

761—615.22(17A,321,321J) Hearing and appeal process.

615.22(1) *Applicability.* This rule applies to:

- a. License denials, cancellations and suspensions under Iowa Code sections 321.177 through 321.215 and 321A.4 through 321A.11 except suspensions under Iowa Code sections 321.213A and 321.213B.
- b. License suspensions and revocations under Iowa Code sections 321.218 and 321J.21.
- c. License revocations under Iowa Code sections 321.193 and 321.205.
- d. Disqualifications from operating a commercial motor vehicle under Iowa Code section 321.208.
- e. License bars under Iowa Code section 321.556.

615.22(2) *Submission of request.*

a. A person subject to a sanction listed in subrule 615.22(1) may contest the action by following the provisions of 761—Chapter 2506 as supplemented by this rule.

b. A person may request an informal settlement, a contested case hearing, or an appeal of a presiding officer's decision by submitting a request in writing to the motor vehicle division at the address in rule 761—615.3(17A).

c. The request is to include the person's name, date of birth, driver's license or permit number, mailing address and telephone number and the name, address and telephone number of the person's attorney, if any.

d. A request for an informal settlement or a request for a contested case hearing will be deemed timely submitted if it is delivered to the motor vehicle division or postmarked within the time period specified in the department's notice of the sanction.

(1) Unless a longer time period is specified in the notice or another time period is specified by statute or rule, the time period will be 20 days after the notice is served.

(2) However, a request to appeal a sanction under rule 761—615.7(321) or a denial of a license may be submitted at any time.

615.22(3) *Informal settlement or hearing.*

a. The person may request an informal settlement. Following an unsuccessful informal settlement procedure, or instead of that procedure, the person may request a contested case hearing.

b. Notwithstanding paragraph 615.22(3) "a," a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

615.22(4) *Appeal.* A request to appeal a presiding officer's decision shall be submitted in accordance with 761—subrule 13.5(3).

615.22(5) *Stay of sanction.*

a. Upon receipt of a properly submitted, timely request under this rule, the department will review its records to determine whether the sanction may be stayed pending the outcome of the settlement, hearing or appeal unless prohibited by statute or rule or unless otherwise requested by the requester/appellant.

(1) If the stay is granted, the department will send a notice indicating the effective date of the stay. The notice allows the person to drive while the sanction is stayed if the license is valid and no other sanction is in effect.

(2) A person whose stay authorizes driving privileges shall carry the notice of stay at all times while driving.

b. Of the sanctions listed in subrule 615.22(1), the department shall not stay the following, and the person's driving privileges do not continue:

- (1) A suspension for incapability.
- (2) A denial.
- (3) A disqualification from operating a commercial motor vehicle.
- (4) A suspension under Iowa Code section 321.180B.
- (5) A suspension or revocation under Iowa Code section 321.218 or 321J.21.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177 through 321.215, 321.218, 321.556, 321A.4 through 321A.11 and 321J.21.

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