

129—7.3(8B,17A) Granting a waiver. In response to a petition completed pursuant to rule 129—7.5(8B,17A), the CIO may, in the CIO's sole discretion, issue an order waiving, in whole or in part, the requirements of a rule pursuant to subrule 7.3(1).

7.3(1) Criteria for waiver.

a. The CIO may grant a waiver if the CIO finds, based on clear and convincing evidence, each of the following:

(1) The application of the rule would pose an undue hardship on the person for whom the waiver is requested.

(2) The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person.

(3) The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law.

(4) Equal protection of public health, safety, and welfare and information security will be substantially afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

b. In determining whether a waiver should be granted, the CIO shall consider the public interest, policies, and legislative intent of the statute on which the rule is based. When the rule from which a waiver is sought establishes administrative deadlines, the CIO shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all affected persons.

7.3(2) Special waivers not precluded. These rules shall not preclude the CIO from granting waivers in other contexts or on the basis of other statutes, rules, standards, policies, or procedures if:

a. The CIO deems it appropriate to do so; and

b. The CIO is not prohibited by state or federal statute, federal regulations, this rule, or any other rule adopted under Iowa Code chapter 17A from issuing such waivers.

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