

191—3.5(17A) Commencement of hearing; notice.

3.5(1) Delivery of the notice of hearing constitutes commencement of the contested case proceeding. Delivery shall be accomplished in the manner described below, at least 15 days before the hearing date unless the parties agree to a shorter time period, or unless otherwise provided by statute.

a. For nonlicensed persons, delivery may be accomplished by:

- (1) Personal service as provided in the Iowa Rules of Civil Procedure; or
- (2) Certified mail, return receipt requested; or
- (3) First-class mail; or
- (4) Publication, as provided in the Iowa Rules of Civil Procedure.

b. For licensees, delivery shall be executed by:

- (1) Personal service as provided in the Iowa Rules of Civil Procedure; or
- (2) Restricted certified mail.

3.5(2) The notice of hearing shall be prepared in the form of an order and contain the following information:

- a.* A statement of the time, place, and nature of the hearing;
- b.* A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* A short and plain statement of the matters asserted. If the insurance division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon written application, a more definite and detailed statement shall be furnished;
- e.* Identification of all parties including the name, address and telephone number of the person who will act as advocate for the division and of parties' counsel where known;
- f.* Reference to the procedural rules governing conduct of the contested case proceeding;
- g.* Reference to the procedural rules governing informal settlement;
- h.* Identification of the presiding officer and address, if known. If not known, a description of who generally will serve as presiding officer; and
- i.* Notification of the time period in which a party may request, under 1998 Iowa Acts, chapter 1202, section 15(1), and rule 3.6(17A), that the presiding officer be an administrative law judge.
- j.* Notification that failure to file an answer within 20 days of service may result in default.

3.5(3) An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing. The answer shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

c. Any allegation in the notice of hearing not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

3.5(4) Any notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to a notice of hearing or charging document after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

3.5(5) The hearing in a contested case proceeding shall be held within 90 days after the date of the notice of hearing, subject to the provisions of rule 3.17(17A).