**Section 135.70 Secretary's level appeal**

a) The parent/guardian may appeal the denial of eligibility to the Secretary in writing. The appeal must be received by the Department from the parent/guardian within 40 days after the date of the denial correspondence from the ICG Program Office. The written appeal must provide in detail each basis on which the appeal is being made, specifically stating each reason that the denial of eligibility is alleged to be improper.

b) A Secretary's level review will be performed within 30 days after the receipt of the parent/guardian's appeal.

c) A Secretary's level review shall be made by one reviewer selected by the Secretary. The reviewer shall be a licensed physician who is board eligible in child psychiatry from the American Board of Psychiatry and Neurology and shall have been instructed in the Part and the statute governing the ICG/MI program (Section 7.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/7.1]) and shall have had no professional or personal relationship with the child and family to be reviewed. The reviewer shall not be the original reviewer.

d) Following a Secretary's level review of the original application package, of the original determination, and of the parent/guardian's appeal, the reviewer shall make a recommendation to the Secretary as to whether the child is eligible for an ICG/MI or is not eligible for an ICG/MI.

e) The Secretary shall make the final administrative decision as to whether the child is eligible for an ICG/MI or is not eligible for an ICG/MI. The final administrative decision shall be sent in writing to the parent/guardian within 40 days after the receipt of the parent/guardian's written appeal. The Secretary shall further indicate the basis for the final administrative decision.

f) The Secretary's decision shall constitute the Department's final administrative decision and no application for a re-hearing shall be entertained. The decision is then reviewable in accordance with the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 23 Ill. Reg. 1628, effective January 25, 1999)