193—3.4(546) Procedures for board referral to an administrative law judge. The board, in its discretion, may refer a vendor appeal for hearing before a qualified administrative law judge. The hearing procedures will be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer will constitute a proposed decision. Board review of a proposed decision will be according to Iowa Code section 17A.15(2) and this chapter. Nothing in this rule will prevent the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure. The appealing vendor may also request that an administrative law judge act as presiding officer pursuant to 193—subrule 7.10(2).

3.4(1) The proposed decision will become the final decision of the board 14 days after mailing of the proposed decision, unless prior to that time a party submits an appeal of the proposed decision, or the board seeks review on its own motion.

3.4(2) Notice of an appeal for review of a proposed decision or notice of the board's own review will be mailed to all parties by the board's executive officer. Within 14 days after mailing of the notice of appeal or the board's review, any party may submit to the board exceptions to and a brief in support of or in opposition to the proposed decision, copies of which will be mailed by the submitting party to all other parties to the proceeding. The board's executive officer will notify the parties if oral argument will be heard and specify whether oral argument will be heard in person, by telephone or virtually. The executive officer will schedule the board's review of the proposed decision not less than 30 days after mailing of the notice of appeal or the board's own review.

3.4(3) Failure to appeal a proposed decision will preclude judicial review unless the board reviews on its own motion.

3.4(4) Review of a proposed decision will be based on the record and limited to the issues raised in the hearing. The issues will be specified in the notice of appeal of a proposed decision. The party requesting the review will be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

3.4(5) Each party will have the opportunity to file exceptions and present briefs. The executive officer may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the executive officer shall notify all parties of the date, time and location at least ten days in advance.

3.4(6) The board will not receive any additional evidence, unless it grants an application to present additional evidence. Any such application will be filed by a party at least five business days in advance of oral argument. Additional evidence will be allowed only upon a showing that it is material to the outcome and that there were good reasons for failure to present it at hearing. If an application to present additional evidence is granted, the board will order the conditions under which it shall be presented.

3.4(7) The board's final decision will be written and may incorporate all or part of the proposed decision.

[**ARC 8087C**, IAB 7/10/24, effective 8/14/24]