**Section 100.7 Initiation of a Contested Case**

a) In contested cases, except those held pursuant to Section 100.6, the Department shall serve on the Respondent a Notice of Opportunity for an Administrative Hearing, which shall contain:

1) *a statement of the time, place, and nature of the* action;

2) *a statement of the legal authority and jurisdiction under which the* *hearing is to be held*;

3) *a reference to the particular Sections of the* applicable *substantive and procedural statutes and rules;*

4) allegations of noncompliance;

5) a statement of the procedure for requesting an administrative hearing (see Section 10-25 of the IAPA), including a date by which the request must be received by the Department, which must be at least 10 days after the Notice is mailed or personally served;

6) unless the case is brought pursuant to Title XVIII (health insurance for the aged and disabled) or XIX (medical assistance) of the Social Security Act, or the NHCA, the MC/DD Act, or the ID/DD Act, a statement setting forth the requirement of an Answer, pursuant to subsection (d) of this Section; and

7) *except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number.* (Section 10-25 of the IAPA)

b) For hearings conducted pursuant to Section 100.6, the Notice shall include:

1) a citation to the legal authority for conducting the hearing;

2) an advisory to complainants concerning the rules of procedure under which the hearing will be conducted;

3) the name of the Administrative Law Judge who will preside over the prehearing conference;

4) date, time and call-in information for the prehearing conference.

c) A person who receives a Notice of an Opportunity for an Administrative Hearing must submit a written request for a hearing to the Department. The request is to be sent to the Department at the address stated in the Notice and must be received by the date set forth in the Notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.

d) Upon receipt of a timely written request for hearing, the Department shall issue a Notice of Hearing or Prehearing Conference. *The Notice of Hearing or Prehearing Conference shall contain:*

1) *a statement of the time, place, and nature of the hearing;*

2) *a statement of the legal authority and jurisdiction under which the hearing is to be held;* and

3) *the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law*. (Section 10-25 of the IAPA)

e) Unless the case is brought pursuant to Title XVIII or XIX of the Social Security Act, the NHCA, the MC/DD Act, or the ID/DD Act, a written Answer to the Allegations of Noncompliance shall be filed by a Respondent. The Answer must be served on all parties within 20 days after receipt of the notice alleging noncompliance. However, if the Respondent fails to submit a timely written request for hearing, the Respondent waives its right to Answer. If a Respondent fails to file a timely Answer, each alleged violation of a statute or Department rule by the Respondent shall be deemed to have been judicially admitted and, therefore, no longer subject to dispute by the Respondent. If the Respondent has insufficient knowledge of the facts to form a belief as to the truth of the allegation, the Respondent may so state with an affidavit of insufficient knowledge. If the Respondent wishes to raise defenses that are affirmative in nature or would be likely to take the Department by surprise, the Respondent must do so in the Answer. If Affirmative Defenses are filed within an Answer, the Department shall reply to the Affirmative Defenses within 20 days after receipt of the Answer.

f) A pleading may be freely amended at any time prior to the conclusion of a hearing. Amendments to Answers may be allowed upon proper motion at any time during the pendency of the proceedings on terms that are just and reasonable. However, a prior Answer shall be admissible and may be used to cross-examine the person preparing or verifying the prior Answer.

g) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.

h) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances make it desirable, in the interest of justice, to allow a change of venue. Exceptional circumstances include, but are not limited to, age, infirmity, transmission of communicable disease including, but not limited to, COVID-19, or inability to travel due to ill health. However, mere inconvenience shall not constitute grounds for a change in venue.

(Source: Amended at 46 Ill. Reg. 8158, effective May 5, 2022)