



Iowa Department of Human Services

Terry E. Branstad
Governor

Kim Reynolds
Lt. Governor

Charles M. Palmer
Director

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GENERAL LETTER NO. 1-E-19

ISSUED BY: Bureau of Child Welfare and Community Services
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*, Title page, revised; Contents (page 2), revised; and pages 4b, 12, 14, 15, 26 through 29, and 33 through 41, revised.

Summary

This chapter is revised to:

- ◆ Update the definition of an “aggrieved person” for the child abuse registry.
- ◆ Implement the following law changes regarding the appeal rights for subjects of a child abuse report (child protective services assessment), as directed by 2012 Iowa Acts, House File 2226:
 - A subject has the right to request correction to a child protective services assessment.
 - A person alleged responsible has the right to file an appeal of the child protective services assessment.
 - All other subjects have the right to file a motion to intervene in the appeal of the child protective services assessment, if an appeal is granted.
 - Upon request of any party to the hearing, the administrative law judge may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings.
 - If no party files an appeal within 10 days from the date of the proposed decision, the proposed decision becomes the final decision. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days to issue a ruling. The proposed decision becomes the final decision if there is no ruling from the director within that 45 day period.
 - A person alleged responsible has the right to file an appeal of the final agency action to the district or higher courts.
- ◆ Add failure to appear at the “prehearing” as reason to consider abandonment of the appeal.

- ◆ Revise procedures for the following sections:
 - Registration and Acknowledgment of Appeal
 - Time Limit for Granting an Appeal Hearing
 - Prehearing Conference
 - Conduct of Hearing
 - Limit on Persons Attending
 - Review of the Proposed Decision
 - Final Decision

Effective Date

February 1, 2013

Material Superseded

This material replaces the following pages from Employees' Manual, Title 1, Chapter E:

<u>Page</u>	<u>Date</u>
Title page	May 18, 1999
Contents (page 2)	February 13, 2009
4b	December 2, 2003
12	February 13, 2009
14, 15	October 28, 2005
26-28	February 13, 2009
29	October 28, 2005
33	April 2, 2002
34-36	May 18, 1999
37	December 2, 2003
38	May 18, 1999
39, 40	December 2, 2003
41	May 18, 1999

Additional Information

Refer questions about this general letter to your service area manager.

Revised April 12, 2013

Employees' Manual
Title 1
Chapter E

APPEALS AND HEARINGS



Iowa Department
of Human Services

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◆ For the **child or adult abuse registry, juvenile sex offender registry or criminal records check evaluation**, a person:

- Who is a person alleged responsible for child abuse.
- Who has requested correction of adult abuse registry information.
- Who has been restricted 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 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.

◆ For **mental health and developmental disabilities**, a person:

- Whose application for State Payment Program benefits or 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 payment program benefits or state community mental health or mental retardation service funds.

◆ For **HIPAA** (Health Insurance Portability and Accountability Act) decisions, who is a current or former applicant or recipient of Medicaid or *hawk-i*, or who is currently or previously in a department facility whose request:

- To restrict use or disclosure of health information was denied.
- To change how health information is provided was denied.
- To amend health information was denied.
- To receive an accounting of disclosures of health information was denied.

Filing an Appeal

Legal reference: 441 IAC 7.8(2), 7 CFR 273.15(h)

Encourage the appellant to make a written appeal on form 470-0487 or 470-0487(S), *Appeal and Request for Hearing*. Provide any instructions or assistance required in completing the form. However, use of this form is not required. If the appellant submits the written appeal on another paper, attach it to the appeal form.

The fact that an appellant is unwilling to complete or sign the appeal form does not preclude the right to file an appeal, as long as the appeal is in writing and has been communicated to the Department by the appellant or appellant's representative.

Exception: Food Assistance households may verbally request an appeal. If a client verbally requests a Food Assistance appeal, complete the form on behalf of the client.

Medicaid households may orally request an appeal to protect the filing date of the appeal. However, the oral request must be followed by a written appeal. The DHS Appeals Section will consider the oral request as the appellant's filing date for the appeal.

The office where the appeal is received must document the receipt date of all appeals, including the date the appeal was orally requested for Medicaid. Document the filing date by saving the envelope with the postmark and date-stamping the date received at any Department office. Attach the envelope to the appeal form and submit it to the DHS Appeals Section **within 24 hours of receipt**.

A written appeal is considered filed on the date postmarked on the envelope that is sent to the Department. For Medicaid, the appeal is considered filed on the date the appeal was orally requested. When the postmarked envelope is not available, a written appeal is filed on the date the appeal is date-stamped received by the Department.

Registration and Acknowledgment of Appeal

Legal reference: 441 IAC 7.10(1) and (2)

Upon receipt of an appeal, the DHS Appeals Section registers the appeal and sends an acknowledgment of receipt of the appeal to the appellant, representative, and all parties to the appeal, including the appropriate Department offices.

For appeals regarding child abuse, all subjects other than the person alleged responsible (appellant) are notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

- ◆ The Department implements the action and issues a *Notice of Decision* to correct an error made by the Department that resulted in the appeal.
- ◆ The sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.
- ◆ The appeal has been abandoned. Abandonment may be deemed to have occurred when the appellant or the appellant's authorized representative fails to appear at the prehearing or hearing without good cause.

Time Limit for Granting an Appeal Hearing

Legal reference: 441 IAC 7.5(4), 7 CFR 273.15(g)

The DHS Appeals Section has the responsibility for determining whether or not an appeal shall be considered timely. Subject to the provisions of [Right of the Department to Deny or Dismiss an Appeal](#), the granting of a hearing is governed by these time standards:

- ◆ For child abuse: A hearing will be granted on appeals made by a person alleged responsible for the abuse within 90 days from the date of the notice of child abuse assessment. **Note:** Subjects of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the hearing if the motion is made within 10 calendar days after the appeal notification.
- ◆ For child support debt setoffs: A hearing will be granted on appeals made within 15 days of the date of the letter of notification for state or federal tax offset or offset of any other warrant. **Note:** Hearings are held for offset of federal tax warrants or other federal warrants only if the offset is due to a child support debt.
- ◆ For Food Assistance:
 - A hearing will be held on any action or loss of benefits that occurred in the previous 90 days. "Action" includes a denial or a request for restoration of any Food Assistance benefit loss more than 90 days but less than a year before the request.
 - A household may request a hearing to dispute the current level of benefits at any time within a Food Assistance certification period.
- ◆ For all other cases:
 - A hearing will be held if the appeal is filed within 30 days after official notification of an action or before the effective date of the action.

- When the appeal is filed more than 30 days, but less than 90 days after notification, the director will determine whether a hearing will be held. (See [Reasons to Grant a Hearing](#).)
- Appeals filed more than 90 days after notification will not be heard.

The first day of the period within which an appeal must be filed is the day after the date the official notice is issued. When the last day of the period falls on a holiday or weekend, the time is extended to the next working day.

Ms. A receives a notice of decision dated May 10, canceling her Family Investment Program grant effective June 1. The first day of the period within which she can appeal is May 11. The last day she can file an appeal and still be considered timely would be June 9. Since June 9 falls on a Saturday, the time is extended to the following Monday, June 11.

The following sections explain:

- ◆ [Circumstances when the director may grant a hearing on an appeal request filed more than 30 days after the action.](#)
- ◆ Special circumstances governing the timeliness of appeals of:
 - [Imposition of a FIP limited benefit plan.](#)
 - [Collection of FIP and Food Assistance overpayments.](#)
 - [Collection of Medicaid and State Supplementary Assistance overpayments.](#)
 - [Job discrimination or displacement through PROMISE JOBS.](#)

Reasons to Grant a Hearing

Legal reference: 441 IAC 7.5(4)“b” and 7.5(5)

The director may grant a hearing if one of the following conditions existed during the 30-day timely appeal period:

- ◆ There was a serious illness or death of the appellant or a member of the appellant’s family.
- ◆ There was a family emergency or household disaster, such as fire, flood, or tornado.
- ◆ The appellant offers a good cause that was beyond the appellant’s control and can be substantiated.
- ◆ There was a failure to receive the Department’s notification for a reason out of the appellant’s control. (Lack of a forwarding address is in the appellant’s control.)

Prehearing Conference Scheduled by DIA

DIA may schedule a prehearing conference. This is a conference between all parties and the administrative law judge to:

- ◆ Discuss the appealed issue,
- ◆ Inquire as to voluntary settlement potential,
- ◆ Establish the hearing date,
- ◆ Establish the location of the hearing, including whether the hearing will be by telephone or in person, and
- ◆ Discuss procedural matters relevant to the case.

The merits of an appeal will not be discussed at a prehearing conference scheduled by DIA.

DIA is responsible for notifying all parties to the appeal in writing when it schedules a prehearing conference. The Department worker is expected to be at the prehearing conference. If the Attorney General's Office is representing the Department, you may contact the attorney involved to determine if you need to attend the conference.

APPEALS PROCEDURES

The following sections describe the procedures used by the DHS Appeals Section and the DIA Appeals Division, including:

- ◆ [Granting a hearing.](#)
- ◆ [Scheduling a hearing.](#)
- ◆ [Determining the method of hearing.](#)
- ◆ [Determining the place of hearing.](#)
- ◆ [The role of the administrative law judge.](#)
- ◆ [Conduct of the hearing.](#)
- ◆ [Issuing subpoenas for witnesses or evidence.](#)
- ◆ [Obtaining a medical examination.](#)

Granting a Hearing

Legal reference: 441 IAC 7.10(3), 7 CFR 273.15(j)

The DHS Appeals Section determines whether an appellant may be granted a hearing and the issues to be discussed at the hearing, in accordance with applicable rules, state statutes, and federal regulations.

The appeals of those appellants who are granted a hearing are certified to the Department of Inspections and Appeals for the hearing to be conducted. The DHS Appeals Section indicates at the time of certification the issues to be discussed at the hearing.

Appellants whose appeals are denied hearings are notified by letter. Any appellant who disagrees with a denial of hearing may present additional information relative to the reason for denial and request reconsideration by the Department or a hearing over the denial.

The following sections address:

- ◆ [Expedited hearing](#).
- ◆ [Group hearings](#).

See also [Right of Department to Deny or Dismiss an Appeal](#) and [Time Limit for Granting an Appeal Hearing](#).

Expedited Hearings

Legal reference: 7 CFR 273.15(i)(2), 42 CFR 438.408, 438.410, and 432.244

The DHS Appeals Section will expedite Food Assistance appeal requests from households that plan to move from the project area, such as migrant farm workers. Appeal requests from these households are processed faster than others to enable them to receive a decision and a restoration of benefits, if the decision so indicates, before they leave the area.

The local office is responsible for notifying the DHS Appeals Section that an expedited hearing is needed.

Appeals are also expedited for Emergency Assistance households. Appeals may be expedited for managed care decisions when it can be determined that a member's life, health or ability to attain, maintain, or regain maximum function could be in jeopardy if the regular appeals process were to take place. Either the appellant or a provider who is acting on the appellant's behalf may request an expedited hearing.

Group Hearings

Legal reference: 441 IAC 7.5(3), 7 CFR 273.15(e)

The DHS Appeals Section may respond to a series of individual requests for a hearing by requesting that the Department of Inspections and Appeals conduct a single group hearing in cases in which the sole issue is one of state or federal law or policy or changes in state or federal law. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

In all group hearings, the policies governing individual hearings shall be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

Scheduling the Hearing

Legal reference: 441 IAC 7.10(4), 7.10(7); 7 CFR 273.15(l)

The Department of Inspections and Appeals establishes the date, time, method, and place of the hearing for the records certified for hearing by the DHS Appeals Section.

In appeals certified for hearing, the Department of Inspections and Appeals sends a notice to the appellant at least ten calendar days in advance of the hearing date. The notice states:

- ◆ The date, time, method, and place of the hearing.
- ◆ The name of the administrative law judge.
- ◆ The issues to be discussed at the hearing.
- ◆ Whom to contact with questions about the hearing date or issues.
- ◆ The rights of the appellant to:
 - Present any evidence orally or through documents to establish pertinent facts.
 - Question or refute any testimony.
 - Bring witnesses of the appellant's choice and may be represented by others, including an attorney, subject to federal statute or law.

If the hearing is conducted by telephone, the notice will carry instructions on teleconference calls and where the appellant is to appear to be connected.

DIA will send a copy of this notice to all the parties to the appeal, as certified by the DHS Appeals Section. The *Notice of Hearing* is delivered by first class mail except for fraud cases, where certified mail is used.

Workers are responsible for notifying judges in advance of telephone numbers at which they can be reached to participate in the hearing.

Requests to Reschedule a Hearing

Legal reference: 441 IAC 7.10(6)“a” and “b,” 7 CFR 273.15(c)(4)

The Department of Inspections and Appeals is responsible for scheduling all appeal hearings and rescheduling requests.

Make all requests concerning the scheduling of a hearing directly to the Department of Inspections and Appeals. This includes requests by the appellant or the DHS staff to set another date, time, method or place of hearing.

Food Assistance appellants are automatically allowed one rescheduling upon request.

The appellant may request the teleconference hearing be rescheduled as an in-person hearing. All requests made for a teleconference hearing to be rescheduled as an in-person hearing will be granted.

Notify the Department of Inspections and Appeals when a request for an in-person hearing has been received and it was not noted on the *Appeal and Hearing Request*. Also notify the Department of Inspections and Appeals when a request is received to reschedule the teleconference hearing as an in-person hearing.

Failure to Appear

Legal reference: 441 IAC 7.13(4)

When a party fails to appear at a hearing after proper service of notice, the administrative law judge may:

- ◆ Reschedule the hearing, or
- ◆ Proceed with the hearing in the absence of that party and make a decision, or
- ◆ Consider the appeal abandoned and dismiss it.

DHS certifies the appeal for hearing again if the appellant presents good cause for failure to appear. Refer to [Reasons to Grant a Hearing](#) for factors considered in determining good cause.

Opportunity will be afforded all parties to respond and present evidence and arguments on all issues involved, and to be represented by counsel at their own expense. The appellant and the worker will each have an opportunity to cross-examine each other and other witnesses, as appropriate, and to review evidence submitted by each of them. The appellant and the worker will each be provided an opportunity to make a closing statement.

For appeal hearings regarding child abuse, the administrative law judge, upon request of any party to the hearing, may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings.

Subpoenas

Legal reference: 441 IAC 7.12(217)

The Department of Inspections and Appeals has all subpoena power conferred upon it by statute. Subpoenas are issued to a party on request.

The county office is responsible for requesting subpoenas. Contact the DIA Division of Appeals to request the subpoenas. A request for a subpoena shall be submitted at least seven days in advance of the hearing. Additional time is highly recommended. Make the request in memo form (separate from the appeal summary). Give the full name and address of persons and a full and complete description of documents to be subpoenaed.

The county office is also responsible for service of the subpoenas. Subpoenas must be served at least five days in advance of the hearing date.

Medical Examination

Legal reference: 441 IAC 7.15(217), 7 CFR 273.15(m)(v)

When the hearing involves medical issues and the administrative law judge or appellant considers it necessary, the Department shall obtain a medical assessment or examination by a person or physician other than the one involved in the decision under question and make the report a part of the hearing record. The administrative law judge shall order the medical examination when appropriate either before or at the time of hearing.

Any required examination shall be performed at Department expense by a physician satisfactory to both the appellant and the Department. Use forms 470-0502, *Authorization for Examination and Claim for Payment*, and 470-0447, *Report on Incapacity*, to obtain medical information for use in the appeal and to authorize payment for the examination.

If the person to be examined is eligible for Medicaid, bill for the examination through Medicaid. If the person has other health insurance coverage, those resources should be used for payment of the examination.

RIGHTS OF APPELLANTS DURING HEARINGS

Legal reference: 441 IAC 7.8(5) and 7.8(7)

The right of appeal shall not be limited or interfered with in any way, even though:

- ◆ The person's complaint may be without basis in fact, or
- ◆ The person may be misinterpreting the law, Department policy, or methods of implementing the policy.

The appellant has the right to introduce any evidence on points at issue believed necessary, to challenge and cross-examine any statement made by others, and to present evidence in rebuttal. The administrative law judge will make every reasonable effort to ensure that the appellant presents his or her case in any way desired. This may include telling what happened, or having a relative, friend or legal counsel present the case.

The following actions are prohibited:

- ◆ Acts of harassment.
- ◆ Threats of prosecution.
- ◆ Denial of pertinent information needed by the appellant in preparing the appeal.

Any of these actions shall be taken into consideration by the administrative law judge in reaching a proposed decision.

The following sections give more information:

- ◆ [Representation](#)
- ◆ [Examination of evidence](#)
- ◆ [Limits on persons attending the hearing](#)

Representation

Legal reference: 441 IAC 7.6(2), 7.11(217) and 7 CFR 273.15(f)

Advise all persons that they may be represented at hearings by others, including legal counsel, relatives, friends, or any other spokesperson of choice. Anyone the appellant chooses may represent the appellant unless federal regulation or state statute disallows it. For example, because the Iowa Code specifies who may have access to a child abuse record, only an attorney may represent an appellant at a child abuse hearing.

Representation by an attorney occurs only at the appellant's request. Upon request, each county office must:

- ◆ Issue a written list of legal services available in the area (such as Legal Services Corporation of Iowa, Legal Aid Society, or H.E.L.P.).
- ◆ Assist in securing the services.

In authorizing an attorney to act on the appellant's behalf, an appellant essentially assigns to the attorney the right and responsibility to speak and act as if the attorney were the appellant. Additionally, the appellant relinquishes the right to act independently of the attorney in disposing of the matter under appeal. An appellant may regain the right to act independently only by discharging the attorney.

Therefore, once an attorney of record becomes known to the Department, any discussion or disposition of the matter under appeal is properly conducted only with the attorney's knowledge and consent.

This does not prohibit Department staff from responding to the appellant's questions or inquiries regarding the matter under appeal when the attorney is absent. It does, however, obligate the Department to include the attorney when making any inquiries or requesting any action of the appellant in regard to the matter under appeal.

Examination of the Evidence

Legal reference: 441 IAC 7.13(1), 7 CFR 273.15(p)

DHS shall provide the appellant, the applicant's representative, or both the opportunity to examine all materials permitted under administrative rules on confidentiality or to be offered as evidence.

The office which took the action being appealed shall provide copies of all information submitted for the appeal file to the appellant and the appellant's legal representative. This information should be provided at the time it is submitted to the DHS Appeals Section.

Allow the appellant and the appellant's legal representative to examine the contents of the case record, including application forms and verification documents used to determine eligibility and level of benefits. Provide free copies of the relevant portions of the case record if requested by the appellant or appellant's legal representative.

Confidential information, such as the names of persons who have disclosed information about the appellant without the appellant's knowledge, or the nature or status of pending criminal prosecutions, is protected from release. Remove all confidential names and information before providing copies of information or before the case record is reviewed by the appellant or the appellant's representative.

Off-the-record or confidential information which the appellant or representative does not have the opportunity to examine shall not be included in the record of the proceeding or considered in reaching a decision.

Evidence examined or admitted in camera by the administrative law judge may be considered in reaching a decision. ("In camera" means an administrative law judge may review a document, without release to all parties, before ruling on its admissibility or its use.)

Limit on Persons Attending

Legal reference: 441 IAC 7.14(217A)

Attendance at the hearing shall be limited to the following persons, unless otherwise specified by statute or federal regulations:

- ◆ The appellant.
- ◆ The appellant's representative.
- ◆ DHS employees.
- ◆ DHS's legal representatives.
- ◆ Other persons present for the purpose of offering testimony pertinent to the issues in controversy.
- ◆ Others upon mutual agreement of the parties.

For appeal hearings regarding child abuse:

- ◆ Subjects who file a motion to intervene, as provided in Iowa Code section 235A.19, will have the opportunity to appear at the prehearing conference. Any motion to intervene shall be considered by the administrative law judge at the prehearing conference.
- ◆ The Department shall not be considered to be a party who can adequately represent the interests of any other subject.
- ◆ Subjects allowed to intervene as specified in 441 IAC 7.5(4), will be considered a party to the hearing and will be allowed to attend the proceedings.

The administrative law judge may sequester witnesses during the hearing. Nothing in this policy shall be construed to allow members of the press, news media, or any other citizens' group to attend the hearing without the written consent of the appellant.

Federal regulations governing programs require confidentiality be protected. The Iowa Code provides civil and criminal penalties for the unauthorized disclosure of confidential information from Department records. Therefore, in some cases the administrative law judge will sequester witnesses or allow only the appellant's legal representative to act on the appellant's behalf.

APPEAL DECISION

Legal reference: 441 IAC 7.10(4)“c” and 7.16(9); 7 CFR 273.15(c)

Prompt, definite and final administrative action to carry out the decision rendered shall be taken within 90 days from the date of the appeal, except for Food Assistance and vendor decisions.

Food Assistance-only decisions shall be rendered in 60 days. Appeals involving a joint appeal on Food Assistance and other public assistance programs shall be rendered in 90 days.

Vendor decisions shall be rendered in 120 days. (Vendor appeals include Medicaid providers and facilities.)

PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time shall be granted. This time shall not exceed 30 days, except with the approval of the administrative law judge. The extra time shall be added to the maximum for final administrative action.

The following sections explain:

- ◆ [The proposed decision.](#)
- ◆ [Review of the proposed decision.](#)
- ◆ [The final decision.](#)
- ◆ [The appeal record.](#)
- ◆ [The accessibility of hearing decisions.](#)

Proposed Decision

Legal reference: 441 IAC 7.16(2) and (3); 7 CFR 273.15(q)

After the hearing is held, the administrative law judge will issue a proposed decision in writing. The proposed decision will list the issues to be determined, the decision reached, findings of fact, conclusions of law, and the order.

The issues to be determined are those which were certified for hearing by the Department. In some situations the issues may be expanded if both parties agree.

The findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record. The findings of fact portion of the proposed decision will consist of a summary of the information determined by the administrative law judge to be factual and pertinent to the issue or issues under appeal.

The proposed decision will be based upon the information presented at the hearing and upon other information incorporated into the record. If needed, the administrative law judge may reopen the hearing to allow a party to cross-examine or present further information based upon the information submitted at the administrative law judge's request after the close of the original hearing.

The proposed decision will state whether the action under appeal is affirmed (found correct), reversed (found incorrect), or modified (changed). The conclusions of law section will review all applicable law including rules published in the Iowa Administrative Code, state law, federal regulations, federal statutes, case law and other official policy interpretations determined pertinent to the issue or issues under appeal.

The administrative law judge may interpret or construe a law as it relates to a Department policy, but the administrative law judge cannot declare the Department policy to be invalid, as that is the function of a court of law. After researching applicable laws and policies, the administrative law judge will determine if DHS acted correctly or not. In some situations a case may be returned, or remanded, to the county office for further action.

The order statement of the proposed decision specifies what actions the local office or Department shall take to implement the decision, once it becomes final. **Do not take any action on the basis of a proposed decision. You must receive a final decision before taking any corrective action.** See [Final Decision](#) later in this chapter.

The proposed decision will have a cover letter that explains the right to request a review of the proposed decision. All parties to the appeal will receive a copy of the proposed decision.

If the appellant contacts a local office for an explanation of the proposed decision, make every effort to assist the appellant in reaching a full understanding of the proposed decision. The local office (following the chain of communication) may call the DHS Appeals Section for clarification if necessary.

Review of the Proposed Decision

Legal reference: 441 IAC 7.16(4), 7.16(5), 7.16(7); 7 CFR 273.15(q)

The proposed decision is issued to the appellant with copies to all parties of the appeal, including the appropriate representative of the Appeals Advisory Committee who acts on the Department's behalf.

The appellant, appellant's representative, a subject or the representative of a subject allowed to intervene as specified in 441 IAC 7.5(4), or the Department may request that the director review the proposed decision. The request must be made in writing to the director within ten calendar days of the date on which the proposed decision was signed and mailed.

The day after the proposed decision is mailed is the first day of the ten-day period within which a request for review must be filed. When the time limit for filing falls on a holiday or weekend, the time extends to the next work day.

If no one requests review of the proposed decision or a review is not granted, the proposed decision becomes the final decision.

Department's Request for Review

Legal reference: 441 IAC 7.16(6)

The Appeals Advisory Committee screens proposed decisions for the director. The committee is comprised of policy staff representing the Family Investment Program, Food Assistance, Medicaid, Child Support, and service programs. Also on the committee, but not voting, are representatives of the Office of Field Support and the DHS Appeals Section.

The Appeals Advisory Committee also represents the local office in screening proposed decisions. Local office staff may e-mail a request for review of a proposed decision to the committee through the appropriate chain of communications.

PROMISE JOBS staff may request a review of a proposed appeal decision by contacting their PROMISE JOBS coordinator at Iowa Workforce Development.

Requests for review that the committee receives within the ten-day period will be considered. The committee will then determine whether a recommendation for review will be made to the director.

The committee may recommend that the director review a proposed decision. This recommendation must be submitted in memo form within ten calendar days of the date that the proposed decision was signed.

The recommendation is not binding on the director, who may or may not decide to grant a review based on the committee's recommendation. In addition, the director may decide to review a proposed decision without that committee's recommendations.

Review Process

Legal reference: 441 IAC 7.16(7), 7.16(8)

When the director grants a review of the proposed decision, the DHS Appeals Section notifies all parties to the appeal. When the director grants a review based on the Department's request, the notice includes the Department's basis for requesting the review.

The appellant or appellant's representative is allowed ten calendar days from the date of notification to file exceptions, present briefs, and submit further written arguments or objections for consideration upon review.

The day after the notification is mailed is the first day of the period within which a response to the Department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

The review will be based on the record. The review is limited to issues raised before that time and specified by the party requesting the appeal or review. The director may designate someone else to act on the director's behalf in making the final decision.

Each party shall be afforded an opportunity to present oral arguments with the consent of the director. Any party wishing oral argument must specifically request it. If granted, all parties shall be notified of the time and place.

If a request for an oral hearing is denied, ten calendar days will be allowed to submit additional arguments to support the request for review.

Final Decision

Legal reference: 441 IAC 7.16(9)"b," 7 CFR 273.15(s)(1), 7 CFR 273.15(c)

For appeals regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision is the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45 day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.

The final decision is binding on the Department. The decision becomes a part of the record. Take the action required by the decision within seven calendar days of the date of the final decision. **The local office is responsible for ensuring that all final hearing decisions are acted upon within seven days.**

If the local office is unable to implement the final decision, the worker or supervisor must immediately contact the DHS Appeals Section.

When the final decision is favorable to the appellant, or when the Department decides in favor of the appellant before the hearing, corrective payments retroactive to the date of the incorrect action are made.