**Section 2605.270 Discovery**

a) Discovery shall only commence after a preliminary Hearing. Discovery shall not be the subject of motions presented to the Hearing Officer, except when a motion is made alleging failure to comply with this Section and requesting relief in the form of limitation of evidence, dismissal of the case, or a recommendation to the Director based on the pleadings without a Hearing. The Hearing Officer, upon finding that a party has not complied with this Section, may issue an order providing for the foregoing remedies.

b) Upon written request served on the opposing party, a party is entitled to:

1) The name and business address of any witness who may be called to testify at the Administrative Hearing and a description of the expected subject matter of the potential witness' testimony;

2) Copies of any document that may be offered as evidence at the Administrative Hearing; and

3) A description of any other evidence that may be offered at the Administrative Hearing.

c) A Recipient, at any time after a preliminary Hearing and upon written request, will be required to produce documents, books, records or other evidence that relates to the financial assistance provided by the Department, including any records required to be maintained or produced pursuant to an agreement with the Department.

d) The items set forth in subsections (b) and (c) shall be provided within 28 days after service of a request, unless a longer or shorter period is agreed upon by the parties or ordered by the Hearing Officer.

e) The Hearing Officer may restrict discovery when necessary to prevent undue delay or harassment.

f) When a party obtains or is in possession of exculpatory evidence, that party must turn over that evidence to the opposing party within 28 days following the preliminary Hearing or, if discovered after the preliminary Hearing, within 15 days after its discovery and prior to a formal Hearing. Exculpatory evidence is any evidence that tends to support the party's position or to call into question the credibility of a witness.

g) A party shall respond to any written discovery requests that were properly served. Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section. When the parties agree to the use of an evidence deposition, that agreement shall be in writing and shall operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.

h) The parties have a continuing obligation to tender new information as it becomes available, as well as a continuing obligation to supplement any disclosures or responses to discovery requests to include information acquired after original submission.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)