

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

These amendments implement provisions of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act), pursuant to federal regulations published July 15, 2013, at 78 Federal Register 42160, and of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

The Affordable Care Act establishes an Exchange, which is a governmental agency or nonprofit entity that makes qualified health plans available to qualified individuals and qualified employers. The Exchange will have its own appeals process.

Based on the Affordable Care Act, changes are made to the appeals process for Medicaid and Healthy and Well Kids in Iowa (HAWK-I). The time frame to file an appeal is extended from 30 to 90 calendar days. This will allow more time to file an appeal regarding Medicaid and HAWK-I cases and matches the appeal time frames for filing an appeal with the Exchange.

Also, changes are made to modernize the way an appellant or the appellant’s representative may request an appeal and withdraw a request for hearing.

The amendments define the term “authorized representative” and describe who can be an authorized representative and that person’s responsibilities. Other definitions are added to clarify new terms that are used based on the Affordable Care Act.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1129C** on October 16, 2013. The Department received comments from one respondent. Those comments and the Department’s responses are as follows:

The respondent stated that in rule 441—7.1(17A), the proposed regulations added a new definition for “sent,” which states that an item is delivered by first-class mail or posted to an individual’s electronic account. The proposed regulations appear to infer that an appellant could begin counting the appellant’s time frame to file a review request starting on the day after the proposed decision was delivered to the appellant’s house via the United States Postal Service, not from the date it was actually deposited in the mail by the Department. Also, subrule 7.8(8) was revised based on changes required by the Affordable Care Act. One of those changes was to allow individuals to verbally request withdrawal of an appeal. The Child Support Recovery Unit has indicated that it would prefer that withdrawal requests for child support appeals be added to the general rule which has already been added for appeals dealing with child abuse and dependent adult abuse appeals.

The Department’s response is as follows: The amendments implement provisions of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act), pursuant to federal regulations published July 15, 2013, at 78 Federal Register 42160, and of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

Based on the Affordable Care Act, the Department needed to adopt new definitions. One new definition that was proposed is for the word “sent.” “Sent” is intended to mean when the item is deposited in the United States mail with first-class postage paid; however, this definition was not clear in the proposed amendments. Based on that reason, it was determined that the definition of the term “sent” should be revised; the adopted definition in rule 441—7.1(17A) now reads as follows:

“‘Sent’ means deposited in the mail with first-class postage or posted to an individual’s electronic account.”

The Department understands the respondent’s preference to require appellants to withdraw their appeals in writing; however, the Department believes that it is not appropriate to have standards for child support recovery that are different from those for the Department’s other programs. This would

be confusing for appellants who may have multiple appeals going for different programs with the Department. It is best to keep consistency among processes across the Department's programs.

Child abuse and dependent adult abuse appeals have a higher standard under the Iowa Code, which is why these programs must have their withdrawals in writing. This higher standard does not apply to child support appeals, and as a result, no changes were made to the proposed amendments to subrule 7.8(8).

The Council on Human Services adopted these amendments on December 11, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective March 1, 2014.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **441—7.1(17A)**:

"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:

1. and 2. No change.

3. For medical assistance, healthy and well kids in Iowa, IowaCare, family planning services, and waiver services, a person (see numbered paragraph "7" for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Whose eligibility has been terminated, suspended or reduced.
- Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.
- Who has received a determination of the amount of medical expenses that must be incurred to establish income eligibility for the medically needy program or a determination of income for the purposes of imposing any premiums, enrollment fees or cost sharing.
- Who has been notified that the level of services provided by a nursing facility is not needed based on a preadmission screening and resident review (PASRR) evaluation.
- 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, ~~or services, or premium payments.~~
- Who contests the amount or effective date of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare 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 medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
- ~~Who has been notified that there will be a reduction or cancellation of assistance or waiver services.~~
- Who has been notified that an overpayment of benefits has been established and repayment is requested.
- Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).

4. to 13. No change.

"Department of inspections and appeals" means the state agency ~~which~~ that contracts with the department to conduct appeal hearings.

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

“*Informal conference*” means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, and a representative of the department. The purpose of the informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action, to provide an opportunity for the appellant to explain the appellant’s action or position, and to provide an opportunity for the appellant to examine the contents of the case record, including any electronic case record, including plus all documents and records to be used by the department at the hearing in accordance with 441—Chapter 9.

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

“*PROMISE JOBS displacement grievance*” means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives ~~which that~~ alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers described in rule 441—93.17(239B).

“*Timely notice period*” is the time from the date a notice is ~~mailed~~ sent 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~~ a beneficiary. 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~~.

ITEM 2. Rescind the definitions of “Issues of fact or judgment” and “Issues of policy” in rule **441—7.1(17A)**.

ITEM 3. Adopt the following new definitions in rule **441—7.1(17A)**:

“*Authorized representative*” means a person or organization designated by an appellant to act on the appellant’s behalf or who has legal authority to act on behalf of the appellant, such as a guardian or power of attorney.

“*Electronic account*” means a Web-based account established by the department for an applicant or member for communication between the department and the applicant or member.

“*Electronic case record*” means an electronic file that includes all information collected and generated by the department regarding each individual’s Medicaid or healthy and well kids in Iowa eligibility and enrollment, including all documentation required for eligibility and any information collected or generated as part of a fair hearing process conducted by the department or through the exchange appeals process.

“*Exchange*” means an American health benefit exchange established pursuant to Section 1311 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148). This entity makes qualified health plans available to qualified individuals and qualified employers.

“*Sent*” means deposited in the mail with first-class postage or posted to an individual’s electronic account.

ITEM 4. Amend rule 441—7.4(17A) as follows:

441—7.4(17A) Notification of hearing procedures. Hearing procedures shall be published in the form of rules and shall be made available to all applicants, recipients, appellants, and other interested groups and individuals. Procedures for hearings shall be identified in the notice of hearing issued to all parties as provided in subrule 7.10(7).

7.4(1) Hearing procedures must be furnished in electronic and paper format and orally as appropriate. The procedures must be written in plain language and in a manner that is accessible:

a. To individuals who are limited English proficient through oral interpretation, written translations, and taglines in non-English languages indicating the availability of language services. The services shall be at no cost to the individual.

b. To individuals living with disabilities through the provision of auxiliary aids in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The services shall be at no cost to the individual.

7.4(2) The department shall inform individuals of the availability of the services and how to access such services.

ITEM 5. Adopt the following new subparagraph 7.5(2)“a”(19):

(19) Notice was issued by the exchange regarding determination of eligibility for enrollment in a qualified health plan or for advance payment of the premium tax credit or cost-sharing reductions.

ITEM 6. Adopt the following new subparagraph 7.5(2)“a”(20):

(20) Notice has been issued regarding the completion of a family assessment that indicates no determination of child abuse or neglect has been made and no information has been reported to the child abuse registry.

ITEM 7. Amend subrule 7.5(4) as follows:

7.5(4) Time limit for granting hearing to an appeal. Subject to the provisions of subrule 7.5(1), when an appeal is made, the granting of a hearing to that appeal shall be governed by the following timeliness standards:

a. General standards. In general, a hearing shall be held if the appeal is made within 30 days after official notification of an action or before the effective date of action. When the appeal is made more than 30 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) and (2) No change.

(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

b. Food assistance, Medicaid or healthy and well kids in Iowa standard. For appeals regarding food assistance, Medicaid or the healthy and well kids in Iowa program, a hearing shall be held if the appeal is made within 90 days after official notification of an action.

c. Offset standards. For appeals regarding state or federal tax or debtor offsets, a hearing shall be held if the appeal is made within 15 days after official notification of the action. Counties have 30 days to appeal offsets, as provided in 441—paragraph 14.4(1)“e.” When the appeal is made more than 15 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) and (2) No change.

(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

d. Abuse standard.

(1) and (2) No change.

(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

e. and f. No change.

ITEM 8. Amend paragraph 7.5(6)“c” as follows:

c. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the recovery of an overpayment through benefit reduction, as described at rule 441—46.25(239B), but not the existence, computation, or amount of an overpayment, begins when the person receives ~~Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S),~~ Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a FIP or RCA overpayment.

ITEM 9. Amend paragraph 7.5(10)“b” as follows:

b. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the recovery of an overpayment through benefit reduction, but not the existence, computation, or amount of an overpayment, begins when the person receives ~~Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S),~~ Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a food assistance overpayment.

ITEM 10. Adopt the following **new** paragraph 7.6(1)“d”:

d. Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

ITEM 11. Amend subrule 7.6(2) as follows:

7.6(2) Representation Authorized representation or responsible party. ~~All persons shall be advised that they~~ Persons may be represented at hearings for purposes of this chapter by others, including legal counsel, relatives, friends, or any other spokesperson of choice an authorized representative or an individual or organization recognized by the department as acting responsibly for an applicant or beneficiary pursuant to policy governing a particular program (hereinafter referred to as a “responsible party”), unless otherwise specified by statute or federal regulations. The department shall advise the persons of any legal services which may be available and that the person may be represented by counsel at the person’s own expense.

a. The designation of an authorized representative must be in writing and include the signature of the person designating the authorized representative. Legal documentation of authority to act on behalf of a person, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a signed designation by the person.

b. An authorized representative or responsible party must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding an applicant or beneficiary provided by the department.

c. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible party must sign an agreement that such provider, staff member or volunteer will adhere to the regulations in Part 431, Subpart F, of 42 CFR Chapter IV and in 45 CFR 155.260(f) (relating to confidentiality of information), § 447.10 of 42 CFR Chapter IV (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility’s behalf), as well as other relevant state and federal laws concerning conflict of interest and confidentiality of information.

d. An authorized representative or responsible party may file an appeal on the appellant’s behalf, receive copies of appeal correspondence, and act on behalf of the appellant in all other matters regarding the appeal.

e. The authorized representative or responsible party is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual the authorized representative or responsible party represents.

f. The power to act as an authorized representative is valid until the appellant modifies the authorization or notifies the department that the representative is no longer authorized to act on the appellant’s behalf, or the authorized representative informs the agency that the authorized representative is no longer acting in such capacity, or there is a change in the legal authority upon which the individual’s or organization’s authority was based. Such notice must be in writing and include the appellant’s, authorized representative’s or responsible party’s signature as appropriate.

g. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority may be submitted online via the department’s Web site, by mail, by electronic mail, by facsimile transmission or in person.

h. For purposes of this rule, the department shall accept electronic, including telephonically recorded, signatures and handwritten signatures transmitted by facsimile or other electronic transmission.

i. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority previously submitted to the department that comply with the requirements of this rule will continue to apply for purposes of appeals, consistent with their terms.

ITEM 12. Amend subrule 7.7(1) as follows:

7.7(1) Notification.

a. to c. No change.

d. “Timely” means that the notice is ~~mailed~~ sent at least ten calendar days before the date the action would become effective. The timely notice period shall begin on the day after the notice is ~~mailed~~ sent.

e. “Adequate” means a written notice that includes:

(1) A statement of what action is being taken,

(2) The effective date of such action,

~~(2) (3)~~ The A clear statement of the specific reasons for supporting the intended action,

~~(3) (4)~~ The manual chapter number and subheading supporting the action and the corresponding rule reference,

~~(4) (5)~~ An explanation of the appellant’s right to appeal, and

~~(5) (6)~~ The circumstances under which assistance is continued when an appeal is filed.

ITEM 13. Amend paragraph 7.7(2)“c” as follows:

c. The recipient has been admitted or committed to an institution ~~which~~ that does not qualify for payment under an assistance program.

ITEM 14. Adopt the following **new** paragraph 7.7(2)“j”:

j. The notice involves an adverse determination made with regard to the preadmission screening requirements.

ITEM 15. Amend subrule 7.7(3) as follows:

7.7(3) Action due to probable fraud. When the agency obtains facts indicating that assistance should be canceled, suspended, or reduced because of the probable fraud of the recipient, and, where possible, the facts have been verified through collateral sources, notice of the action shall be timely when ~~mailed~~ sent at least five calendar days before the action would become effective. The notice shall be sent by certified mail, return receipt requested.

ITEM 16. Amend subrule 7.8(1) as follows:

7.8(1) Initiating an appeal. To initiate an appeal, a person, ~~or~~ the person’s authorized representative or an individual or organization recognized by the department as acting responsibly for the person pursuant to policy governing a particular program must state in writing that the person disagrees with a decision, action, or failure to act on the person’s case.

a. All appeals shall be made in writing, except for food assistance, Medicaid and healthy and well kids in Iowa appeals, which may be made ~~orally~~ by telephone or in person.

b. ~~The A~~ A written request may be ~~sent~~ submitted via the department’s Web site or may be delivered by ~~any means~~ mail, electronic mail, facsimile transmission or personal delivery to the appeals section, to the local office, or to the department office that took the adverse action.

c. ~~The oral A~~ A request by telephone or in person may be made to the appeals section or to the department office that took the adverse action.

ITEM 17. Amend subrule 7.8(2) as follows:

7.8(2) Filing the appeal. The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance, Medicaid and healthy and well kids in Iowa appeals) and has been communicated to the department by the appellant or appellant’s representative.

A written appeal submitted by mail is filed on the date postmarked on the envelope sent to the department, or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

ITEM 18. Amend subrule 7.8(3) as follows:

7.8(3) *Informal conference.* When requested by the appellant, an informal conference with a representative of the department shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

An informal conference need not be requested for the appellant to ~~have access to the records~~ examine the contents of the case record, including any electronic case record, as provided in subrule 7.13(1) and 441—Chapter 9.

ITEM 19. Amend subrule 7.8(6) as follows:

7.8(6) *Right of the department to deny or dismiss an appeal.* The department or the department of inspections and appeals has the right to deny or dismiss the appeal when:

- a. It has been withdrawn by the appellant ~~in writing~~ pursuant to subrule 7.8(8).
- b. The sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.
- c. It has been abandoned.
- d. The agency, by written notice, withdraws the action appealed and restores the appellant's status ~~which~~ that existed before the action appealed was taken.
- e. The agency implements action and issues a notice of decision or notice of action to correct an error made by the agency which resulted in the appeal.

Abandonment may be deemed to have occurred when the appellant or the appellant's authorized representative fails, without good cause, to appear at the prehearing or hearing.

ITEM 20. Amend subrule 7.8(8) as follows:

7.8(8) *Withdrawal.* When the appellant desires to voluntarily withdraw an appeal, the worker, the presiding officer, or the appeals section shall ~~request a clear, written statement~~ accept a request from the appellant to withdraw the appeal by telephone, in writing or in person. A written request may be submitted in person, by mail or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The appellant may use Form 470-0492 or 470-0492(S), Request for Withdrawal of Appeal, for this purpose. For child abuse and dependent adult abuse appeals, the request to withdraw an appeal must be made in writing and signed by the appellant or the appellant's legal counsel.

ITEM 21. Amend subrule 7.9(1) as follows:

7.9(1) *When assistance continues.* Assistance shall not be suspended, reduced, restricted, or canceled, nor shall a license, registration, certification, approval, or accreditation be revoked, or other proposed adverse action be taken pending a final decision on an appeal when:

- a. An appeal is filed within the timely notice period.
- b. The appellant requests a hearing within ten days from ~~the date adequate notice is issued for receipt of a notice of cancellation or reduction of food assistance, family investment program, or medical assistance benefits,~~ based on the completed report form, including:

(1) Review/Recertification Eligibility Document, Form 470-2881, 470-2881(S), 470-2881(M), or 470-4083(MS).

(2) ~~Transitional Medicaid Notice of Decision/Quarterly Income Report, Form 470-2663, 470-2663(S), 470-2663(M), or 470-2663(MS) Medicaid Review, Form 470-3118, 470-3118(S), 470-3118(M), or 470-3118(MS).~~

The date on which the notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

c. If it is determined at a hearing that the issue involves only federal or state law or policy, assistance will be immediately discontinued.

ITEM 22. Amend subrule 7.9(2) as follows:

7.9(2) *When assistance does not continue.* The adverse action appealed to suspend, reduce, restrict, or cancel assistance; revoke a license, registration, certification, approval, or accreditation; or take other proposed action may be implemented pending a final decision on appeal when:

a. An appeal is not filed within the timely notice period or within ten days from the date notice is received. The date on which notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

~~b. The appellant does not request a hearing within ten days from the date adequate notice is issued based on the completed monthly report.~~

~~c. b.~~ Benefits or services were time limited through a certification period or prior authorization for which notice was given when established or for which adequate notice was provided.

~~d. Rescinded IAB 4/30/03, effective 7/1/03.~~

~~e. Rescinded IAB 4/30/03, effective 7/1/03.~~

~~f. c.~~ The appellant directs the worker in writing to proceed with the intended action.

ITEM 23. Amend paragraph **7.9(5)“a”** as follows:

a. The appeal is filed within the timely notice period of the notice of decision or notice of action establishing the beginning date of the LBP.

ITEM 24. Adopt the following **new** paragraph **7.10(2)“c”**:

c. The department shall advise the person of any legal services which may be available and that the person may be represented by counsel at the person’s own expense.

ITEM 25. Amend subrule 7.16(3) as follows:

7.16(3) *Proposed decision.* Following the reception of evidence, the presiding officer shall issue a proposed decision, consisting of the issues of the appeal, the decision, the findings of fact and the conclusions of law. Each item shall be separately stated under individual headings. The proposed decision shall be ~~mailed sent~~ by first-class mail, postage prepaid, addressed to the appellant at the appellant’s last-known address.

ITEM 26. Amend subrule 7.16(5) as follows:

7.16(5) *Time limit for appeal of a proposed decision.* Appeal for the director’s review of the proposed decision must be made in writing to the director. ~~and~~ The written request must be mailed or submitted in person or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The request must be postmarked or date-stamped received within ten calendar days of the date on which the proposed decision was signed and mailed sent. The day after the proposed decision is ~~mailed sent~~ is the first day of the time period within which a request for review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

ITEM 27. Amend subrule 7.16(6) as follows:

7.16(6) *Appeal of the proposed decision by the department.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee’s recommendation.

When the director grants a review of a proposed decision on the department’s request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is mailed sent is the first day of the time 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.

ITEM 28. Amend subrule 7.16(9) as follows:

7.16(9) Time limits.

a. A final decision on the appeal shall be issued within 90 days from the date of the appeal on all decisions except food assistance and vendors. Food assistance-only decisions shall be rendered in 60 days. PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee. Failure to reach a decision within these time frames shall not affect the merits of the appellant's appeal. the following time frames:

(1) Appeals for all programs, except food assistance and vendors, shall be rendered within 90 days from the date of the appeal.

(2) Food assistance-only decisions shall be rendered within 60 days.

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

a. Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.

b. For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.

c. The department shall take prompt, definite and final administrative action to carry out the decision rendered within 7 calendar days of receipt of a copy of the final decision. When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.

b. Failure to reach a decision within the time frames set forth in paragraph 7.16(9) "a" shall not affect the merits of the appellant's appeal.

c. Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.

d. For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.

e. The department shall take prompt, definite and final administrative action to carry out the decision rendered within seven calendar days of receipt of a copy of the final decision. When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before

the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.

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