

3300.2055 APPEAL PROCEDURE.

Subpart 1. **Scope.** The procedure in this part governs all appeals initiated by providers having a right of appeal under:

A. appeals of the department's withdrawal of allocated state funds from a provider in part 3300.2052, subpart 1; and

B. the appeal of a decision of the department concerning the provider's allocation of state grant funds in part 3300.2035, including actions resulting from the department's monitoring of the extended employment program that affect the status of the provider's certification or the provider's funding under the extended employment program.

Subp. 2. **Notice of intent to appeal.** A provider appealing department decisions must provide a written notice of intent to appeal to the department. The written notice of intent to appeal must be received by the department within 30 days from the date that the provider received notice from the department of the action that the provider wishes to appeal. If the notice of intent to appeal is not received from the provider within the 30-day period, the decision of the department is final. The notice of intent to appeal must state the grounds for the appeal, including relevant facts and issues that could be addressed at a contested case hearing.

Subp. 3. **Informal review.** Within 30 days after the department receives a notice of intent to appeal, the commissioner or the commissioner's designee shall contact the provider and discuss the reasons for the appeal. The contact by the department's representative may be oral or written. Before the end of the 30-day period for informal review, the department's representative must make a written decision concerning the provider's appeal. The decision by the department's representative must state the department's position on the issue under appeal, the basis of that position, and the provider's right to request a contested case hearing under subpart 4.

Subp. 4. **Contested case.** If the issue in the informal review as provided in subpart 3 has not been resolved, the provider may make a written request for a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62. The written request for a contested case hearing must be received by the department no more than 30 days after the date when the provider received written notice of the decision of the department's representative following the informal review in subpart 3. Within 15 days from the date the department receives a provider's request for a contested case hearing, the department must request the Office of Administrative Hearings to assign an administrative law judge to hear the appeal and schedule a hearing. The contested case hearing must be initiated and conducted according to parts 1400.5100 to 1400.8500.

Subp. 5. **Decision.** The decision of the administrative law judge will be recommended for the commissioner's adoption. The commissioner's decision on the issue under appeal is the final decision of the department.

Statutory Authority: *MS s 268.021; 268.0122; 268A.03; 268A.15*

History: *22 SR 2294*

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