

427—23.15(PL100-77) Termination of EHP funding.

23.15(1) Termination in general. The division administrator of DCAA may terminate EHP funds to an eligible entity after suspension of EHP funding in any of the following instances:

a. The division administrator determines that the governing board of the eligible entity cannot or will not take the necessary action to bring the eligible entity into compliance within the time allowed by DCAA.

b. The division administrator determines that the nature or extent of noncompliance is extreme and warrants immediate termination of EHP funding.

c. The eligible entity is no longer officially recognized as a CAA by DCAA as a result of termination of affiliation procedures described in rule 427—22.11(216A).

23.15(2) Written notification of intent to terminate. DCAA shall provide a written “notification of intent to terminate” by certified mail to the chairperson of the governing board of the eligible entity to effectuate the termination of EHP funding. The “notification of intent to terminate” shall include:

- a.* The reason(s) for the termination;
- b.* A notice of a hearing to be held to consider the intended termination including:
 - (1) A statement of the date, time, place, nature, and manner of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (3) Reference to the particular sections of the statutes, rules or regulations involved;
 - (4) A short, plain statement of the matters asserted. If the state is unable to recite the matters in detail at the time the notice is given, the notice may be limited to a statement of the issues involved;
 - (5) A statement informing all parties of their opportunity at a hearing:
 1. To request rescheduling of the hearing for good cause;
 2. To be represented by an attorney or other representative of their choice;
 3. To introduce into the record documentary evidence and bring witnesses to the hearing;
 4. To have records or documents relevant to the issues produced by their custodian when the records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;
 5. To question any witnesses or parties; and
 6. A final written decision provided by the division administrator of DCAA within 30 days of the hearing.

23.15(3) Prehearing subpoena and discovery rights and procedures. The presiding officer shall, upon request, issue subpoenas in accordance with the provisions of Iowa Code section 17A.13.

23.15(4) Conduct of hearing.

a. The hearing shall be held within 30 days of the date of the “notification of intent to terminate.”

b. The hearing may be conducted in whole or in part by telephone. When it is impractical for the state to conduct an in-person hearing, unless either party objects, a telephone hearing may be scheduled.

c. After the presiding officer has called the hearing to order, the parties may be given an opportunity to present opening statements; thereafter the parties shall present their evidence in sequence determined by the presiding officer.

d. When a witness is introduced to provide testimony or evidence in a contested case hearing, the witness shall, prior to testifying, be identified by name and address and shall take an oath or affirmation administered by the presiding officer.

e. The rules of evidence and the contents of the record shall be as allowed under Iowa Code sections 17A.12(7) and 17A.14.

23.15(5) Decision. The decision shall conform to the following requirements:

a. The presiding officer shall within 20 days following the hearing provide the division administrator of DCAA with a proposed decision.

b. The division administrator of DCAA shall within 30 days following the hearing issue a final decision on behalf of the state.

c. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record and, if set forth in statutory language, shall be accompanied by a concise and explicit

statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by reasoned opinion.