**Section 104.102 Conduct of Administrative Support Hearings**

a) Hearing De Novo

1) The hearing shall be de novo and the Department's determination of liability or non-liability pursuant thereto shall be independent of the prior determination of liability.

2) In Title IV-D cases, the hearing shall only consider such matters as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.

b) Rules Governing Hearing

1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the responsible relative or Title IV-D client who petitions and except as set out in subsection (b)(2) of this Section.

2) In Title IV-D cases, the following additional rules shall govern:

A) A request for appeal must be filed with the regional or central office of the Division of Child Support Enforcement at the address furnished in the administrative support order.

B) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.

C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D clients and responsible relatives.

D) In the event of cross appeals, if the client is an Illinois resident, the hearing shall be held in the client’s county of residence. Otherwise, if the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he or she may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2], present his or her case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his or her own expense.

E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)

F) In addition to the appellant, the Division of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (for example, illness or other circumstance which prevents a party from continuing in the normal course of the hearing).

G) Effective January 1, 2011, enforcement of administrative support orders entered under 89 Ill. Adm. Code 160.60 or modified under 89 Ill. Adm. Code 160.65 shall not be stayed pending the filing and resolution of a petition for release from or modification of the administrative support order.

H) Following the hearing, the Director of the Department shall make a Final Administrative Decision. A copy of the decision shall be mailed to each interested party and the parties' representatives, if any, within 90 days after the Department’s receipt of the request for hearing, extended by any delay caused by any party other than the Department. The Department shall take appropriate action implementing the results of the decision within 30 days after its release.

c) A hearing to vacate registration or to modify the administrative income withholding notice of the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the stay order is vacated.

(Source: Amended at 35 Ill. Reg. 12900, effective July 25, 2011)