

CHAPTER 7  
APPEALS AND HEARINGS

[Ch 7, July 1973 IDR Supplement, renumbered as Ch 81]

[Prior to 7/1/83, Social Services[770] Ch 7]

[Prior to 2/11/87, Human Services[498]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 3/26/30

**441—7.1(17A) Definitions.**

“*Adverse benefit determination*” means any adverse action taken pursuant to a program administered by the department or on the department’s behalf, excluding determinations related to requests for waivers of administrative rules.

“*Appellant*” means a person, including an authorized representative acting on the person’s behalf, seeking to appeal some action pursuant to this chapter.

“*Assistance program*” means a program administered by the department or on the department’s behalf through which qualifying individuals receive benefits or services.

“*Authorized representative*” means a person lawfully designated by an individual to act on the individual’s behalf or who has legal authority to act on behalf of the individual.

“*Contested case*” refers to an evidentiary hearing mandated by state or federal constitutional or statutory authority whereupon a presiding officer makes a determination pertaining to the relative rights and obligations of parties to an appeal under this chapter.

“*DIAL*” means the department of inspections, appeals, and licensing.

“*Enrollee*” means any applicant to or recipient of benefits or services provided by a program administered by the department or on the department’s behalf.

“*Good cause*,” for purposes of this rule, has the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

“*In-person hearing*” means an appeal hearing where the administrative law judge and appellant are physically present in the same location but witnesses are not required to be physically present.

“*Intentional program violation*” means the same as established in 7 CFR §273.16 as amended to August 1, 2024.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Managed care organization*” or “*MCO*” has the meaning assigned to it in rule 441—73.1(249A) and includes prepaid ambulatory health plans.

“*Medicaid*” means Iowa’s medical assistance program administered under Iowa Code chapter 249A.

“*Party-in-interest*” refers to the party, including enrollees, whose rights or obligations are the subject of a contested case hearing under this chapter. Parties-in-interest may or may not be the appellant.

“*Presiding officer*” means an administrative law judge from DIAL or the director of the department or the members of a multimember board or commission.

“*Self-represented*” means representing oneself without an attorney.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.2(17A) Governing law and regulations.** In the absence of an applicable rule in this chapter, the DIAL rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIAL rules, the program-specific federal or state law shall control.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

DIVISION I  
GENERAL APPEALS PROCESS

**441—7.3(17A) When a contested case hearing will be granted.**

**7.3(1) Requirements.** A person will be granted a contested case hearing if the party-in-interest fulfills all the following requirements:

- a. The party-in-interest is entitled to a contested case hearing;
- b. The party-in-interest has an ongoing, specific and personal interest in the outcome of the contested case hearing; and
- c. The party-in-interest meets all of the other requirements contained in these rules.

**7.3(2) Refusal to process an application.** Unless otherwise provided by law, when an appellant seeks a contested case hearing after the department refuses to process an application for benefits or services, a hearing will be granted.

**7.3(3) When a hearing is not granted.** A hearing will not be granted when one of the following issues is appealed:

- a. Patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.
- b. Children have been removed from or placed in a specific foster care setting or preadoptive placement.
- c. A final decision from a previous hearing with a presiding officer has been implemented.
- d. A denial of a request for a waiver of administrative rule.

**7.3(4) Contractual rights not subject to contested case hearing.** Unless otherwise provided by law, when an appellant seeks a contested case hearing of an issue predicated upon or governed by the terms of a contract between appellant and another party, including the department, a contested case hearing will not be provided.

**7.3(5) Change in law.** A contested case hearing will not be granted when the sole issue raised is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries.

**7.3(6) Competitive procurement bid appeals.** Competitive procurement bid appeals shall be adjudicated pursuant to Division II of this chapter.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.4(17A) Initiating an appeal.**

**7.4(1) Exhaustion of remedies.** An appellant will only be granted a contested case hearing if the appellant has exhausted all other appeal remedies available to the party-in-interest. An appellant should refer to program-specific provisions for the appropriate procedures applicable to specific programs.

**7.4(2) Medicaid managed care enrollees exhaustion of remedies.**

a. A Medicaid managed care enrollee will be granted a contested case hearing pursuant to 42 CFR 438.402(c)(1) as amended to November 13, 2020.

b. If a Medicaid enrollee's managed care organization fails to provide a decision in the time and manner pursuant to 42 CFR 438.408 as amended to November 13, 2020, the enrollee will be deemed to have exhausted the managed care organization's appeals process and may initiate a contested case hearing.

**7.4(3) Time to appeal.** For a contested case hearing to be granted, the following appeal timelines must be met:

a. *Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, family planning program, and autism support program.* On or before the ninetieth day following the date of notice of an adverse benefit determination.

b. *Managed care organization medical services coverage.* On or before the 120th day following the date of exhaustion, actual or deemed, of the managed care organization appeal process.

c. *Federal tax or debtor offsets.* On or before the 15th day following the date of notice of the action.

d. *Women, Infants and Children (WIC) program.* On or before the ninetieth day following the date of notice of an adverse benefit determination for a participant. On or before the tenth day following the date of

notice of adverse action for a vendor pursuant to 7 CFR 246.18(a)(1) as amended to August 1, 2024. On or before the tenth business day following the receipt of notification to a local agency of an adverse decision pursuant to 7 CFR 246.18(a)(3) as amended to August 1, 2024.

*e. Reserved.*

*f. Dependent adult abuse.* Within six months of the date of notice of the action as provided in Iowa Code section 235B.10.

*g. Child abuse.* For an appeal regarding child abuse, the person alleged responsible for the abuse must appeal on or before the ninetieth day following the date of notice of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the appeal on or before the tenth day following the date of notice of the right to intervene.

*h. Assistance program overpayments.* For an appeal pertaining to overpayments, the party-in-interest's right to appeal the existence, computation and amount of the overissuance or overpayment begins when the department sends the first notice informing the party-in-interest of the overissuance or overpayment. The appeal timelines for overpayments follow the same timelines as other actions within the same program.

*i. All other appeals.* For all other appeals, and unless federal or state law provides otherwise elsewhere, the appellant must appeal on or before the thirtieth day following the date of notice of the action being appealed. If such an appeal is made more than 30 days, but less than 90 days, of the date of notice, the director or director's designee may, at the director's or designee's sole discretion, allow a contested case hearing if the delay was for good cause, substantiated by the appellant.

**7.4(4) Written and oral notification.** The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status pursuant to 441—Chapter 16.

*a.* Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

(1) The right to request a hearing.

(2) The procedure for requesting a hearing.

(3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.

*b.* Written notification will be given on the application form and all notices of decision.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.5(17A) How to request an appeal.**

**7.5(1) Ways to request a hearing.** An appellant may request a contested case hearing:

*a.* Via the department's website,

*b.* By telephone, except as specified in subrule 7.5(4),

*c.* By mail,

*d.* In person, except as specified in subrule 7.5(4), or

*e.* Through other commonly available electronic means (such as email or facsimile).

**7.5(2) Hearing request.** The request for a contested case hearing must be sufficiently detailed so that the department can reasonably understand the action being appealed. The department may request additional information to determine the scope of the appeal. The department may deny if there is not sufficient information to determine the action being appealed.

**7.5(3) Filing date.** The date of filing for appeal requests sent by regular mail shall be the date postmarked on the envelope sent to the department or, when a postmarked envelope is not available, on the date the appeal is stamped received by the agency. The date of filing for appeal requests sent electronically will be determined by the date on which the electronic submission was completed.

**7.5(4) Appeals that must be filed in writing.** Appeal requests pertaining to foster care, adoption, state supplementary assistance, the autism support program, record check evaluation, child care, registered or nonregistered homes, child abuse, dependent adult abuse or child support must be made in writing.

**7.5(5) Department's responsibilities.**

*a.* Unless the appeal is voluntarily withdrawn, the department will:

(1) Within one working day of receipt of an appeal request, forward the request for appeal and envelope (if any) and a copy of the notice to the appeals section.

(2) Within ten days of the receipt of the appeal, forward a summary and supporting documentation of the worker's or agent's factual basis for the proposed action to the appeals section.

*b.* Copies of all materials sent to the appeals section or the presiding officer to be considered in reaching a decision on the appeal are to be provided to the appellant at the same time as the materials are sent to the appeals section or the presiding officer.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.6(17A) Prehearing procedures.**

**7.6(1)** *Acknowledgment of appeal.* When the appeals section receives a request for appeal, it will send acknowledgment of the receipt of the appeal to the parties to the appeal. For an appeal regarding child abuse, all subjects other than the person alleged responsible (party-in-interest) will be notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

**7.6(2)** *Acceptance or denial of appeal.* The appeals section will determine with reasonable promptness whether the party-in-interest is entitled to a contested case hearing. If a request is accepted, the appeals section will certify the appeal to DIAL and designate the issues on appeal. If a request for a contested case hearing is denied, the appeals section will provide written notice of and the reasons for the denial. On or before the thirtieth day following the denial, the individual requesting the appeal may provide additional information related to the individual's asserted right to a contested case hearing and request reconsideration of the denial.

**7.6(3)** *Designation of issues for appeal.*

*a. Initial designation.* After determining that the party-in-interest is entitled to a contested case hearing, the appeals section will designate the issues to be decided at the contested case hearing. The issues designated will be certified to DIAL and be identified in the notice of hearing issued pursuant to subrule 7.6(5).

*b. Additional designation of issues.* If any party believes additional issues should be designated, the party shall identify the additional issues within the following timelines. The presiding officer shall determine whether all issues have properly been preserved.

(1) Child abuse and dependent adult abuse registry appeals. For a child abuse and dependent adult abuse registry appeal, the party shall identify additional issues at least 30 days before the date of hearing.

(2) Appeals set on or before the tenth day following the notice of hearing. If the hearing is on or before the tenth day following the date of the notice of hearing, the party shall identify any additional issues at the hearing.

(3) All other appeals. For all other appeals not identified in this paragraph, the party shall identify the additional issues on or before the tenth day following the date of the notice of hearing.

**7.6(4)** *Group hearings regarding medical assistance.* The appeals section may respond to a series of related, individual requests for hearings regarding medical assistance by consolidating individual hearings into a single group hearing where the sole issue is based on state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

**7.6(5)** *Notice of hearing.*

*a. Issuance of hearing notice.* Except as provided in paragraph 7.6(5)“*b.*,” DIAL shall send notice to the parties of the appeal at least 15 calendar days in advance of the hearing setting forth the date, time, method, and place of the hearing; that evidence may be presented orally or documented to establish pertinent facts; that the parties may bring and question witnesses and refute testimony; and that the parties may be represented by others, including an attorney, at the parties' own cost and as subject to state and federal law. Notice shall be mailed by first-class mail, postage prepaid, and addressed to the appellant at the appellant's last-known address or accessible via client portal, if appellant has opted in to portal communications.

*b. Intentional program violation hearing notices.* DIAL shall send notices of hearing regarding alleged intentional program violations at least 30 days in advance of the hearing date. The notices under this paragraph shall otherwise comply with the requirements of paragraph 7.6(5)“*a.*”

**7.6(6)** *Appellant's right to department's case file.* Prior to and during the contested case hearing, the department will provide the appellant or the appellant's authorized representative the opportunity to examine the content of the appellant's case file, if any, and all documents and records to be used by the department at the hearing.

**7.6(7)** *Informal conference.* The purpose of an 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 or position, and to provide an opportunity for the appellant to examine the contents of the case record.

*a.* When requested by the appellant, an informal conference with a representative of the department or one of its contracted partners, including a managed care organization, 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.

*b.* An informal conference need not be requested for the appellant to examine the contents of the case record.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.7(17A) Timelines for contested case hearings.**

**7.7(1)** *Medical assistance.* In cases involving the determination of medical assistance, the contested case hearing shall be held within a time frame such that the final administrative action is timely pursuant to 42 CFR 431.244(f) as amended to December 8, 2021.

**7.7(2)** *Community spouse resource allowance.* 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.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.8(17A) Contested case hearing procedures.**

**7.8(1)** *Method.* Contested case hearings may be conducted via telephone or videoconference. Upon request of a party to the appeal or order of the presiding officer, the contested case hearing shall be conducted in person.

**7.8(2)** *Evidence.*

*a.* The parties to a contested case hearing may:

- (1) Bring witnesses,
- (2) Submit competent evidence to establish all pertinent facts and circumstances,
- (3) Present arguments without undue interference,
- (4) Question or refute any testimony or evidence, including through cross-examination, and
- (5) Respond to evidence and arguments on all issues.

*b.* Evidence shall be received or excluded as provided in Iowa Code section 17A.14.

**7.8(3)** *Right to counsel.* Parties to an appeal shall be permitted to be represented by counsel at the parties' own expense.

**7.8(4)** *Self-represented appellant.* The presiding officer shall, at the officer's discretion, provide reasonable assistance to a self-represented appellant. The presiding officer must, however, ensure that such assistance does not impact the independence and fairness of the contested case hearing process.

**7.8(5)** *Closed to public.* Contested case hearings are closed to the public, and unless otherwise provided by state or federal law, only the parties, their representatives, permissible intervenors, and witnesses may be present for a contested case hearing in the absence of mutual agreement of the parties.

**7.8(6)** *Administration of appeals.* Except as otherwise provided in this chapter or other applicable federal or state law, discretion in the conduct and administration of appeals is vested in the contested case hearing presiding officer.

**7.8(7)** *Contested cases with no factual dispute.* If the parties in a contested case agree that there is no dispute of material fact, the parties may present all admissible evidence either by stipulation, or as otherwise agreed, in lieu of an evidentiary hearing. If an agreement is reached, the parties shall jointly submit a schedule for submission of the record, briefs and oral arguments to the presiding officer for approval. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.9(17A) Miscellaneous rules governing contested case hearings.**

**7.9(1) *Ex parte communication.*** Ex parte communications between the presiding officer and person or party in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply.

**7.9(2) *Default.*** If a party fails to appear at a scheduled hearing or prehearing conference without good cause as determined by the presiding officer, the party's appeal may be denied and dismissed or may be heard and ruled upon, consistent with Iowa Code section 17A.12(3). Defaulting parties may file a timely motion to vacate, which shall be granted if the presiding officer determines good cause has been shown.

**7.9(3) *Withdrawal.*** An appellant may submit a withdrawal of a fair hearing request at any time prior to hearing through any of the methods identified in subrule 7.5(1), except for programs listed in subrule 7.5(4). For programs listed in subrule 7.5(4), a written request may be submitted via the department's website, by mail, in person, or through other commonly available electronic means (such as email or facsimile). Unless otherwise provided, a withdrawal shall be with prejudice.

**7.9(4) *Medical assessment.*** For Medicaid enrollees engaged in an appeal involving medical issues, the department may request, at the department's own expense, that the appellant submit to an appropriate medical assessment. The presiding officer shall order such assessment upon sufficient showing of necessity.

**7.9(5) *Standard of review.*** In a child abuse appeal, the criteria and level of deference by which the presiding officer shall render a decision is based on a preponderance of evidence.

**7.9(6) *Interpreters.*** The department will provide translation and interpretation services to an appellant, if requested. In all cases when an appellant is illiterate or semiliterate, the presiding officer shall advise the appellant of the appellant's rights to the satisfaction of the appellant's understanding.

**7.9(7) *Persons living with disabilities.*** 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 (as amended to December 31, 2023) and Section 504 of the Rehabilitation Act (as amended, effective October 1, 2016).

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.10(17A) Proposed decision.**

**7.10(1) *Contents.*** The presiding officer shall issue a written proposed decision to all parties clearly identifying the issues on appeal, holding, findings of fact, conclusions of law, and order. The findings of fact shall cite and be based exclusively on the record as defined by Iowa Code section 17A.12(6). The conclusions of law shall be limited to the contested issues of fact, policy or law and shall identify the specific provisions of law that support the ultimate conclusion.

**7.10(2) *Access to record.*** After receiving the proposed decision, an appellant shall be given reasonable access to the record at a convenient place and time.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.11(17A) Director's review.**

**7.11(1) *Time.*** Parties, including the department, may appeal the proposed decision to the director.

*a.* A request for director's review shall be in writing and postmarked or received within 14 calendar days of the date on which the proposed decision was issued, except as provided for under paragraph 7.11(1) "b." A request for director's review may be accompanied by a brief written summary of the arguments in favor of director's review.

*b.* A managed care organization appealing a proposed decision reversing an adverse benefit determination shall request director's review within 72 hours from the date it received notice of the proposed decision.

**7.11(2) *Grant or denial of review.*** The department has full discretion to grant or deny a request for review. In addition, the director may initiate review of a proposed decision on the director's own motion at any time on or before the thirtieth day following the issuance of the proposed decision.

When the department grants a request for director's review, the department will notify the parties and enclose a copy of the request. All other parties shall have 14 calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

**7.11(3) *Cross-appeal.*** When a party requests director's review in accordance with subrule 7.11(1), the remaining parties shall have 14 calendar days from that date to submit cross-requests for director's review. The party originally seeking director's review shall have 14 calendar days from the date of the cross-request for director's review to submit further written arguments or objections for consideration upon review.

**7.11(4) *Limited record.*** Director's review shall be limited to the issues and record before the contested case hearing presiding officer.

**7.11(5) *Oral arguments.*** Upon specific request, the director may, at the director's discretion, permit parties to present oral arguments with the parties' requests for director's review.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.12(17A) Final decisions.**

**7.12(1) *No appeal or denial of director review.*** If there is no timely appeal from or review of the proposed decision, the presiding officer's proposed decision becomes the final decision of the agency.

**7.12(2) *Timelines.***

*a.* The department or director will issue a final decision within the timelines prescribed by federal or state law. For all appeals for which there is no federal or state timeliness standard, the department or director will issue a final decision on or before the ninetieth day from the date the department receives an appeal request.

*b.* Except as otherwise provided by state or federal law, the time frames for a final decision provided under this rule may be tolled when:

- (1) The appellant requests a delay;
- (2) The appellant fails to take a required action; or
- (3) There is an administrative or other emergency beyond the department's control.

*c.* DIAL shall document in the record the reasons for any delay and the requesting party.

**7.12(3) *Written notice of final decision.*** The parties to the appeal shall be provided written notice of the department's final decision. The department will also notify the appellant of the appellant's right to seek judicial review, where applicable.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

#### **441—7.13(17A) Expedited review.**

**7.13(1) *Expedited review criteria.*** An appellant to a medical assistance appeal may, at any time, file with the department a request for expedited review of the appeal. Expedited review shall be granted pursuant to 42 CFR 438.410 (as amended to August 1, 2024) for a managed care organization appeal or 42 CFR 431.224 (as amended to August 1, 2024) for a non-managed care organization appeal.

**7.13(2) *Managed care expedited proceedings.***

*a.* If the appellant is granted an expedited review, all subsequent proceedings shall also be expedited without an additional request if the appeal request indicates that the managed care organization appeal was expedited and provides the basis for expedited relief.

*b.* When review is expedited pursuant to paragraph 7.13(2)“*a.*,” the presiding officer shall issue a proposed decision as expeditiously as the enrollee's health condition requires, but no later than three working days after the department receives from the managed care organization the case file and information for any appeal of a denial of a service that, as indicated by the managed care organization:

(1) Meets the criteria for expedited resolution but was not resolved within the time frame for expedited resolution; or

(2) Was resolved within the time frame for expedited resolution but reached a decision wholly or partially adverse to the enrollee.

**7.13(3) *Medicaid eligibility or preadmission and annual resident review expedited proceedings.*** For expedited appeals related to Medicaid eligibility or preadmission and annual resident review requirements, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than seven working days after the department receives a request for an expedited fair hearing.

**7.13(4)** *Medicaid-covered benefits or services expedited proceedings.* For expedited appeals related to Medicaid-covered benefits or services, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than provided in paragraph 7.13(2) “b.”

**7.13(5)** *Final decision for expedited proceeding.* The department will issue its final decision in accordance with this rule, except as provided by subrule 7.12(2).

**7.13(6)** *Notification if expedited relief is granted or denied.* The department will notify the appellant as expeditiously as possible whether the request for expedited relief is granted or denied. Such notice will be provided orally or through electronic means to the extent consistent with federal and state law. If oral notice is provided, the department will follow up with written notice, which may be through electronic means to the extent consistent with federal and state law.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.14(17A) Effect.**

**7.14(1)** If the contested case hearing presiding officer’s proposed decision is favorable to an enrollee in a Medicaid appeal, the department will promptly make corrective payments retroactive to the date an incorrect action was taken. If the presiding officer reverses a decision of a managed care organization to deny, limit, or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the enrollee’s health condition requires, but no later than 72 hours from the date the managed care organization receives notice reversing the determination.

**7.14(2)** Unless there is contravening federal or state law, all final decisions shall be put into effect within seven days of the issuance of the final decision.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.15(17A) Calculating time.** In computing any time period specified in this chapter, the period:

1. Excludes the day of the event that triggers the period;
2. Includes every day of the time period (including Saturdays, Sundays, and holidays on which the department is closed); and
3. Includes the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.16(17A) Authorized representatives.**

**7.16(1)** *Regulations.* The provisions of this rule only apply to the extent the standards expressed in this rule are not in conflict with other state or federal law.

**7.16(2)** *Designation of authority.* Legally recognized delegations of authority, such as guardianships, applicable designations of power of attorney, or similar designations, shall be sufficient for a delegate to serve as authorized representative under this chapter. A person who is not designated a legally recognized delegation of authority but who otherwise seeks to act as an authorized representative for an individual in an appeal under this chapter shall provide a written, signed designation of authority to the department with the request for appeal. The designation must provide the scope of the representation, applicable waivers for the release of confidential information, and any temporal or other limitations on the scope of representation. An authorized representative of a party-in-interest only represents the party-in-interest and has no independent right to appeal by virtue of the authorized representative’s representation.

**7.16(3)** *Written designation.* For a person other than an attorney seeking to act as an authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative’s written designation of authority pursuant to subrule 7.16(2) shall be on an authorized representative form prescribed by the department. This form is required for all managed care appeals, including those handled through the expedited appeals process. Failure to provide the form or legal documentation may result in denial of the appeal request.

**7.16(4)** *Appearance by attorney.* Legal counsel appearing on behalf of any person in a proceeding under this chapter shall enter an appropriate written appearance.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.17(17A) Continuation and reinstatement of benefits.**

**7.17(1)** *Programs for which no federal or state law applies.* For all assistance programs for which there is no contravening federal or state law, benefits or services shall not be suspended, reduced, restricted, or discontinued, nor shall a license, registration, certification, approval, or accreditation be revoked or other adverse action taken pending a final decision when:

- a. An appeal is filed before the effective date of the intended action; or
- b. The appellant requests a hearing within ten days of receipt of a notice to suspend, reduce, restrict, or discontinue benefits or services. The date on which the notice is received is considered to be five days after the date on the notice unless the appellant shows the notice was not received within the five-day period.

**7.17(2)** *Sole issue is state or federal law or policy.* Benefits or services continued pursuant to subrule 7.17(1) may be suspended, reduced, restricted, or discontinued if the presiding officer determines at the contested case hearing that the sole issue is one of state or federal law or policy and the department has notified the enrollee in writing that services are to be suspended, reduced, restricted, or discontinued pending the proposed decision.

**7.17(3)** *Recoup cost of services or benefits.* The department or managed care organization may recoup the cost of benefits or services provided pursuant to this chapter if the adverse action appealed from is affirmed, consistent with state and federal law.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.18(17A) Emergency adjudicative proceedings.**

**7.18(1)** *Necessary emergency action.* When and to the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with state and federal law, a contested case hearing presiding officer may issue a written order to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order. In determining the necessity of such an action, the presiding officer shall consider factors, including but not limited to the following:

- a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;
- c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated is necessary to avoid the immediate danger.

**7.18(2)** *Issuance of order.* An emergency adjudicative order shall contain, or shall be expeditiously followed by, a written analysis, including findings of fact, conclusions of law, and policy reasons to justify the order. The agency shall provide written notice that best ensures prompt, reliable delivery. Such order shall be immediately delivered to the persons required to comply with the order.

**7.18(3)** *Completion of proceedings.* Upon issuance of an order under this rule, the department will proceed as quickly as reasonably practicable to complete any proceedings that would be required if the matter did not involve an immediate danger. An order issued under this rule shall include notice of the date on which proceedings under this chapter are to be completed. After issuance of an order under this rule, continuance of further proceedings under this chapter shall only be granted in compelling circumstances upon application in writing. Before issuing an emergency adjudicative order, the presiding officer shall consider factors, including but not limited to the following:

- a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;

c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of immediate danger to the public health, safety, or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and

e. Whether the specific action contemplated is necessary to avoid the immediate danger.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings.** An intentional program violation is determined through a SNAP administrative disqualification hearing, a court conviction, or when an individual signs and returns a form prescribed by the department, which may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both in accordance with the procedures outlined in this rule and in 7 CFR 273.16(e) and (f) as amended to December 8, 2021.

**7.19(1)** When a case is referred for an administrative disqualification hearing, the department will mail written notification to the individual that the individual can waive the right to an administrative disqualification hearing by signing and returning Waiver of Right to an Administrative Disqualification Hearing.

**7.19(2)** By signing Waiver of Right to an Administrative Disqualification Hearing, the individual:

a. Waives the right to an administrative disqualification hearing;

b. Consents to the SNAP disqualification period designated Waiver of Right to an Administrative Disqualification Hearing, and a reduction of benefits for the period of disqualification; and

c. Acknowledges that remaining household members, if any, may be held responsible for repayment of the resulting claim.

**7.19(3)** An administrative disqualification hearing shall be scheduled if the individual does not sign and mail or fax Waiver of Right to an Administrative Disqualification Hearing to the department within ten days of receipt of the written notification stating the individual can waive the right to an administrative disqualification hearing. The date on which the written notification is received is considered to be five days after the date on the notification unless the individual shows the notification was not received within the five-day period.

**7.19(4)** An individual who waives the right to an administrative disqualification hearing will be subject to the same penalties as an individual found to have committed an intentional program violation in an administrative disqualification hearing.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.20 to 7.40** Reserved.

DIVISION II  
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

**441—7.41(17A) Scope, bidder and applicability.** The rules in Division II apply to appeals based on the department's competitive procurement bid process. A bidder is an entity that submits a proposal in response to a solicitation issued through the department's competitive procurement process.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.42(17A) Requests for timely filing of an appeal.** Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

**7.42(1)** An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five calendar days of the date of either a disqualification notice or notice of award, exclusive of Saturdays, Sundays and legal state holidays. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking

reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five calendar days of the date of the department's decision on reconsideration, exclusive of Saturdays, Sundays and legal state holidays.

**7.42(2)** The written appeal will state the grounds upon which the appellant challenges the department's decision.

**7.42(3)** The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. Appeals may be sent by mail, email, fax or in-person delivery.

When an appeal is submitted through an electronic delivery method, such as email or fax, the appeal is filed on the date it is submitted. The electronic delivery method will record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method or the appeal was filed via in-person delivery, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals will be documented by the office where the appeal is received.

When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.43(17A) Bidder appeals.** The bidder appeal will be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals unless otherwise noted.

**7.43(1) Hearing time frame.** The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

**7.43(2) Registration.** Upon receipt of the notice of appeal, the department will register the appeal.

**7.43(3) Acknowledgment.** Upon receipt of the notice of appeal, the department will send a written acknowledgment of receipt of the appeal to the appellant, the appellant's representative, or both.

**7.43(4) Granting a hearing.** The department will determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

*a.* An appeal of an appellant who is granted a hearing shall be certified to DIAL for the hearing to be conducted. The department will indicate at the time of certification the issues to be discussed at the hearing.

*b.* An appeal of an appellant who is denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant who disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

**7.43(5) Hearing scheduled.** For those records certified for hearing, DIAL shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in DIAL rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

**7.43(6) Method of hearing.** DIAL shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.8(17A).

**7.43(7) Reschedule requests.** Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to DIAL except as otherwise noted. The granting of the requests will be at the discretion of DIAL. All requests concerning the scheduling of a hearing shall be made to DIAL directly.

**7.43(8) Notification.** For those appeals certified for hearing, DIAL shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

*a.* The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

*b.* A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.44(17A) Procedures for bidder appeal.**

**7.44(1)** Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

**7.44(2)** Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

**7.44(3)** Amendments to notice of appeal. The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

**7.44(4)** If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

**7.44(5)** The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

**7.44(6)** The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6).

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.45(17A) Stay of agency action for bidder appeal.**

**7.45(1)** *When a stay may be requested.*

*a.* Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

*b.* Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

**7.45(2)** *When a stay is granted.* In determining whether to grant a stay, the director will consider the factors listed in Iowa Code section 17A.19(5)“c.”

**7.45(3)** *Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.46(17A) Request for review of the proposed decision.** A request for review of the proposed decision shall follow the provisions outlined in rule 441—7.11(17A).

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.47(17A) Other procedural considerations.**

**7.47(1)** *Consolidation—severance.* The provisions regarding consolidation and severance in rule 481—10.10(10A,17A) apply.

**7.47(2)** *Rights of an appellant during a hearing.* All rights afforded an appellant in rule 441—7.8(17A) shall apply.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.48(17A) Appeal record.**

**7.48(1)** The appeal record shall consist of all items specified in Iowa Code section 17A.16.

**7.48(2)** The party that requests a transcription of the proceedings shall bear the cost.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.49(17A) Pleadings.** The provisions regarding pleadings in rule 481—10.11(10A,17A) apply.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.50(17A) Ex parte communications.** The rules regarding ex parte communications specified in subrule 7.9(1) and Iowa Code section 17A.17 apply.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

**441—7.51(17A) Right of judicial review.** The rules regarding right of judicial review specified in subrule 7.12(3) and Iowa Code section 17A.19 apply.

[ARC 8897C, IAB 2/19/25, effective 3/26/25]

These rules are intended to implement Iowa Code chapter 17A.

[Filed December 27, 1971; amended December 2, 1974]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 7/1/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed 5/8/78, Notice 10/19/77—published 5/31/78, effective 7/5/78]

[Filed emergency 3/30/79—published 4/18/79, effective 3/30/79]

[Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/2/80]

[Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]

[Filed 6/2/81, Notice 3/18/81—published 6/24/81, effective 8/1/81]

[Filed 7/1/82, Notices 10/28/81, 12/23/81—published 7/21/82, effective 8/25/82]

[Filed 7/1/82, Notice 5/12/82—published 7/21/82, effective 9/1/82]

[Filed 10/28/83, Notice 8/17/83—published 11/23/83, effective 1/1/84]

[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]

[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]

[Filed 5/4/84, Notice 2/29/84—published 5/23/84, effective 7/1/84]

[Filed 5/4/84, Notice 3/14/84—published 5/23/84, effective 7/1/84]

[Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]

[Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 1/15/87, Notice 12/3/86—published 2/11/87, effective 4/1/87]

[Filed emergency 7/14/89 after Notice 5/31/89—published 8/9/89, effective 8/1/89]

[Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]

[Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]

[Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]

[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]

[Filed 1/16/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]

[Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

[Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]

[Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]

[Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]

[Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]

[Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]

[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]

[Filed 10/9/96, Notice 8/14/96—published 11/6/96, effective 1/1/97]

[Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]

[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]<sup>o</sup>

[Filed 12/10/97, Notice 10/8/97—published 12/31/97, effective 3/1/98]

[Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 8/5/98]

[Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]

[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]

- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
- [Filed 4/15/99, Notice 2/24/99—published 5/5/99, effective 7/1/99]
- [Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
- [Filed 2/14/01, Notice 11/29/00—published 3/7/01, effective 5/1/01]
- [Filed 5/9/01, Notice 2/21/01—published 5/30/01, effective 7/4/01]
- [Filed 4/10/03, Notice 2/19/03—published 4/30/03, effective 7/1/03]
- [Filed 9/22/03, Notice 7/23/03—published 10/15/03, effective 12/1/03]
- [Filed emergency 10/10/03—published 10/29/03, effective 11/1/03]
- [Filed 5/14/04, Notice 3/31/04—published 6/9/04, effective 7/14/04]
- [Filed emergency 7/9/04—published 8/4/04, effective 7/9/04]
- [Filed 9/23/04, Notice 8/4/04—published 10/13/04, effective 11/17/04]
- [Filed emergency 2/10/05 after Notice 12/22/04—published 3/2/05, effective 3/1/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
- [Filed 8/12/05, Notice 6/8/05—published 8/31/05, effective 11/1/05]
- [Filed 10/21/05, Notice 7/6/05—published 11/9/05, effective 12/14/05]
- [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
- [Filed 11/16/05, Notice 9/14/05—published 12/7/05, effective 2/1/06]
- [Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]
- [Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
- [Filed emergency 11/9/06 after Notice 7/5/06—published 12/6/06, effective 12/1/06]
- [Filed 3/14/07, Notice 8/30/06—published 4/11/07, effective 7/1/07]
- [Filed 1/9/08, Notice 11/7/07—published 1/30/08, effective 4/1/08]
- [Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
- [Filed ARC 8003B (Notice ARC 7730B, IAB 4/22/09), IAB 7/29/09, effective 9/2/09]
- [Filed ARC 8439B (Notice ARC 8083B, IAB 8/26/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8994B (Notice ARC 8756B, IAB 5/19/10), IAB 8/11/10, effective 10/1/10]
- [Filed Emergency ARC 9254B, IAB 12/1/10, effective 1/1/11]
- [Filed Emergency After Notice ARC 9698B (Notice ARC 9589B, IAB 6/29/11), IAB 9/7/11, effective 8/15/11]
- [Filed ARC 0304C (Notice ARC 0132C, IAB 5/30/12), IAB 9/5/12, effective 11/1/12]
- [Filed ARC 0487C (Notice ARC 0325C, IAB 9/5/12), IAB 12/12/12, effective 2/1/13]
- [Filed ARC 0583C (Notice ARC 0435C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
- [Filed ARC 0819C (Notice ARC 0671C, IAB 4/3/13), IAB 7/10/13, effective 9/1/13]
- [Filed ARC 1206C (Notice ARC 1000C, IAB 9/4/13), IAB 12/11/13, effective 1/15/14]
- [Filed ARC 1261C (Notice ARC 1129C, IAB 10/16/13), IAB 1/8/14, effective 3/1/14]
- [Filed ARC 1478C (Notice ARC 1385C, IAB 3/19/14), IAB 6/11/14, effective 8/1/14]
- [Filed ARC 1611C (Notice ARC 1515C, IAB 6/25/14), IAB 9/3/14, effective 11/1/14]
- [Filed ARC 1694C (Notice ARC 1588C, IAB 8/20/14), IAB 10/29/14, effective 1/1/15]
- [Filed ARC 3093C (Notice ARC 2972C, IAB 3/15/17), IAB 6/7/17, effective 7/12/17]
- [Filed Emergency ARC 3199C, IAB 7/19/17, effective 7/1/17]
- [Filed ARC 3389C (Notice ARC 3198C, IAB 7/19/17), IAB 10/11/17, effective 11/15/17]
- [Filed ARC 3787C (Notice ARC 3652C, IAB 2/28/18), IAB 5/9/18, effective 7/1/18]
- [Filed ARC 3871C (Notice ARC 3783C, IAB 5/9/18), IAB 7/4/18, effective 8/8/18]
- [Filed ARC 4064C (Notice ARC 3907C, IAB 8/1/18), IAB 10/10/18, effective 12/1/18]
- [Filed ARC 4972C (Notice ARC 4674C, IAB 9/25/19), IAB 3/11/20, effective 4/15/20]
- [Filed ARC 5810C (Notice ARC 5549C, IAB 4/7/21), IAB 7/28/21, effective 9/1/21]
- [Filed ARC 6384C (Notice ARC 6298C, IAB 4/20/22), IAB 6/29/22, effective 9/1/22]
- [Editorial change: IAC Supplement 8/10/22]
- [Filed ARC 6850C (Notice ARC 6690C, IAB 11/30/22), IAB 2/8/23, effective 4/1/23]
- [Filed ARC 8045C (Notice ARC 7358C, IAB 1/24/24), IAB 5/29/24, effective 7/3/24]

[Filed ARC 8897C (Notice ARC 8426C, IAB 11/27/24), IAB 2/19/25, effective 3/26/25]

◇ Two or more ARCs