



Iowa Department of Human Services

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GENERAL LETTER NO. 1-E-20

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

SUBJECT: Employees' Manual, Title 1, Chapter E, *APPEALS AND HEARINGS*,
Contents (page 2), revised; and pages 23, 42, 43, and 44, revised.

Summary

Chapter E is revised to add policy that assistance paid during the appeal process is not subject to recoupment when:

- ◆ A participant appeals:
 - Before the effective date of the intended action on the *Notice of Decision* establishing the beginning date of an ineligibility period, or
 - Within 10 days from the date the participant receives the notice establishing the beginning date of an ineligibility period. The date on which the notice is received is considered to be five days after the date on the notice, unless the participant shows that they did not receive the notice within the five-day period, and
- ◆ The Department is affirmed in an appeal regarding an ineligibility period for using the electronic access card at a prohibited location, and
- ◆ An ineligibility period with a new effective date applies.

Effective Date

Upon receipt.

Material Superseded

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

<u>Page</u>	<u>Date</u>
Contents (page 2)	April 12, 2013
23	February 13, 2009
42-44	October 28, 2005

Additional Information

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

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- ◆ An appeal is not filed within the timely notice period.
- ◆ The appellant does not request a hearing within ten days from the date adequate notice is issued based on the completed monthly report.
- ◆ A Food Assistance certification ends.
- ◆ A medically needy certification period ends.
- ◆ The appellant directs the worker in writing to proceed with the intended action.
- ◆ Medicaid benefits under a prior authorization are appealed and the prior authorization ends.

Do not reinstate benefits when an adequate (not timely) notice is appealed eleven or more days after the issuance date of the notice, or when an adequate and timely notice is appealed after the effective date of the notice.

Do not reinstate benefits when a *Notice of Cancellation* is appealed, or when an appeal is filed eleven or more days after the date of a *Notice of Decision* issued based on information reported on the completed RRED.

Do not reinstate or continue benefits when a certification period ends.

Recovery of Excess Assistance Paid Pending a Final Decision

Legal reference: 441 IAC 7.9(3), 7.9(5), 7.9(6); 7 CFR 273.15(k)(1)

Continued assistance is subject to recovery by the Department if the Department's action is affirmed in the final decision, except when the decision affirms:

- ◆ A limited benefit plan that will be established with a new effective date, or
- ◆ An ineligibility period for using an electronic access card at a prohibited location that will be established with a new effective date.

When the Department's action is affirmed in the final decision, recover excess assistance paid pending a hearing decision back to the effective date of the original decision. No appeals will be heard over excess assistance paid pending a hearing decision that was not in the appellant's favor. However, appeals may be heard on the computation of excess assistance paid pending a hearing decision.

If the Department action is affirmed by the final decision, establish a claim against the appellant for all overissuances. (See [Final Decision](#) later in this chapter for instructions on implementing the final appeal decision.)

Food Assistance decisions that result in an increase in household benefits must be reflected in the benefits within ten days of the receipt of the hearing decision, even if the Department must provide the household with an opportunity to obtain the benefits outside of the normal issuance cycle.

Decisions that Food Assistance households have been improperly denied benefits or have been issued in a lesser allotment than was due shall result in lost benefits being provided in accordance with [7-H](#), RESTORATION OF LOST BENEFITS.

Food Assistance decisions that result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

When a Timely Appeal of a Limited Benefit Plan is Filed

When a participant files a timely appeal of the *Notice of Decision* establishing the beginning date of a limited benefit plan, and the final decision affirms the Department, a new limited benefit plan period is established. FIP assistance paid pending the appeal is not subject to recovery.

When a participant files a timely appeal of the *Notice of Decision* establishing the beginning date of a limited benefit plan, FIP assistance does not continue pending the appeal, and the final decision affirms the Department, the limited benefit plan continues with the original effective date.

When an Appeal of an Ineligibility Period for Using an Electronic Access Card at a Prohibited Location is Filed

Legal reference: 441 IAC 7.9(6)

A new period of ineligibility shall be established when:

- ◆ A participant appeals:
 - Before the effective date of the intended action on the *Notice of Decision* establishing the beginning date of an ineligibility period, or
 - Within 10 days from the date the participant receives the notice establishing the beginning date of an ineligibility period. The date on which the notice is received is considered to be five days after the date on the notice, unless the participant shows that the participant did not receive the notice within the five-day period, and

- ◆ Assistance is continued pending the appeal, and
- ◆ The final decision affirms the Department's action.

FIP assistance paid pending the appeal is not subject to recovery.

Appeal Record

Legal reference: 441 IAC 7.16(1), 7 CFR 273.15(q)

The record in a contested case shall include:

- ◆ The notice of appeal.
- ◆ All evidence received or considered and all other submissions, including the verbatim record of the hearing.
- ◆ All pleadings, motions and intermediate rulings.
- ◆ All questions and offers of proof, objections and rulings thereon.
- ◆ All findings of fact and conclusions of law.
- ◆ Settlement agreements in writing.

Accessibility of Hearing Decisions

Legal reference: 441 IAC 7.19(217), 7 CFR 273.15(q)(5)

Summary reports of all hearing decisions must be made available to local offices and the public upon request. The information must be presented in a manner consistent with requirements for safeguarding personal information concerning applicants and recipients.

Copies of all final decisions are available from the Appeals Section upon request. However, all identifying information will be deleted.

RIGHTS OF APPELLANTS AFTER THE FINAL DECISION

After receiving the final decision, the appellant has the right to request:

- ◆ [A rehearing](#)
- ◆ [Court review of the decision](#)

Rehearing

Legal reference: 441 IAC 7.17(217), Iowa Code 17A.16(2), 7 CFR 273.15(q)(3)(i)

The appellant may request a rehearing within 20 days after the date of the final decision. The DHS director determines if the rehearing is to be held.

Judicial Review

Legal reference: 441 IAC 7.20(217), 7 CFR 273.15(q)(3)(i)

If a director's review is requested, the final decision shall advise the appellant of the right to judicial review by the district court. When the appellant is dissatisfied with the final decision, the appellant may file for judicial review in their county of residence or Polk County. A request for judicial review must be filed in the district court within 30 days of the date of the final decision.

When a request for judicial review is filed an Assistant Attorney General shall be assigned to represent the Department. The Department furnishes copies of the appeal file to the district court, including a written transcript of the hearing to the court.

The Department is unable to provide payment for attorneys to assist appellants in requesting judicial review. However, the local office should assist a person in obtaining legal assistance if the person indicates a desire to seek judicial review.