. See **Appeal Summary**.
- ◆ Provide copies of all the materials sent to the DHS Appeals Section to the appellant and the appellant's representative at the same time.

The Appeals Section is not responsible for providing copies of the appeal summary to the appellant, the appellant's representative, or any other party to the appeal. It is the Department worker's responsibility to ensure that all parties receive copies of the appeal summary.

Notify the DHS Appeals Section if other agencies or staff are parties to the appeal. Appeals staff will ensure that the other agencies are added to the appeal file to be notified of hearing dates and receive correspondence regarding the appeal. These may include:

- ◆ Department of Inspections and Appeals Investigations or Overpayment Recovery staff.
- ◆ Department of Iowa Workforce Development personnel.
- ◆ PROMISE JOBS workers.
- ◆ Quality Control staff.

Also continue or reinstate benefits or services pending the appeal, if applicable. See **Continuation of Assistance Pending Final Appeal Decision.**

### **Appeal Summary**

Your appeal summary should contain the following:

- ◆ Name of the appellant.
- ◆ Appeal number.
- ◆ Date of the appeal.
- ◆ Issue appealed.
- ◆ Detailed explanation of what happened leading to the appeal.
- ◆ Facts and policies regarding the Department's action.
- ◆ Citations to the Iowa Administrative Code and Employees' Manual.

Attach copies of all supporting documents. This may include specific notices, requests for information, caseworker notes, etc. Reference the supporting documents in the appeal summary.

The supporting documents will vary according to the issue of the case. Always include the application and authorization to represent if a representative has been authorized by the appellant. If the supporting documentation contains confidential information, such as the name of a child abuse reporter, de-identify this before providing the appellant a copy of the summary.

### **Coordination With Attorney General's Office**

In some situations, primarily child abuse and service appeals, an Assistant Attorney General will be assigned to act as the Department's attorney. In these situations, the acknowledgment letter will indicate in the carbon copy section that the Attorney General's Office is involved. The Department worker is responsible for contacting the attorney and coordinating information for the appeal summary.

### **Continuation of Assistance Pending Final Appeal Decision**

**Legal reference:** 441 IAC 7.9(1); 7 CFR 273.13(a)(1), 273.15(k)(1) and 273.15(k)(2)

Assistance shall not be suspended, reduced, restricted, discontinued, or terminated, nor shall a license or registration be revoked, or other proposed adverse action be taken pending a final decision on an appeal when:

- ◆ The appellant files an appeal within the timely notice period.
- ◆ The appellant files an appeal within ten days from the date adequate notice is issued for termination, reduction, or suspension of services, Food Assistance, Family Investment Program or Medicaid based on the completed monthly report.

If adequate notice is required, benefits may be continued if the appeal is filed within ten days of the date of the notice. When timely and adequate notice is required, benefits may be continued if the appeal is filed before the effective date of the notice.

Benefits continue if an appeal is based on a notice of cancellation only when a completed FAIR, PAER or RRED has been submitted. If the notice period ends on a weekend or holiday, and the appellant files the day after the weekend or holiday, the request shall be considered to have been timely received. Benefits will continue.

To determine continuation of benefits, the date the appeal is filed is the date of the postmark or the date of receipt of the appeal, whichever is earlier.

If benefits are continued pending a final decision on the appeal, then the factor appealed must be held constant. During the appeal process, if a change is reported, act on that change, and issue a new notice of decision, if applicable.

Form 470-0487, *Appeal and Request for Hearing*, contains space for the appellant to request continued benefits or not. If the form does not positively indicate that the household has waived continuation of benefits, assume that continuation of benefits is desired and act accordingly.

**When Assistance Does Not Continue**

**Legal reference:** 441 IAC 7.9(2)

The adverse action appealed to suspend, reduce, restrict, discontinue, or terminate assistance, revoke a license or registration, or take other proposed action may be implemented pending a final decision on appeal when:

- ◆ An appeal is not filed within the timely notice period.
- ◆ The appellant does not request a hearing within ten days from the date adequate notice is issued based on the completed monthly report.
- | ◆ A Food Assistance certification ends.
- | ◆ A medically needy certification period ends.
- ◆ The appellant directs the worker in writing to proceed with the intended action.
- ◆ Medicaid benefits under a prior authorization are appealed and the prior authorization ends.

Do not reinstate benefits when an adequate (not timely) notice is appealed eleven or more days after the issuance date of the notice, or when an adequate and timely notice is appealed after the effective date of the notice.

Do not reinstate benefits when a *Notice of Cancellation* is appealed, or when an appeal is filed eleven or more days after the date of a *Notice of Decision* issued based on information reported on the completed FAIR, PAER, or RRED.

Do not reinstate or continue benefits when a certification period ends.

### **Recovery of Excess Assistance Paid Pending a Final Decision**

**Legal reference:** 441 IAC 7.9(3), 7 CFR 273.15(k)(1)

Continued assistance is subject to recovery by the Department if the Department's action is affirmed in the final decision, except when the decision affirms a limited benefit plan that will be established with a new effective date.

When the Department's action is affirmed in the final decision, recover excess assistance paid pending a hearing decision back to the effective date of the original decision. No appeals will be heard over excess assistance paid pending a hearing decision that was not in the appellant's favor. However, appeals may be heard on the computation of excess assistance paid pending a hearing decision.

If the Department action is affirmed by the final decision, establish a claim against the appellant for all overissuances. (See **Final Decision** later in this chapter for instructions on implementing the final appeal decision.)

### **Recovery of Excess Assistance When Benefits Change Before a Final Decision**

**Legal reference:** 441 IAC 7.9(3), 7 CFR 273.15(k)

Recover excess assistance paid when the appellant's benefits are changed due to one of the following reasons:

- ◆ A determination is made at the hearing that the sole issue is one of state or federal law or policy, or change in state or federal law, and not one of incorrect grant computation, and the grant is adjusted.
- ◆ A change affecting the appellant's grant occurs while the hearing decision is pending and the appellant fails to request a hearing after notice of the change.

Recover assistance paid from the date of change that affects the incorrect payment.

### **Prehearing Conference**

**Legal reference:** 441 IAC 7.8(4), 7.8(5); 7 CFR 271.15(d)(1), 7 CFR 273.15(d)(2)

When desired by the appellant, schedule a prehearing conference with a representative of the local office or the office that took the action. Schedule the conference as soon as possible after the appeal is filed. Allow the appellant's representative to attend and participate in the conference, unless precluded by federal rule or state statute.

The purpose of the prehearing conference is to:

- ◆ Provide information or explanations about the reasons for the intended adverse action.
- ◆ Answer questions.
- ◆ Provide an opportunity for the appellant to explain the appellant's action or position.
- ◆ Provide an opportunity for the appellant to examine the contents of the case record plus all documents and records the Department will use at the hearing, in accordance with public laws and fair information practice.

**Note:** The appellant does not need to request a prehearing conference to have access to the records.

Observe the following procedures regarding the prehearing conference:

- ◆ Offer a prehearing conference to every appellant. If the appeal form is used, the offer shall be considered to have been made.
- ◆ Advise the appellant that use of a prehearing conference is optional and it in no way delays or replaces the hearing process.
- ◆ Schedule the prehearing conference for households contesting a denial of expedited service for Food Assistance within two working days, unless the household requests that it be scheduled later or states that it does not wish to have a conference.
- ◆ The worker responsible for the action may attend the prehearing conference. However, the worker's supervisor shall attend the prehearing conference.
- ◆ The appellant may choose to have a representative at the prehearing conference.

Do not use the prehearing conference to discourage appellants from proceeding with their appeals. For further information on interference, refer to **RIGHTS OF APPELLANTS DURING HEARINGS**.

The following sections explain procedures to follow when:

- ◆ The applicant withdraws the appeal request at the conference.
- ◆ The conference is scheduled at the request of DIA.

### **Withdrawal at Prehearing Conference**

A prehearing conference may lead to an informal resolution of the dispute. However, a hearing will still be held unless the appellant makes a written withdrawal of the appeal or verbally instructs DHS Appeals Section or DIA Appeals Division to withdraw the appeal. Refer to **Withdrawal of Appeal Request** earlier in the chapter for further information.

When appellants are represented by an attorney, confirm withdrawals with the attorney. A verbal or written request to withdraw an appeal from an appellant with an attorney of record is not necessarily invalid if made without the attorney's knowledge. However, it may be invalid if the attorney presents valid objection to the withdrawal.

When the Department discovers that it erred in the initial decision, immediately advise the appellant of the Department's willingness to rectify the error. When the appellant is willing to accept the Department's corrections of error and withdraws the appeal, make the correction immediately. Send a copy of the written withdrawal to the DHS Appeals Section.

When the Department corrects an error, notify the DHS Appeals Section. Either the appeal will be denied or a proposed decision issued dismissing the appeal as being resolved.

### **Prehearing Conference Scheduled by DIA**

In some situations, DIA will schedule a prehearing conference. DIA is responsible for notifying all parties to the appeal, in writing when it schedules a prehearing conference.

This is a conference between all parties to the appeal to set and determine procedural issues, such as witnesses, dates of hearing, length of hearing, etc. The merits of an appeal will not be discussed at a prehearing conference scheduled by DIA.

The Department worker is expected to be at the prehearing conference scheduled by DIA. If the Attorney General's Office is representing the Department, you may contact the attorney involved to determine if you need to attend the prehearing conference.

## **APPEALS PROCEDURES**

The following sections describe the procedures used by the DHS Appeals Section and the DIA Appeals Division, including:

- ◆ Granting a hearing.
- ◆ Scheduling a hearing.
- ◆ Determining the method of hearing.
- ◆ Determining the place of hearing.
- ◆ The role of the administrative law judge.
- ◆ Conduct of the hearing.
- ◆ Issuing subpoenas for witnesses or evidence.
- ◆ Obtaining a medical examination.

### **Granting a Hearing**

**Legal reference:** 441 IAC 7.10(3), 7 CFR 273.15(j)

The DHS Appeals Section determines whether an appellant may be granted a hearing and the issues to be discussed at the hearing, in accordance with applicable rules, state statutes, and federal regulations.

The appeals of those appellants who are granted a hearing are certified to the Department of Inspections and Appeals for the hearing to be conducted. The DHS Appeals Section indicates at the time of certification the issues to be discussed at the hearing.

Appellants whose appeals are denied hearings are notified by letter. Any appellant who disagrees with a denial of hearing may present additional information relative to the reason for denial and request reconsideration by the Department or a hearing over the denial.

The following sections address:

- ◆ Expedited hearing.
- ◆ Group hearings.

See also **Right of Department to Deny or Dismiss an Appeal** and **Time Limit for Granting an Appeal Hearing**.

### **Expedited Hearings**

**Legal reference:** 7 CFR 273.15(i)(2)

The DHS Appeals Section will expedite Food Assistance appeal requests from households that plan to move from the project area, such as migrant farm workers. Appeal requests from these households are processed faster than others to enable them to receive a decision and a restoration of benefits, if the decision so indicates, before they leave the area.

The local office is responsible for notifying the DHS Appeals Section that an expedited hearing is needed.

Appeals are also expedited for Emergency Assistance households. The intent of the Emergency Assistance program is to provide immediate financial assistance to eligible families who are facing an emergency that threatens the family's living arrangements. It is important that appeals received on this program be resolved as quickly as possible to determine whether the appellant is eligible for Emergency Assistance benefits.

### **Group Hearings**

**Legal reference:** 441 IAC 7.5(3), 7 CFR 273.15(e)

The DHS Appeals Section may respond to a series of individual requests for a hearing by requesting that the Department of Inspections and Appeals conduct a single group hearing in cases in which the sole issue is one of state or federal law or policy or changes in state or federal law. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

In all group hearings, the policies governing individual hearings shall be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

## **Scheduling the Hearing**

**Legal reference:** 441 IAC 7.10(4), 7.10(7); 7 CFR 273.15(l)

The Department of Inspections and Appeals establishes the date, time, method, and place of the hearing for the records certified for hearing by the DHS Appeals Section.

In those appeals certified for hearing, the Department of Inspections and Appeals sends a notice to the appellant at least ten calendar days in advance of the hearing date. The notice states:

- ◆ The date, time, method, and place of the hearing.
- ◆ The name of the administrative law judge.
- ◆ The issues to be discussed at the hearing.
- ◆ The rights of the appellant to:
  - Present any evidence orally or through documents to establish pertinent facts.
  - Question or refute any testimony.
  - Bring witnesses of the appellant's choice and may be represented by others, including an attorney, subject to federal statute or law.
- ◆ Whom to contact with questions about the hearing date or issues.

If the hearing is conducted by telephone, the notice will carry instructions on teleconference calls and where the appellant is to appear to be connected.

DIA will send a copy of this notice to all the parties to the appeal, as certified by the DHS Appeals Section. The *Notice of Hearing* is delivered by first class mail except for fraud cases, where certified mail is used.

Workers are responsible for notifying judges in advance of telephone numbers at which they can be reached to participate in the hearing.

### **Requests to Reschedule a Hearing**

**Legal reference:** 441 IAC 7.10(6)“a” and “b,” 7 CFR 273.15(c)(4)

The Department of Inspections and Appeals is responsible for scheduling all appeal hearings and rescheduling requests.

Make all requests concerning the scheduling of a hearing directly to the Department of Inspections and Appeals. This includes requests by the appellant or the DHS staff to set another date, time, method or place of hearing.

Food Assistance appellants are automatically allowed one rescheduling upon request.

The appellant may request the teleconference hearing be rescheduled as an in-person hearing. All requests made for a teleconference hearing to be rescheduled as an in-person hearing will be granted.

Notify the Department of Inspections and Appeals when a request for an in-person hearing has been received and it was not noted on the *Appeal and Hearing Request*. Also notify the Department of Inspections and Appeals when a request is received to reschedule the teleconference hearing as an in-person hearing.

### **Failure to Appear**

**Legal reference:** 441 IAC 7.13(4)

When a party fails to appear at a hearing after proper service of notice, the administrative law judge may:

- ◆ Reschedule the hearing, or
- ◆ Proceed with the hearing in the absence of that party and make a decision, or
- ◆ Consider the appeal abandoned and dismiss it.

DHS certifies the appeal for hearing again if the appellant presents good cause for failure to appear. Refer to **Reasons to Grant a Hearing** for factors considered in determining good cause.

### **Method of Hearing**

**Legal reference:** 441 IAC 7.10(5)

The Department of Inspections and Appeals determines whether the appeal hearing is conducted in person or by teleconference call. Any appellant is entitled to an in-person hearing if desired. All parties are granted the same rights during a teleconference hearing as listed at **RIGHTS OF APPELLANTS DURING HEARINGS**.

### **Place of Hearing**

**Legal reference:** 441 IAC 7.10(4)“a” and “b”

In cases involving individual appellants, the hearing will be held in the DHS local office. When the appellant is incapacitated due to illness or disability and is housebound, hospitalized, or in a nursing home, the place of the hearing is at the convenience of the appellant.

In cases of appeals by vendors or agencies, the hearing will be scheduled at the most appropriate office, giving due consideration to the convenience of the vendor or agency and availability of DHS employees.

The local office shall arrange for an appropriate room in which the hearing may be held. The place for the hearing shall allow for privacy and be free from interruptions. If the hearing is being conducted by telephone, the local office is responsible for providing telephones located in a place that will ensure privacy. The worker and appellant shall each have a telephone, unless a speakerphone is available.

Notify the receptionist that hearings are scheduled and instruct the receptionist to ensure that persons appearing for a hearing are directed to the proper place at the time scheduled for hearing.

### **Administrative Law Judge**

**Legal reference:** 441 IAC 7.3(217), 7 CFR 273.15(m)

Appeal hearings are conducted by an administrative law judge appointed by the Department of Inspections and Appeals pursuant to Iowa Code Section 17A.11. The administrative law judge is an employee of the Department of Inspections and Appeals and is charged with the responsibility of determining the facts, based upon evidence presented at the hearing, and applying the appropriate policy to these facts to arrive at a decision.

The administrative law judge shall be impartial and shall not have been involved in the initial action taken. The administrative law judge shall not be connected in any way with the previous actions or decisions on which the appeal is made.

The administrative law judge shall not be subject to the authority, directions, or discretion of any person who has prosecuted and advocated in connection with that case, the specific controversy underlying that case, or any pending factually related contested case or controversy involving the same parties.

### **Communication With Administrative Law Judge or Director**

**Legal reference:** 441 IAC 7.18(2)

The worker or the appellant may contact the administrative law judge regarding procedural issues, such as:

- ◆ Requests for rescheduling.
- ◆ Telephone numbers to connect the hearing.

The worker or the appellant may not discuss the merits (substantive issues) of the appeal outside the appeal hearing. Communication conducted by the worker or the appellant regarding the merits of the appeal are considered ex parte communications.

Ex parte communication is communication done for or on behalf of one party only. Ex parte communication by the county office to the administrative law judge can result in the appeal being dismissed and other penalties being assigned.

Where ex parte prohibited communications are directed to the administrative law judge or director, the director may take whichever of the following sanctions are deemed necessary:

- ◆ Provide for a decision against the party who violates the rules.
- ◆ Censor, suspend, or revoke a privilege to practice before the Department.
- ◆ Recommend that any Department personnel who violate this rule should be censored, suspended, or dismissed.

Any information sent to the administrative law judge should also be sent to the appellant and the appellant's legal representative.

**Communication of the Administrative Law Judge or Director**

**Legal reference:** 441 IAC 7.18(1)

The administrative law judge, the director, or the director's designee may communicate with any person or party concerning any appeal issue, provided that the substance of the communication and any information received in reply are presented to all parties, allowing them an adequate opportunity to respond.

However, persons assigned to render a proposed or final decision, or to make findings of fact and conclusions of law in a contested case, may communicate with members of the Department without notice to the parties.

They may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating, either the case under consideration or a pending factually related case involving the same parties.

**Conduct of Hearing**

**Legal reference:** 441 IAC 7.13(2) and (3); 7 CFR 273.15(p)

The hearing is an informal rather than formal judicial procedure, and is designed to serve the best interest of the appellant. Persons answering questions or presenting testimony will be asked to swear or affirm that they will tell the truth. A verbatim record is kept of the evidence presented. The administrative law judge is responsible for tape recording the hearing.

The formal rules of evidence do not apply in contested case proceedings. Evidence may be admitted in hearings which would not be admissible in a court of law. The administrative law judge has the authority to determine what evidence may be submitted for the record. Irrelevant, immaterial, or unduly repetitious evidence should be excluded.

The worker is responsible for presenting all evidence at the time of the hearing. The decision on the appeal can be based only upon this information and other information admitted to the appeal record. The worker who took the adverse action under appeal is expected to make a presentation of the facts and policy relied upon in making that decision. Use the written summary submitted to the DHS Appeals Section to review and explain the actions taken. (See **Appeal Summary**.)

Opportunity will be afforded all parties to respond and present evidence and arguments on all issues involved, and to be represented by counsel at their own expense. The appellant and the worker will each have an opportunity to cross-examine each other and other witnesses, as appropriate, and to review evidence submitted by each of them. The appellant and the worker will each be provided an opportunity to make a closing statement.

### **Subpoenas**

**Legal reference:** 441 IAC 7.12(217)

The Department of Inspections and Appeals has all subpoena power conferred upon it by statute. Subpoenas are issued to a party on request.

The county office is responsible for requesting subpoenas. Contact the DIA Division of Appeals to request the subpoenas. A request for a subpoena shall be submitted at least seven days in advance of the hearing. Additional time is highly recommended. Make the request in memo form (separate from the appeal summary). Give the full name and address of persons and a full and complete description of documents to be subpoenaed.

The county office is also responsible for service of the subpoenas. Subpoenas must be served at least five days in advance of the hearing date

### **Medical Examination**

**Legal reference:** 441 IAC 7.15(217), 7 CFR 273.15(m)(v)

When the hearing involves medical issues and the administrative law judge or appellant considers it necessary, the Department shall obtain a medical assessment or examination by a person or physician other than the one involved in the decision under question and make the report a part of the hearing record. The administrative law judge shall order the medical examination when appropriate either before or at the time of hearing.

Any required examination shall be performed at Department expense by a physician satisfactory to both the appellant and the Department. Use forms 470-0502, *Authorization for Examination and Claim for Payment*, and 470-0447, *Report on Incapacity*, to obtain medical information for use in the appeal and to authorize payment for the examination.

If the person to be examined is eligible for Medicaid, bill for the examination through Medicaid. If the person has other health insurance coverage, those resources should be used for payment of the examination.

**RIGHTS OF APPELLANTS DURING HEARINGS**

**Legal reference:** 441 IAC 7.8(5) and 7.8(7)

The right of appeal shall not be limited or interfered with in any way, even though:

- ◆ The person's complaint may be without basis in fact, or
- ◆ The person may be misinterpreting the law, Department policy, or methods of implementing the policy.

The appellant has the right to introduce any evidence on points at issue believed necessary, to challenge and cross-examine any statement made by others, and to present evidence in rebuttal. The administrative law judge will make every reasonable effort to ensure that the appellant presents his or her case in any way desired. This may include telling what happened, or having a relative, friend or legal counsel present the case.

The following actions are prohibited:

- ◆ Acts of harassment.
- ◆ Threats of prosecution.
- ◆ Denial of pertinent information needed by the appellant in preparing the appeal.

Any of these actions shall be taken into consideration by the administrative law judge in reaching a proposed decision.

The following sections give more information:

- ◆ Representation
- ◆ Examination of evidence
- ◆ Limits on persons attending the hearing

**Representation**

**Legal reference:** 441 IAC 7.6(2), 7.11(217) and 7 CFR 273.15(f)

Advise all persons that they may be represented at hearings by others, including legal counsel, relatives, friends, or any other spokesperson of choice. Anyone the appellant chooses may represent the appellant unless federal regulation or state statute disallows it. For example, because the Iowa Code specifies who may have access to a child abuse record, only an attorney may represent an appellant at a child abuse hearing.

Representation by an attorney occurs only at the appellant's request. Upon request, each county office must:

- ◆ Issue a written list of legal services available in the area (such as Legal Services Corporation of Iowa, Legal Aid Society, or H.E.L.P.).
- ◆ Assist in securing the services.

In authorizing an attorney to act on the appellant's behalf, an appellant essentially assigns to the attorney the right and responsibility to speak and act as if the attorney were the appellant. Additionally, the appellant relinquishes the right to act independently of the attorney in disposing of the matter under appeal. An appellant may regain the right to act independently only by discharging the attorney.

Therefore, once an attorney of record becomes known to the Department, any discussion or disposition of the matter under appeal is properly conducted only with the attorney's knowledge and consent.

This does not prohibit Department staff from responding to the appellant's questions or inquiries regarding the matter under appeal when the attorney is absent. It does, however, obligate the Department to include the attorney when making any inquiries or requesting any action of the appellant in regard to the matter under appeal.

### **Examination of the Evidence**

**Legal reference:** 441 IAC 7.13(1), 7 CFR 273.15(p)

DHS shall provide the appellant, the applicant's representative, or both the opportunity to examine all materials permitted under administrative rules on confidentiality or to be offered as evidence.

The office which took the action being appealed shall provide copies of all information submitted for the appeal file to the appellant and the appellant's legal representative. This information should be provided at the time it is submitted to the DHS Appeals Section.

Allow the appellant and the appellant's legal representative to examine the contents of the case record, including application forms and verification documents used to determine eligibility and level of benefits. Provide free copies of the relevant portions of the case record if requested by the appellant or appellant's legal representative.

Confidential information, such as the names of persons who have disclosed information about the appellant without the appellant's knowledge, or the nature or status of pending criminal prosecutions, is protected from release. Remove all confidential names and information before providing copies of information or before the case record is reviewed by the appellant or the appellant's representative.

Off-the-record or confidential information which the appellant or representative does not have the opportunity to examine shall not be included in the record of the proceeding or considered in reaching a decision.

Evidence examined or admitted in camera by the administrative law judge may be considered in reaching a decision. ("In camera" means an administrative law judge may review a document, without release to all parties, before ruling on its admissibility or its use.)

### **Limit on Persons Attending**

**Legal reference:** 441 IAC 7.14(217A)

Attendance at the hearing shall be limited to the following persons, unless otherwise specified by statute or federal regulations:

- ◆ The appellant.
- ◆ The appellant's representative.
- ◆ DHS employees.
- ◆ DHS's legal representatives.
- ◆ Other persons present for the purpose of offering testimony pertinent to the issues in controversy.
- ◆ Others upon mutual agreement of the parties.

The administrative law judge may sequester witnesses during the hearing. Nothing in this policy shall be construed to allow members of the press, news media, or any other citizens' group to attend the hearing without the written consent of the appellant.

Federal regulations governing programs require confidentiality be protected. The Iowa Code provides civil and criminal penalties for the unauthorized disclosure of confidential information from Department records. Therefore, in some cases the administrative law judge will sequester witnesses or allow only the appellant's legal representative to act on the appellant's behalf.

## **APPEAL DECISION**

**Legal reference:** 441 IAC 7.10(4)“c” and 7.16(9); 7 CFR 273.15(c)

Prompt, definite and final administrative action to carry out the decision rendered shall be taken within 90 days from the date of the appeal, except for Food Assistance and vendor decisions.

Food Assistance-only decisions shall be rendered in 60 days. Appeals involving a joint appeal on Food Assistance and other public assistance programs shall be rendered in 90 days.

Vendor decisions shall be rendered in 120 days. (Vendor appeals include Medicaid providers and facilities.)

PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time shall be granted. This time shall not exceed 30 days, except with the approval of the administrative law judge. The extra time shall be added to the maximum for final administrative action.

The following sections explain:

- ◆ The proposed decision.
- ◆ Review of the proposed decision.
- ◆ The final decision.
- ◆ The appeal record.
- ◆ The addressability of hearing decisions.

### **Proposed Decision**

**Legal reference:** 441 IAC 7.16(2) and (3); 7 CFR 273.15(q)

After the hearing is held, the administrative law judge will issue a proposed decision in writing. The proposed decision will list the issues to be determined, the decision reached, findings of fact, conclusions of law, and the order.

The issues to be determined are those which were certified for hearing by the Department. In some situations the issues may be expanded if both parties agree.

The findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record. The findings of fact portion of the proposed decision will consist of a summary of the information determined by the administrative law judge to be factual and pertinent to the issue or issues under appeal.

The proposed decision will be based upon the information presented at the hearing and upon other information incorporated into the record. If needed, the administrative law judge may reopen the hearing to allow a party to cross-examine or present further information based upon the information submitted at the administrative law judge's request after the close of the original hearing.

The proposed decision will state whether the action under appeal is affirmed (found correct), reversed (found incorrect), or modified (changed). The conclusions of law section will review all applicable law including rules published in the Iowa Administrative Code, state law, federal regulations, federal statutes, case law and other official policy interpretations determined pertinent to the issue or issues under appeal.

The administrative law judge may interpret or construe a law as it relates to a Department policy, but the administrative law judge cannot declare the Department policy to be invalid, as that is the function of a court of law. After researching applicable laws and policies, the administrative law judge will determine if DHS acted correctly or not. In some situations a case may be returned, or remanded, to the county office for further action.

The order statement of the proposed decision specifies what actions the local office or Department shall take to implement the decision, once it becomes final. **Do not take any action on the basis of a proposed decision. You must received a final decision before taking any corrective action.** See **Final Decision** later in this chapter.

The proposed decision will have a cover letter that explains the right to request a review of the proposed decision. All parties to the appeal will receive a copy of the proposed decision.

If the appellant contacts a local office for an explanation of the proposed decision, make every effort to assist the appellant in reaching a full understanding of the proposed decision. The local office (following the chain of communication) may call the DHS Appeals Section for clarification if necessary.

### **Review of the Proposed Decision**

**Legal reference:** 441 IAC 7.16(4), 7.16(5), 7.16(7); 7 CFR 273.15(q)

The proposed decision is issued to the appellant with copies to all parties of the appeal, including the appropriate representative of the Appeals Advisory Committee who acts on the Department's behalf.

The appellant, appellant's representative, or the Department may request that the Director review the proposed decision. The request must be made in writing to the director within ten calendar days of the date on which the proposed decision was signed and mailed.

The day after the proposed decision is mailed is the first day of the ten-day period within which a request for review must be filed. When the time limit for filing falls on a holiday or weekend, the time extends to the next work day.

If neither the appellant nor the Department requests review of the proposed decision, or a review is not granted, the proposed decision becomes the final decision.

### **Department's Request for Review**

**Legal reference:** 441 IAC 7.16(6)

The Appeals Advisory Committee screens proposed decisions for the director. The committee is comprised of policy staff representing the Family Investment Program, Food Assistance, Medicaid, Child Support, and service programs. Also on the committee, but not voting, are representatives of the Office of Field Support and the DHS Appeals Section.

The Appeals Advisory Committee also represents the local office in screening proposed decisions. Local office staff may e-mail a request for review of a proposed decision to the committee through the appropriate chain of communications.

PROMISE JOBS staff may request a review of a proposed appeal decision by contacting their PROMISE JOBS coordinator at Iowa Workforce Development.

Requests for review that the committee receives within the ten-day period will be considered. The committee will then determine whether a recommendation for review will be made to the director.

The committee may recommend that the director review a proposed decision. This recommendation must be submitted in memo form within ten calendar days of the date that the proposed decision was signed.

The recommendation is not binding on the director, who may or may not decide to grant a review based on the committee's recommendation. In addition, the director may decide to review a proposed decision without that committee's recommendations.

### **Review Process**

**Legal reference:** 441 IAC 7.16(7), 7.16(8)

When the director grants a review of the proposed decision, the DHS Appeals Section notifies all parties to the appeal. When the director grants a review based on the Department's request, the notice includes the Department's basis for requesting the review.

The appellant or appellant's representative is allowed ten calendar days from the date of notification to file exceptions, present briefs, and submit further written arguments or objections for consideration upon review.

The day after the notification is mailed is the first day of the period within which a response to the Department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

The review will be based on the record. The review is limited to issues raised before that time and specified by the party requesting the appeal or review. The director may designate someone else to act on the director's behalf in making the final decision.

Each party shall be afforded an opportunity to present oral arguments with the consent of the director. Any party wishing oral argument must specifically request it. If granted, all parties shall be notified of the time and place.

If a request for an oral hearing is denied, ten calendar days will be allowed to submit additional arguments to support the request for review.

### **Final Decision**

**Legal reference:** 441 IAC 7.16(9)"b," 7 CFR 273.15(s)(1), 7 CFR 273.15(c)

The final decision is binding on the Department. The decision becomes a part of the record. Take the action required by the decision within seven calendar days of the date of the final decision. **The local office is responsible for ensuring that all final hearing decisions are acted upon within seven days.**

If the local office is unable to implement the final decision, the worker or supervisor must immediately contact the DHS Appeals Section.

When the final decision is favorable to the appellant, or when the Department decides in favor of the appellant before the hearing, corrective payments retroactive to the date of the incorrect action are made.

Food Assistance decisions that result in an increase in household benefits must be reflected in the benefits within ten days of the receipt of the hearing decision, even if the Department must provide the household with an opportunity to obtain the benefits outside of the normal issuance cycle.

Decisions that Food Assistance households have been improperly denied benefits or have been issued in a lesser allotment than was due shall result in lost benefits being provided in accordance with 7-H, **RESTORATION OF LOST BENEFITS**.

Food Assistance decisions that result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

#### **When a Timely Appeal of a Limited Benefit Plan is Filed**

When a participant files a timely appeal of the *Notice of Decision* establishing the beginning date of a limited benefit plan, and the final decision affirms the Department, a new limited benefit plan period is established. FIP assistance paid pending the appeal is not subject to recovery.

When a participant files a timely appeal of the *Notice of Decision* establishing the beginning date of a limited benefit plan, FIP assistance does not continue pending the appeal, and the final decision affirms the Department, the limited benefit plan continues with the original effective date.

#### **Appeal Record**

**Legal reference:** 441 IAC 7.16(1), 7 CFR 273.15(q)

The record in a contested case shall include:

- ◆ The notice of appeal.
- ◆ All evidence received or considered and all other submissions, including the verbatim record of the hearing.
- ◆ All pleadings, motions and intermediate rulings.
- ◆ All questions and offers of proof, objections and rulings thereon.
- ◆ All findings of fact and conclusions of law.
- ◆ Settlement agreements in writing.

### **Accessibility of Hearing Decisions**

**Legal reference:** 441 IAC 7.19(217), 7 CFR 273.15(q)(5)

Summary reports of all hearing decisions must be made available to local offices and the public upon request. The information must be presented in a manner consistent with requirements for safeguarding personal information concerning applicants and recipients.

Copies of all final decisions are available from the Appeals Section upon request. However, all identifying information will be deleted.

### **RIGHTS OF APPELLANTS AFTER THE FINAL DECISION**

After receiving the final decision, the appellant has the right to request:

- ◆ A rehearing
- ◆ Court review of the decision

#### **Rehearing**

**Legal reference:** 441 IAC 7.17(217), Iowa Code 17A.16(2), 7 CFR 273.15(q)(3)(i)

The appellant may request a rehearing within 20 days after the date of the final decision. The DHS director determines if the rehearing is to be held.

#### **Judicial Review**

**Legal reference:** 441 IAC 7.20(217), 7 CFR 273.15(q)(3)(i)

If a director's review is requested, the final decision shall advise the appellant of the right to judicial review by the district court. When the appellant is dissatisfied with the final decision, the appellant may file for judicial review in their county of residence or Polk County. A request for judicial review must be filed in the district court within 30 days of the date of the final decision.

When a request for judicial review is filed an Assistant Attorney General shall be assigned to represent the Department. The Department furnishes copies of the appeal file to the district court, including a written transcript of the hearing to the court.

The Department is unable to provide payment for attorneys to assist appellants in requesting judicial review. However, the local office should assist a person in obtaining legal assistance if the person indicates a desire to seek judicial review.



THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

May 18, 1999

## GENERAL LETTER NO. 1-E-11

ISSUED BY: Appeals Section, Division of Policy Coordination

SUBJECT: Employees' Manual, Title 1, Chapter E, *Appeals and Hearings*, Title page, revised; Contents (pages 1 and 2), revised; and pages 1 through 44, revised.

### Summary

The Appeals and Hearings chapter has been updated to the new manual format. Minor changes have been made throughout the manual to reflect current policies and practices.

### Effective Date

Upon receipt.

### Material Superseded

Remove the entire Chapter E from Employees' Manual, Title I, and destroy it. This includes:

<u>Page</u>	<u>Date</u>
Title page	January 16, 1990
Contents 1-3	January 4, 1994
1, 2, 2a, 3	January 4, 1994
4-9	January 16, 1990
10	January 4, 1994
11, 12	January 16, 1990
13	January 4, 1994
14-18	January 16, 1990
18a-18c, 19	January 4, 1994
20-23	January 16, 1990
24	January 4, 1994
25	January 16, 1990
26	January 4, 1994
27-39	January 16, 1990
40-42, 42a, 43	January 4, 1994
44-46	January 16, 1990

**Additional Information**

Refer questions about this general letter to your regional benefit payment, service, or collections administrator.



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

March 27, 2001

## GENERAL LETTER NO. 1-E-12

ISSUED BY: Appeals Section, Division of Policy and Rule Integration

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*, Contents (pages 1 and 2), revised; and pages 8, 11, 12, and 17 through 22, revised.

### Summary

Employees' Manual 1-E is revised to:

- ◆ Reflect that the Department can dispense with timely notice for food stamps when it has determined that the household has moved from the project area.
- ◆ Update form numbers and addresses.

### Effective Date

Upon receipt.

### Material Superseded

Remove from Employees' Manual, Title 1, Chapter E, Contents (pages 1 and 2), revised; and pages 8, 11, 12, and 17 through 22, all dated May 19, 1999, and destroy them.

### Additional Information

Refer questions about this general letter to your regional benefit payment administrator.



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

April 9, 2002

## GENERAL LETTER NO. 1-E-13

ISSUED BY: Bureau of Financial and Work Supports,  
Division of Financial, Health and Work Supports

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*, pages 1, 9, 10, and 33, revised.

### Summary

This chapter is revised to:

- ◆ Remove the reference to the Division of Policy Coordination from the DHS Appeals Section.
- ◆ Add form numbers 470-0454 and 470-3719 (Spanish) to the *Public Assistance Eligibility Report*.
- ◆ Add a requirement for a timely and adequate notice of decision when a food stamp case that was reinstated pending the outcome of an appeal must again be cancelled based on the appeal decision.
- ◆ Change form numbers PA-5113-0, *Authorization for Examination and Claim for Payment* and PA-2126-0, *Report on Incapacity*, to the current numbers, 470-0502 and 470-0447.

### Effective Date

Upon receipt.

### Material Superseded

Remove from Employees' Manual, Title 1, Chapter E, pages 1, 9, 10, and 33, dated May 18, 1999, and destroy them.

### Additional Information

Refer questions about this general letter to your area income maintenance supervisor 2.



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
KEVIN W. CONCANNON, DIRECTOR

December 2, 2003

## GENERAL LETTER NO. 1-E-14

ISSUED BY: Bureau of Financial Support Programs,  
Division of Financial, Health and Work Supports

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*, pages 1, through 4, 5 through 10, 14, 21, 22, 24, 37, 39, and 40, revised; and pages 4a through 4f, new.

### Summary

This chapter is revised to:

- ◆ Update definitions, particularly the definition of “aggrieved person,” to reflect current programs and practices, including appeals related to requirements for protected health information under the Health Insurance Portability and Accountability Act (HIPAA).
- ◆ Add that timely notice is not needed for the Department to:
  - Terminate or reduce benefits based on changes reported on a *Food Assistance Interim Report* (FAIR), form 470-4026, or
  - Terminate benefits based on a failure to return a complete FAIR.
- ◆ Add that benefits continue if an appeal is based on a *Notice of Cancellation* only when a complete FAIR is filed.
- ◆ Add that benefits are not reinstated when a *Notice of Cancellation* is appealed, based on information reported on a complete FAIR.
- ◆ Change program references to “Food Assistance” instead of “food stamps.”

### Effective Date

December 1, 2003

**Material Superseded**

Remove the following pages from Employees' Manual, Title 1, Chapter E, and destroy them:

<u>Page</u>	<u>Date</u>
1	April 2, 2002
2-7	May 18, 1999
8	March 27, 2001
9, 10	April 2, 2002
14	May 18, 1999
21, 22	March 27, 2001
24, 37, 39, 40	May 18, 1999

**Additional Information**

Refer questions about this general letter to your area income maintenance supervisor 2.



October 28, 2005

**GENERAL LETTER NO. 1-E-15**

ISSUED BY: Bureau of Financial Support Programs,  
Division of Financial, Health and Work Supports

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*,  
Contents (pages 1 and 2), revised; pages 1, 2, 11 through 15, 17, 19, 23, 27, 29,  
42, 43, and 44, revised.

**Summary**

This chapter is revised to:

- ◆ Remove a reference to protective payees. The policy of assigning protective payees for FIP households is ended effective November 1, 2005.
- ◆ Update language to clarify existing policy concerning when FIP assistance can be reinstated without a new application.
- ◆ Update language to clarify existing policy concerning policy change that was effective June 1, 1999, regarding a timely appeal of a limited benefit plan.
- ◆ Remove a reference to monthly reporting for Food Assistance.
- ◆ Change references from "food stamps" to "Food Assistance."
- ◆ Add all of the form numbers for the *Public Assistance Eligibility Report* and the *Review/Recertification Eligibility Document*.
- ◆ Add additional circumstances when the Department will not hold a hearing on an appeal, including:
  - The appellant has not exhausted the reconsideration process.
  - A request for an exception to policy has been denied.
  - The service is no longer available from the Department.
  - The appeal involves patent treatment interventions outlined in the patient handbook of the Civil Commitment Unit for Sexual Offenders.

**Effective Date**

November 1, 2005

**Material Superseded**

Remove the following pages from Employees' Manual, Title 1, Chapter E, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (pages 1 and 2)	March 27, 2001
1, 2	December 2, 2003
11, 12	March 27, 2001
13	May 18, 1999
14	December 2, 2003
15	May 18, 1999
17, 19	March 27, 2001
23, 27, 29, 42-44	May 18, 1999

**Additional Information**

Refer questions about this general letter to your area income maintenance administrator.