

**441—7.10(17A) Procedural considerations.** Upon receipt of the notice of appeal, the department shall:

**7.10(1) Registration.** Register the appeal.

**7.10(2) Acknowledgment.** Send an acknowledgment of receipt of the appeal to the appellant, representative, or both.

A copy of the acknowledgment of receipt of appeal will be sent to the appropriate departmental office.

**7.10(3) Granting a hearing.** The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at that hearing in accordance with the applicable rules, state statutes, or federal regulations.

*a.* The appeals of those appellants who are granted a hearing shall be certified to the department of inspections and appeals for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at that hearing.

*b.* The appeals of those appellants who are denied a hearing shall not be closed until issuance of a letter to the appellant and the appellant's representative, advising of the denial of hearing and the basis upon which that denial is made. Any appellant that disagrees with a denial of hearing may present additional information relative to the reason for denial and request reconsideration by the department or a hearing over the denial.

**7.10(4) Hearing scheduled.** For those records certified for hearing, the department of inspections and appeals shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in department of inspections and appeals rules 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

*a.* In cases involving individual appellants, the hearing shall be held in the appropriate departmental office, provided that when the appellant is incapacitated due to illness or other disability and is housebound, hospitalized, or in a nursing home, the place of the hearing shall be at the convenience of the appellant even to the extent of holding the hearing in the appellant's home except where otherwise restricted.

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

*c.* 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.

*d.* In cases involving an appeal of a sex offender risk assessment, the hearing shall be held within 30 days of the date of the appeal request.

*e.* Emergency assistance appeals shall be expedited.

**7.10(5) Method of hearing.** The department of inspections and appeals 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 441—7.13(17A). The appellant may request to have a presiding officer render a decision for attribution appeals through an administrative hearing.

**7.10(6) Reschedule requests.** Requests by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections and appeals directly except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections and appeals.

*a.* The appellant may request that the teleconference hearing be rescheduled as an in-person hearing. All requests made to the department or to the department of inspections and appeals for a teleconference hearing to be rescheduled as an in-person hearing shall be granted. Any appellant request for an in-person hearing made to the department shall be communicated to the department of inspections and appeals immediately.

*b.* All other requests concerning the scheduling of a hearing shall be made to the department of inspections and appeals directly.

**7.10(7) Notification.** For those appeals certified for hearing, the department of inspections and appeals shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

*a.* The notice, as prescribed in Iowa Code section 17A.12(2), shall set forth:

- (1) The date, time, method and place of the hearing;
- (2) That evidence may be presented orally or documented to establish pertinent facts; and
- (3) That the appellant may question or refute any testimony, may bring witnesses of the appellant's choice and may be represented by others, including an attorney, subject to federal law and state statute. The department will not pay for the cost of legal representation.

*b.* A copy of this notice shall be forwarded to the department employee who took the action and to other persons when circumstances peculiar to the case indicate that the notification may be desirable.

*c.* Notices of hearing regarding an intentional program violation shall be served upon the appellant both by certified mail, return receipt requested, and by first-class mail, postage prepaid, addressed to the appellant at the last-known address. All other notices of hearing shall be mailed by first-class mail, postage prepaid, addressed to the appellant at the appellant's last-known address.