**Section 1700.100 Motions**

Motions in the course of proceedings may be presented to request the dismissal of the proceedings for want of jurisdiction or want of prosecution, the quashing of a subpoena, postponement of the effective date of an order, the extension of time for compliance with an order, or other relief as may be appropriate. Any preliminary motion which is authorized under the Code of Civil Procedure [735 ILCS 5] that may be utilized in normal civil practice and is not otherwise inconsistent with administrative practice and procedure, contrary to the Lottery Law, or outside the scope of an Administrative Law Judge's authority may be employed. Motions may include but are not limited to summary judgment, dismissal for want of jurisdiction or want of prosecution, failure to state a claim, compel discovery, reconsideration, vacate or modify an order, enforce a settlement, disqualification of an ALJ, protective order, sanctions, or other relief as may be appropriate.

a) All motions shall be in writing, except those based on unforeseen or emergency circumstances, and shall be accompanied by any affidavits or other evidence relied upon. Any motion filed shall be clearly designated and shall contain in its caption the name of the case, docket number and type of motion brought. Motions shall bear evidence of a certification of service and notice to the appropriate parties. The notice of motion and motion must be filed at least 28 days in advance of an oral hearing and, when appropriate, by a proposed order. All motions shall be filed with the ALJ and each additional party, if any, shall be served a copy of that motion.

b) Within 10 days after service of a written motion or other document, or other period as the ALJ may allow, a party may file a response in support of or in opposition to the motion and, if necessary, accompanied by affidavits or other evidence. A party filing a motion has the right to request from the ALJ leave to file a reply to a response.

c) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

d) A party has a right to file an emergency motion setting forth why an emergency exists. The ALJ can deny the emergency motion solely on the basis that the motion did not demonstrate that an emergency exists.

e) When any motion is filed, the ALJ shall allow oral argument if this is deemed necessary for a fuller understanding of the issues presented.

f) When the party moving for summary judgment files supporting affidavits containing well-pleaded facts, and the opposing party files no counter affidavits, the material facts set forth in the moving party's affidavit are deemed admitted. Affidavits must comply with Illinois Supreme Court Rule 191.

g) The ALJ may grant a motion for summary judgment under this Section if the record shows that:

1) There is no disputed issue as to any material fact; and

2) The moving party is entitled to summary decision as a matter of law.

h) If any motion in the nature of a motion to dismiss or for summary judgment is granted by the ALJ before filing a final decision in a matter scheduled for hearing, any party may obtain a review of the granting of the motion by filing a request with the Director stating the grounds for review and, immediately upon filing, shall serve a copy of the request on the other parties. Unless the request for review is filed within 15 days after the date of the order of dismissal or granting of summary judgment, the decision of the ALJ shall become final.

i) The ALJ shall rule on all motions as expeditiously as possible and prior to setting an administrative hearing date.

j) A party has the right to appeal any order issued by an ALJ during the pendency of a proceeding.

(Source: Amended at 47 Ill. Reg. 13886, effective September 18, 2023)