



Iowa Department of Human Services

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August 8, 2014

GENERAL LETTER NO. 4-A-71

ISSUED BY: Bureau of Financial, Health and Work Supports
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 4, Chapter A, **ADMINISTRATION**, Title page,
revised; and pages 12, 13, and 14, revised.

Summary

Chapter 4-A is revised to:

- ◆ Update policy that assistance is not continued when the appeal is filed more than 10 days from the date the notice is received.
- ◆ Add policy that a client can verbally withdraw an appeal.
- ◆ Add a reference to 4-C, Electronic Access Card Usage, for additional information on appeals related to an ineligibility period for use of the electronic access card at a prohibited location.

Effective Date

Upon receipt.

Material Superseded

This material replaces the following pages from Employees' Manual, Title 4, Chapter A:

<u>Page</u>	<u>Date</u>
Title page	March 26, 2010
12-14	March 26, 2010

Additional Information

Refer questions about this general letter to your area income maintenance administrator.

Revised August 8, 2014

Employees' Manual
Title 4
Chapter A

FAMILY INVESTMENT PROGRAM
ADMINISTRATION



Timely Notice When Probable Fraud Exists

Legal reference: 441 IAC 7.7(3)

Policy:

Timely notice in cases involving probable fraud must be at least **five** calendar days before an action becomes effective.

Procedure:

Specify that an appeal must be filed within **five** days rather than ten days as stated on the back of the *Notice of Decision*.

Verify information you receive that indicates fraud exists. Obtain your supervisor's approval before taking any action. Document the basis for your action in the case record.

Send this notice by certified mail with return receipt requested. Count the day after the notice is mailed as day one.

Appeals

Legal reference: 441 IAC 7.5(17A), 7.6(17A), 7.8(17A), 7.9(17A), 7.11(17A)

Policy:

The applicant or participant has a right to appeal any decision and to request an appeal hearing. No one may limit or interfere with this right.

Assistance is continued if the appeal is filed before the effective date of the intended action or within 10 days from the date the notice is received. The date the notice is received is considered to be five days after the date on the notice. If the client is eligible for a special need allowance, the allowance is paid while the appeal decision is pending.

Assistance is not continued if:

- ◆ The client directs you in writing to go ahead with the intended action.
- ◆ The client appeals cancellation due to failure to return a complete RRED.
- ◆ An appeal is filed after the effective date of the intended action.
- ◆ The appeal is filed more than ten days from the date the notice is received. The date the notice is received is considered to be five days after the date on the notice. Unless the appellant shows that the appellant did not receive the notice within the five day period.

A pre-hearing conference must be held upon the client's request.

A hearing will be held if the request is made within 30 days after the notice date. The director of the Department will decide if a hearing will be held if the request is more than 30 days but less than 90 days after the notice date. A hearing will not be held if the request is more than 90 days after the notice date.

Procedure:

When a client files an appeal:

- ◆ Document the receipt of the appeal. Save the envelopes with the postmark. If the envelope is not available, date-stamp the day the appeal is received.
- ◆ Advise the client of legal services available in the community. This may include Legal Aid, the county bar association, etc.

Continue to act on other changes occurring in a participant's case while the appeal is pending. Issue a *Notice of Decision* based on other changes. If the client wants to appeal a subsequent action based on a change, the client must file a separate appeal.

If you determine before the hearing that an error was made in the action that resulted in the client filing an appeal:

- ◆ Notify the client of the error.
- ◆ Indicate what corrective action you will take.
- ◆ If this is acceptable to the client and the client withdraws the appeal, immediately implement the corrective action and send a new *Notice of Decision*.

The client may voluntarily withdraw an appeal. The client can withdraw the appeal in writing, in person, or over the telephone. A written request can be made on form 470-0492 or 470-0492(S), *Request for Withdrawal of Appeal*, or a written statement that the client is aware of the consequences of the action. The written withdrawal request may be submitted in person, by mail, through submission of an online form, email or by fax.

When the client verbally requests to withdraw the appeal, document the conversation on form 470-0492 or 470-0492(S), *Request for Withdrawal of Appeal*. Fill in the top portion of the document which includes the appellant's name, address, appeal number, and program that was appealed.

In the Added Comments section, enter "Per telephone conversation with the appellant on (enter the date), the appellant verbally withdrew the appeal." Then sign and date the form.

Upload the *Request for Withdrawal of Appeal* form into the Appeals Information System (AIS) and use the Send Email button feature to notify all parties that the appeal has been withdrawn.

Hold the prehearing conference as soon as possible after the appeal is filed. When applicable, the client's representative may attend and participate in the conference.

The purpose of the pre-hearing conference is to clarify any issues regarding the appeal. During the conference, the client may also examine the contents of the case record and any other documents you plan to use at the hearing. Note that the client need not request a conference to have access to the record or documents.

If the appeal issue is resolved during the conference, the client may wish to withdraw the appeal. If so, the client can withdraw the appeal in writing, in person, or over the telephone. Upload the *Request for Withdrawal of Appeal* into the Appeals Information System (AIS) and use the Send Email button feature to notify all parties that the appeal has been withdrawn.

Do not use the conference to discourage clients from proceeding with their appeals or to interfere with or limit their appeal rights.

Comment:

Examples of adverse actions that a client may appeal include:

- ◆ The denial of financial or medical assistance.
- ◆ The delay in acting on the client's application with reasonable promptness.
- ◆ The reduction or termination of assistance.
- ◆ The existence and amount of a FIP overpayment.
- ◆ The recovery of an overpayment.

Refer to:

- ◆ 1-E, [APPEALS AND HEARINGS](#), for information on the Department's appeal process, including worker and client responsibilities, time limits, and appeal decisions.
- ◆ 4-J, [PROMISE JOBS](#), for specific appeal rights and guidelines relating to limited benefit plans.
- ◆ [4-C, LIMIT ON FIP ASSISTANCE](#) and [HARDSHIP EXEMPTION](#), for additional information on appeal procedures related to the 60-month FIP limit and the hardship exemption.
- ◆ [4-C, Electronic Access Card Usage](#), for additional information on appeal procedures related to electronic access card usage.