

441—7.1 (17A) Definitions.

“Administrative hearing” means a type of hearing that an appellant may elect in which the presiding officer reviews the written record only and makes a decision based on the facts available within the appeal file. An administrative hearing does not require an in-person or teleconference hearing. The final determination to establish whether an administrative hearing may be held will be made by the appeals section or the presiding officer.

“Administrative law judge” means an employee of the department of inspections and appeals who conducts appeal hearings.

“Agency” means the Iowa department of human services, including any of its local, institutional, or central administrative offices.

“Aggrieved person” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. For financial assistance (including the family investment program, refugee cash assistance, child care assistance, emergency or disaster assistance, family or community self-sufficiency grants, family investment program hardship exemptions, and state supplementary assistance dependent person, in-home health related care, and residential care facility benefits), a person:

- Whose request to be given an application was denied.
- Whose application for assistance has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a reduction or cancellation of assistance.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

2. For food assistance, a person:

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a reduction or cancellation of benefits.
- Whose request to receive a credit for benefits from an electronic benefit transfer (EBT) account has been denied.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

3. For medical assistance, healthy and well kids in Iowa, IowaCare, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who has been notified that level of care requirements have not been met.
- Who has been aggrieved by a failure to take into account the appellant’s choice in assignment to a coverage group.
- Who contests the effective date of assistance, services, or premium payments.
- Who contests the amount of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
- Who contests the amount of client participation.

- Whose claim for payment or prior authorization has been denied.
- Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
 - Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
 - Who has been notified that there will be a reduction or cancellation of assistance or waiver services.
 - Who has been notified that an overpayment of benefits has been established and repayment is requested.

4. For social services, including, but not limited to, adoption, foster care, and family-centered services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application for services or payment for adoption subsidy or foster care has been denied or has not been acted on in a timely manner.
 - For whom it is determined that the person must participate in a service program.
 - Whose claim for payment of services has been denied.
 - Who has been notified that a protective or vendor payment will be established.
 - Who has been notified that there will be a reduction or cancellation of services.
 - Who has been notified that an overpayment of services has been established and repayment is requested.
 - Who applies for an adoption subsidy after the adoption has been finalized.
 - Who alleges that the adoptive placement of a child has been denied or delayed when an adoptive family is available outside the jurisdiction with responsibility for handling the child’s case.
 - Who has not been referred to community care as provided in rule 441—186.2(234).
 - Who has been referred to community care as provided in rule 441—186.2(234) and has exhausted the community care provider’s dispute resolution process.
 - Who has been referred to aftercare services under 441—Chapter 187 and has exhausted the aftercare provider’s dispute resolution process.

5. For child support recovery, a person:

- Who is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.13(17A), or whose dispute based on the date of collection has not been acted on in a timely manner.
 - Who is contesting a claim or offset as provided in 441—subrule 95.6(3), 95.7(8), or 98.81(3) by alleging a mistake of fact. “Mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral or submission. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.
 - Whose name has been certified for passport sanction as provided in Iowa Code section 252B.5.
 - Who has been notified that there will be a termination in services as provided in rule 441—95.14(252B).

6. For PROMISE JOBS, a person:

- Whose claim for participation allowances has been denied, reduced, or canceled.
- Who claims that the contents of the family investment agreement are not sufficient or necessary for the family to reach self-sufficiency.
 - Who is dissatisfied with the results of informal grievance resolution procedures, or who fails or refuses to receive informal grievance resolution procedures.
 - Who has been notified that PROMISE JOBS services will be canceled due to imposition of a limited benefit plan.
 - Who has been notified that an overpayment of benefits has been established and repayment is requested.

- Who alleges acts of discrimination on the basis of race, creed, color, sex, age, physical or mental disability, religion, national origin, or political belief.
- Who claims displacement by a PROMISE JOBS participant.

7. For providers, a person or entity:

- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
- Whose claim for payment or request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology.
- Whose contract as a Medicaid patient manager has been terminated.
- Who has been subject to the withholding of a payment to recover a prior overpayment or who has received an order to repay an overpayment pursuant to 441—subrule 79.4(7).
- Who has been notified that the managed care reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.

8. For the child or dependent adult abuse registry, juvenile sex offender registry or criminal record check evaluation, a person:

- Who has requested correction of child abuse or dependent adult abuse information.
- Who has been restricted from or denied employment in a health care facility, state institution, or other facility based on a record check. "Employment" includes, but is not limited to, service as an employee, a volunteer, a provider, or a contractor. "Facilities" include, but are not limited to, county or multicounty juvenile detention homes and juvenile shelter care homes, child-placing agencies, substance abuse treatment programs, group living foster care facilities, child development homes, child care centers, state resource centers, mental health institutes, and state training schools.
- Who is contesting a risk assessment decision as provided in rule 441—103.34(692A) by alleging that the risk assessment factors have not been properly applied, the information relied upon to support the assessment findings is inaccurate, or the procedures were not correctly followed.

9. For mental health and developmental disabilities, a person:

- Whose application for state community mental health or mental retardation service funds has been denied or has not been acted upon in a timely manner.
- Who has been notified that there will be a reduction or cancellation of state community mental health or mental retardation service funds.

10. For HIPAA (Health Insurance Portability and Accountability Act) decisions, a current or former applicant or recipient of Medicaid or HAWK-I, or a person currently or previously in a department facility whose request:

- To restrict use or disclosure of protected health information was denied.
- To change how protected health information is provided was denied.
- For access to protected health information was denied. When the denial is subject to reconsideration under 441—paragraph 9.9(1) "i," persons denied access due to a licensed health care professional's opinion that the information would constitute a danger to that person or another person must first exhaust the reconsideration process.
- To amend protected health information was denied.
- For an accounting of disclosures was denied.

11. For drug manufacturers, a manufacturer that has received a notice of decision regarding disputed drug rebates pursuant to the dispute resolution procedures of a national drug rebate agreement or an Iowa Medicaid supplemental drug rebate agreement.

12. Individuals and providers that are not listed in paragraphs “1” to “11” may meet the definition of an aggrieved person if the department has taken an adverse action against that individual or provider.

“*Appeal*” denotes a review and hearing request made by a person who is affected by a decision made by the agency or its designee. An appeal shall be considered a contested case within the meaning of Iowa Code chapter 17A.

“*Appeals advisory committee*” means a committee consisting of central office staff who represent the department in the screening of proposed decisions for the director.

“*Appeals section*” means the unit within the department of human services that receives appeal requests, certifies requests for hearing, and issues final appeal decisions.

“*Appellant*” denotes the person who claims or asserts a right or demand or the party who takes an appeal from a hearing to an Iowa district court.

“*Attribution appeal*” means an appeal to determine if additional resources can be allocated for the community spouse when the other spouse has entered a medical institution or is applying for home-and community-based waiver services. The result of the attribution appeal may affect Medicaid eligibility. An appellant may elect to have an attribution appeal held by administrative hearing.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under Iowa Code section 17A.10A.

“*Department*” means the Iowa department of human services.

“*Department of inspections and appeals*” means the state agency which contracts with the department to conduct appeal hearings.

“*Due process*” denotes the right of a person affected by an agency decision to receive a notice of decision and an opportunity to be heard at an appeal hearing and to present an effective defense.

“*Ex parte communication*” means written, oral, or other forms of communication between a party to the appeal and the presiding officer while an appeal is pending when all parties were not given the opportunity to participate.

“*Food assistance administrative disqualification hearing*” means a type of hearing used to determine if an individual fraudulently received benefits for which the individual was not eligible. A presiding officer shall determine if the individual will be banned from participating in the food assistance program for a period of time.

“*In person or face-to-face hearing*” means an appeal hearing conducted by an administrative law judge who is physically present in the same location as the appellant.

“*Intentional program violation*” means deliberately making a false or misleading statement; or misrepresenting, concealing, or withholding facts; or committing any act that is a violation of the Food and Nutrition Act of 2008, food assistance program regulations, or any state law relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of an electronic benefit transfer

(EBT) card. An intentional program violation is determined through a food assistance administrative disqualification hearing. The hearing may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both.

“Issues of fact or judgment” denotes disputed issues of facts or of the application of state or federal law or policy to the facts of the individual’s personal situation.

“Issues of policy” denotes issues of the legality, fairness, equity, or constitutionality of state or federal law or agency policy where the facts and applicability of the law or policy are undisputed.

“Joint or group hearings” denotes an opportunity for several persons to present their case jointly when all have the same complaint against agency policy.

“Local office” means the county, institution or district office of the department of human services.

“Presiding officer” means an administrative law judge employed by the department of inspections and appeals. The presiding officer may also be the department’s director or the director’s designee. The presiding officer has the authority to conduct appeal hearings and render proposed and final decisions.

“Presumption” denotes an inference as to the existence of a fact not known or drawn from facts that are known.

“PROMISE JOBS discrimination complaint” means any written complaint filed in accordance with the provisions of rule 441—7.8(17A) by a PROMISE JOBS participant or the participant’s representative which alleges that an adverse action was taken against the participant on the basis of race, creed, color, sex, national origin, religion, age, physical or mental disability, or political belief.

“PROMISE JOBS displacement grievance” means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives which alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers described in rule 441—93.17(239B).

“Reconsideration” means a review process that must be exhausted before an appeal hearing is granted. Such review processes include, but are not limited to, a reconsideration request through the Iowa Medicaid enterprise or its subcontractors, Magellan Behavioral Health Care, a health maintenance organization, a prepaid health plan, medical assistance patient management services, the managed health care review committee, a division or bureau within the department, the mental health, mental retardation, developmental disabilities, and brain injury commission, or a licensed health care professional as specified in 441—paragraph 9.9(1) “i.” Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

“Teleconference hearing” means an appeal hearing conducted by an administrative law judge over the telephone.

“Timely notice period” is the time from the date a notice is mailed to the effective date of action. That period of time shall be at least ten calendar days, except in the case of probable fraud of the appellant. When probable fraud of the appellant exists, “timely notice period” shall be at least five calendar days from the date a notice is sent by certified mail.

“Vendor” means a provider of health care under the medical assistance program or a provider of services under a service program.

[**ARC 8003B**, IAB 7/29/09, effective 9/2/09]