

761—13.7(17A) Appeal. A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the party whose legal rights, duties and privileges are being determined unless either appeals the decision as provided in this rule.

13.7(1) No additional evidence shall be presented on appeal which shall be decided on the basis of the record made before the presiding officer in the contested case hearing.

13.7(2) The appeal shall include a statement of the specific issues presented for review and the precise ruling or relief requested.

13.7(3) An appeal of a presiding officer's decision shall be submitted in writing to the director of the bureau or division which administers the matter being contested. The appeal shall be deemed timely submitted if it is delivered to the director of the appropriate bureau or division or properly addressed and postmarked within 20 days after the date of the presiding officer's decision.

13.7(4) The director of the administering bureau or division shall forward the appeal to the director of transportation.

13.7(5) Failure to timely appeal a presiding officer's decision shall be considered a failure to exhaust administrative remedies.

13.7(6) The director of transportation may make a decision affirming, modifying or reversing the presiding officer's decision, or may remand the case to the presiding officer.

13.7(7) The decision of the director of transportation shall be the final decision of the department and shall constitute final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

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