

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).

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