

**441—22.5(225C) Compliance hearing.****22.5(1) *The right to a compliance hearing.***

*a. When a hearing is granted.* A hearing shall be granted to any person who meets the definition of an “aggrieved party.” A hearing will be granted only after it is determined that the aggrieved party has exhausted all other administrative remedies for correction of the situation prompting the request for a hearing.

*b. Time limit for request.* A request for a compliance hearing shall be made within 30 calendar days of the finalization of the last action of any previous administrative review process. If there is no other administrative remedy, the request for compliance hearing shall be made within 90 calendar days of the occurrence of the situation or condition prompting the request.

*c. Where no hearing is granted.* When upon review, it is determined that the party on whose behalf the hearing is requested does not meet the criteria of an aggrieved party or the request is untimely under these rules, no hearing will be granted.

**22.5(2) *Opportunity for compliance hearing.***

*a. Initiating a request.* The aggrieved party or authorized representative shall notify the division in writing that the person wishes to request a compliance hearing. The request shall be sent to:

Division of Mental Health, Mental Retardation, and Developmental Disabilities

Iowa Department of Human Services

Hoover State Office Building, 5th Floor

Des Moines, Iowa 50319-0114

*b. Filing the request.* The person shall be encouraged to complete the request for a compliance hearing on Form 470-2422, Compliance Hearing Request and Information Sheet, available from the division or from the local offices of the department. When the person is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to a compliance hearing, as long as the desire for a hearing is communicated in writing to the division by the person or the person’s authorized representative. A written request for a hearing is filed on the date postmarked on the envelope sent to the division, or on the date the aggrieved party brings the request form to the division.

*c. Withdrawal.* When the aggrieved party desires to voluntarily withdraw the request, a representative of the division shall request the person to sign Form 470-2423, Request for Withdrawal of Request for Compliance Hearing.

**22.5(3) *Procedural considerations.*** The division shall submit the request for a hearing to the department of inspections and appeals pursuant to rule 481—10.3(10A). The hearing will be conducted by the department of inspections and appeals pursuant to 481—Chapter 10.

**22.5(4) *Limitations on persons attending.*** The hearing shall be limited in attendance to the following persons: aggrieved party, aggrieved party’s representative, subject of the hearing, the subject’s representative, other persons present for the purpose of offering testimony pertinent to the issues in controversy, and others upon mutual agreement of the parties. The administrative law judge may sequester witnesses during the hearing. Nothing in this rule shall be construed to allow members of the press, news media, or any other citizens’ group to attend the hearing without the written consent of the aggrieved party and the subject of the review.

*a. Appeal of proposed decision.* After issuing a proposed decision to the parties, the administrative law judge shall submit it to the director and the division. The proposed decision may be appealed by the aggrieved party. The aggrieved party may appeal the proposed decision to the director within 20 calendar days of the date on which the proposed decision was signed and mailed. When the time limit for filing falls on a holiday or weekend, the time will be extended to the next workday. The day upon which the proposed decision is signed and mailed is the first day of the 20-day period. When the aggrieved party has not appealed the proposed decision, the proposed decision shall become the final decision.

An appeal from or review of the proposed decision shall be on the basis of the record as defined in Iowa Code section 17A.12, subsection 6. The review shall be limited to issues raised prior to that time and specified by the party requesting the review. In cases where there is an appeal from a proposed decision, an opportunity shall be afforded to each party to file exceptions, present briefs, and, with the

consent of the director, present oral arguments. A party wishing oral argument shall specifically request it. When granted, all parties shall be notified in advance of the time and place.

*b. Time limit.* A final decision shall be issued within 90 days from the date of request pursuant to subrule 22.5(2) "b." Should the aggrieved party or the subject of the hearing request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time not to exceed 30 days except with the approval of the department of inspections and appeals will be granted and the extra time may be added to the maximum time for the final decision.

*c. Limit of findings.* The findings of fact and conclusions of law in the proposed or final decision may be limited to contested issues of fact or policy.

**22.5(5) Accessibility of hearing decisions.** Summary reports of all hearing decisions shall be made available to local offices of the department and the public. The information shall be presented in a manner consistent with applicable laws and regulations on confidentiality.

**22.5(6) Right of judicial review.** The hearing decision shall advise the aggrieved party or the subject of the hearing of the right to judicial review by the district court. Either the division, the aggrieved party or the aggrieved party's authorized representative may apply to the Iowa district court for an order to enforce the decision. The division will apply to the district court only upon the request of the aggrieved party or the aggrieved party's authorized representative.