



Iowa Department of Human Services

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GENERAL LETTER NO. 1-E-21

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 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 the limited benefit plan, or
 - Within 10 days from the date the participant receives the notice establishing the beginning date of the limited benefit plan. 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
- ◆ The Department is affirmed in an appeal regarding imposition of a limited benefit plan.
- ◆ A limited benefit plan 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Material Superseded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) | August 8, 2014 |
| 42-44 | August 8, 2014 |

Additional Information

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

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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 an Appeal of a Limited Benefit Plan is Filed

Legal reference: 441 IAC 7.9(5)

Policy:

A new limited benefit plan period 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 the limited benefit plan, or
 - Within 10 days from the date the participant receives the notice establishing the beginning date of the limited benefit plan. 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.

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.