

641—80.5(135) Right to appeal.**80.5(1) Denial, reduction or termination of services.**

a. When an authorized agency denies, reduces or terminates services funded by the LPHS contract against the wishes of a consumer, the authorized agency shall notify the consumer of the following:

- (1) The action taken;
- (2) The reason for the action; and
- (3) The consumer's right to appeal.

b. If a consumer files an appeal, the authorized agency shall provide services to the consumer throughout the appeals process, unless the agency receives a waiver from the department pending the outcome of the appeal.

80.5(2) Local appeals process.

a. The authorized agency shall have a written procedure through which consumers funded by the LPHS contract may appeal to the contractor. The written procedure shall, at a minimum, include:

- (1) The method of notification of the right to appeal;
- (2) The procedure for conducting the appeal;
- (3) Time limits for each step;
- (4) Notification of the consumer's right to appeal to the contractor; and
- (5) Notification of the outcome of the appeal. The notification shall include the facts used to reach the decision and the conclusions drawn from the facts to support the decision of the authorized agency.

b. The written appeals procedure and the record of appeals filed (including the record and disposition of each) shall be available for inspection by authorized representatives of the department.

80.5(3) Appeal to department.

a. If a consumer is dissatisfied with the decision of the local appeal, the consumer may appeal to the Iowa department of public health within 15 days of the receipt of the local contractor's appeal decision. The appeal shall be made in writing and sent by certified mail, return receipt requested, to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Department review. The department shall evaluate the appeal based upon the merits of the local appeal documentation. A department decision affirming, reserving, or modifying the local appeal decision shall be issued within 30 days of the receipt of all local appeal documentation. The department decision shall be in writing and sent by certified mail, return receipt requested, to the consumer, the contractor, and the authorized agency.

80.5(4) Further appeal. The consumer may appeal the department's decision within 10 days of the receipt of the department's decision. The appeal shall be made in writing and sent to the Director, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Upon receipt of an appeal that meets contested case status, the department shall forward the appeal within 5 working days to the department of inspections and appeals pursuant to the rules adopted by the department of inspections and appeals regarding the transmission of contested cases. The continued process for appeals shall be governed by 641—Chapter 173, Iowa Administrative Code.

[ARC 1925C, IAB 4/1/15, effective 7/1/15; ARC 3747C, IAB 4/11/18, effective 5/16/18; see Delay note at end of chapter]