**Section 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations**

a) Documents/Evidence Required. Except as provided in subsection (a)(1), in any application for reinstatement, an RDP, or the termination of an order of cancellation at a show cause hearing, all petitioners must submit an alcohol and drug evaluation and, where required, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of early intervention, treatment or proof of adequate rehabilitative progress. These requirements apply to MDDP offenders whose permits are cancelled and who apply for an RDP pursuant to IVC Section 6-206.1(l) and Section 1001.444(a) of this Part.

1) An alcohol and drug evaluation and the evidence of successful completion of early intervention or treatment submitted by a resident of Illinois must have been conducted by an individual or an agency licensed by DSUPR. An alcohol or drug-related driver risk education course completed by an Illinois resident must have been provided by an individual or agency licensed by DSUPR. (See 77 Ill. Adm. Code 2060.201.) Exceptions to these requirements will be allowed in the following cases:

A) If the petitioner is currently and has been temporarily residing outside the State of Illinois, then the updated evaluation, early intervention, treatment, and driver risk education course may be provided by an individual or agency accredited by the state in which the individual or agency operates;

B) If the petitioner currently resides in Illinois but received treatment for alcohol or drug abuse or dependence from a treatment program located outside the State of Illinois that has been appropriately accredited by the state in which it operates, then the petitioner may document the successful completion of that treatment in the manner provided by subsection (m). However, the petitioner's evaluation and driver risk education course must be provided by an individual or agency licensed by DSUPR; or

C) If the petitioner successfully completed, after the most recent arrest for DUI, a High Risk treatment program provided by an individual or agency licensed by DSUPR.

2) Choice of Programs. The choice of these programs is within the discretion of the petitioner. The evidence submitted must be printed, although the evaluator may testify at any hearing.

3) Evaluation Standards. The alcohol and drug evaluation (Uniform Report), as defined in Section 1001.410, must conform to all current standards for an evaluation set by DSUPR, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D. (See 77 Ill. Adm. Code 2060.503.) The evaluation must be signed and dated by both petitioner and evaluator. The evaluation must include a recitation of: the petitioner's alcohol/drug use history, from first use to present use; all DUI dispositions, as defined in Section 1001.410, including any out-of-state DUI disposition, regardless of whether the offense has been recorded to the offender's Illinois driving record; any arrests or implied consent suspensions for boating or snowmobiling under the influence that occurred within the last 5 years (as of the date of the hearing); a referral to early intervention or treatment, or a referral to a treatment provider for the purpose of conducting a Treatment Needs Assessment (see Section 1001.440(b)(7)); and the petitioner's alcohol/drug‑related criminal convictions, as defined in Section 1001.410. The alcohol/drug use history must be recited in either the body of the evaluation or an attachment to the evaluation. The attachment must include the evaluator's signature, the date it was composed, and the name of the agency or program that is providing the evaluation.

4) Driver Risk Education Course. The alcohol and drug-related driver risk education course must, at a minimum, conform to the standards for alcohol/drug driver risk education courses set by DSUPR. (See 77 Ill. Adm. Code 2060.505.) Any alcohol or drug related driver risk education course required by this Part must be completed after the date of the most recent arrest for DUI, BUI or SUI.

5) Evaluation Must Be Current. The alcohol and drug evaluation must be current, which is defined as having been completed within 6 months prior to the date of the hearing.

A) Update Evaluation. An update evaluation shall be conducted only by means of an in-person interview and only by the same program that conducted the original evaluation. Exceptions to the latter requirement will be allowed under the following circumstances:

i) Transfer of File. If the petitioner's evaluation or treatment file or copies of all evaluation or treatment file material are transferred to another evaluation or treatment program that prepares the update. The program that conducts the update evaluation should explain, either in a separate cover letter or in the body of the update evaluation, how, when and why the petitioner's file was transferred to it. The transfer will be considered acceptable only if the original evaluating program can no longer provide evaluation services for reasons such as a suspended or revoked license or voluntarily terminating evaluation business operations, or if an individual service provider leaves the program that conducted the original Uniform Report and the petitioner wishes to continue receiving services from that individual, or if the petitioner relocates to another part of the state. In the latter case, the petitioner carries the burden of proving relocation at least 50 miles from the original service provider's nearest location. When transferring a file, the sending program shall not allow it to be delivered by the petitioner to the receiving agency. If an update cannot be obtained by reviewing the original case file information, another original evaluation must be submitted.

ii) Treatment Provider Who Can Perform Update Evaluations.  If the petitioner completes primary treatment recommended as a result of the most recent alcohol and drug evaluation, the program providing the treatment may prepare any subsequent update evaluation from its own case file information without obtaining the information from the evaluating program that made the treatment recommendation. Furthermore, a chronological alcohol/drug use history may be prepared by the program that provided the treatment, when one is requested by the petitioner, the Secretary or a hearing officer in a decision entered as a result of a formal or informal hearing, to be submitted as part of the petitioner's evidence at the next hearing. A treatment provider may not conduct the update evaluation if the only service it provided was early intervention or continuing care services, or if it waives treatment, unless the petitioner's case file has been transferred to it.

B) Update Evaluation – Content. An Illinois and out-of-state update evaluation shall report, at a minimum and when applicable, the following:  a description of alcohol/drug use and/or abuse covering the time since the last evaluation or update; the facts of any arrest or citation for a traffic or criminal offense that is, in any way, alcohol/drug-related; any impairment of significant life areas, any symptoms of alcohol/drug abuse or alcohol/drug-related problems since the last evaluation or update; any current significant physical, medical, emotional/mental health problem and participation in, and/or completion of, any early intervention or treatment for that problem; whether the petitioner is taking any prescription medication that, when taken alone or in combination with alcohol or other drugs, might impair driving ability; any significant life style changes since the previous evaluation; the petitioner's current peer group and most important recreational activities; the petitioner's intent regarding future of alcohol/drug use; if the petitioner is classified as High Risk-Dependent, identification of the petitioner's support group and the evaluator's assessment of its effectiveness and sufficiency; a response to the issues raised at the petitioner's most recent hearing for driving relief and an assessment of whether additional treatment is warranted; the evaluator's previous and current alcohol/drug-use classification of the petitioner; any current recommendations and the rationale for those recommendations; and an indication of whether the petitioner has completed all prior recommendations. If the petitioner's Uniform Report did not include the alcohol/drug use history required by subsection (a)(4), then it may be provided in an update evaluation. The update evaluation must be corroborated by an interview with a family member or significant other. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The update evaluation must be printed, on a form provided by the Department, and verified by the evaluator. (See subsection (a)(1).)

i) Any update evaluation that reclassifies a petitioner to or within a Moderate, Significant or High Risk classification shall include a referral to a treatment provider for the purpose of determining the need, if any, for additional rehabilitative activity. Any waiver of additional rehabilitative activity by the treatment provider must be in writing and include the rationale for the waiver. Any recommendation for additional rehabilitative activity must be complied with before relief will be granted.

ii) A petitioner may not submit an update evaluation if the Uniform Report being updated does not discuss the most recent DUI disposition. In such case the petitioner must submit a Uniform Report.

iii) An update evaluation may not reclassify a petitioner from a previous classification unless the evaluator believes that the previous classification was improper or in error and justifies and explains in detail why the previous classification was improper or in error and why the new classification is proper and appropriate.

C) Investigative Evaluation − Content. An Illinois and Out-of-State investigative alcohol and drug evaluation shall report, at a minimum and when applicable, the following: a complete alcohol and drug use history, from first use to present use, including a recitation of any symptoms of alcohol/drug abuse or alcohol/drug‑related problems experienced by the petitioner throughout the petitioner's alcohol/drug use history; whether there is any history of alcoholism or drug addiction in the petitioner's immediate family; whether the petitioner has a history of treatment for alcohol/drug abuse; any current significant physical, medical, emotional/mental health problem and participation in, and/or completion of, any treatment for that problem; whether the petitioner is taking any prescription medication that, when taken alone or in combination with alcohol or other drugs, might impair driving ability; a response to the issues raised at the petitioner's most recent hearing for driving relief and an assessment of whether additional treatment is warranted; a history of alcohol and drug-related driving, boating, snowmobiling, and criminal offenses (including all DUI dispositions, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record); a clinical impression of what the evaluation data indicates and the rationale for that conclusion; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation must be printed, on a form provided by the Department, and verified by the evaluator. The program that completes the evaluation must meet the same standards as programs qualified to prepare Uniform Reports. (See subsection (a)(1).)

D) Circumstances When an Update of an Investigative Evaluation is Required. If the evaluator recommends any rehabilitative activity after conducting an Investigative Evaluation, the petitioner must submit an update evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated. If the evaluator concludes that the petitioner does not need any rehabilitative activity (i.e., a driver risk education course, early intervention, or treatment for alcohol/drug abuse), and the Secretary accepts this conclusion, then the petitioner is not required to submit an update evaluation at future hearings (assuming that there are no intervening alcohol/drug-related arrests or incidents that might cause the Secretary to question this conclusion).

E) Circumstances When an Update Evaluation is Not Required.

i) Petitioners classified at High Risk Dependent who have driven successfully on a restricted driving permit for at least 3 years after submitting an original evaluation are not required to provide an update evaluation if:

• the petitioner files for an extension or revision of the RDP, an additional RDP, or for another hearing during the term of the current RDP; or

• the current RDP is expired for no more than 30 days at the time the petitioner files for an extension or revision of the RDP, an additional RDP, or for another hearing. All other documentation required by this Subpart D must be submitted.

ii) For purposes of this subsection (a)(6)(F), a petitioner is not deemed to have successfully driven on a restricted driving permit if the petitioner is a BAIID permittee whose monitor reports reflect the use of alcohol.

b) Burden of Proof. Before any driving relief will be granted, the petitioner must prove by clear and convincing evidence: that the petitioner does not have a current problem with alcohol or other drugs; that the petitioner is a low or minimal risk to repeat past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that the petitioner has complied with all other standards as specified in this Subpart D. If the evidence establishes that the petitioner has had an alcohol/drug problem, the petitioner must also prove that the problem has been resolved. Notwithstanding the foregoing, the renewal of a permit issued to a petitioner that is classified as High Risk Dependent shall not be denied based on evidence including, but not limited to, BAIID violations, that indicate a petitioner is not abstinent.

1) Minimal Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Minimal Risk must document successful completion of a 10 hour alcohol/drug driver risk education course by submission of a document that reflects the completion of the requirements contained in 77 Ill. Adm. Code 2060.505. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C).

2) Moderate Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Moderate Risk must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the early intervention and any additional treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). The early intervention and/or treatment must be provided by an individual or agency licensed to provide those services by DSUPR or the Illinois Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which the therapist operates.

3) Significant Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Significant Risk must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). The treatment must be provided by an individual or agency licensed to provide those treatments by DSUPR or the Illinois Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which the therapist operates.

4) High Risk Dependent. Petitioners classified under this Section as High Risk Dependent must document abstinence as required in subsection (e); the completion of treatment provided by a facility or facilitator licensed by DSUPR or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which the therapist operates; the establishment of an ongoing support/recovery program; and compliance with any additional recommendations of the evaluator or treatment provider. Notwithstanding the foregoing, the renewal of a permit issued to a petitioner that is classified as High Risk Dependent shall not be denied based on BAIID violations that indicate the petitioner is not abstinent.

5) High Risk Nondependent. Petitioners classified under this Section as High Risk Nondependent must document: non-problematic use as provided in subsection (f); treatment provided by a facility or facilitator licensed by DSUPR or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which the therapist operates; compliance with any additional recommendations of the evaluator or treatment provider, including abstinence; and a detailed explanation by the treatment provider as to why dependency was ruled out. The failure of a petitioner to submit the "detailed explanation" is sufficient grounds, in and of itself, to deny the petition for driving relief. The explanation should focus on the most recent offense.

6) Investigative Evaluation. Petitioners who obtain an investigative alcohol/drug evaluation must document the completion of any recommended intervention or treatment provided by a facility or facilitator licensed by DSUPR or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which the therapist operates. If found to be chemically dependent, then the petitioner must prove abstinence as required in subsection (e) and the establishment of an ongoing support/recovery program, and compliance with any additional recommendations of the evaluator or treatment provider. Furthermore, if rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) is recommended, then the petitioner must submit an update evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.

7) Treatment Waiver Required – Documentation of Most Recent Treatment. In the event that a treatment provider does not require an individual classified Moderate, Significant or High Risk to complete at least the minimum amount and type of early intervention or treatment specified by DSUPR, the treatment provider must supply the Department with a detailed explanation of the rationale for that decision. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). In the course of assessing whether to waive early intervention or treatment, the treatment provider should attempt to obtain documentation of a petitioner's most recent treatment experience and incorporate the information in this assessment if: the treatment provider contends that the petitioner's alcohol/drug use classification should be changed to a lower risk classification, or the documentation states that the petitioner's prognosis at the time of discharge was guarded. The treatment provider should be prepared to explain the reasons for not obtaining this documentation and to provide written verification that the documentation is not available. The Secretary reserves the discretion to reject a waiver of treatment if the hearing officer is able to articulate specific reasons to doubt its validity.

8) Treatment Needs Assessment Required; Documentation of Most Recent Treatment. Whenever a service provider conducts and composes a Uniform Report, it is required to refer the petitioner to a treatment provider for an assessment of whether intervention or treatment for alcohol/drug abuse is warranted, pursuant to DSUPR rules at 77 Ill. Adm. Code Section 2060.503(h).  The petitioner must provide a Treatment Needs Assessment whenever another Uniform Report is composed, regardless of whether the petitioner successfully completed intervention or treatment after the previous Uniform Report, in order to inform the Secretary whether additional intervention or treatment is warranted as a result of the information obtained during the course of the subsequent Uniform Report.  The Treatment Needs Assessment shall be composed on the treatment provider's letterhead stationery or incorporated into the "Treatment Verification" form composed, published and distributed by the Department. If composed on stationery, then the Treatment Needs Assessment must be signed and dated by the counselor responsible for the assessment.

A) The Treatment Needs Assessment must be provided by a licensed treatment provider regardless of whether the petitioner has committed any traffic or criminal offense that mandates the composition of a Uniform Report.

B) In the course of conducting the Treatment Needs Assessment, the treatment provider should attempt to obtain documentation of a petitioner's most recent treatment experience and incorporate the information in this assessment, along with the petitioner's conduct since that treatment experience, in the provider's findings and conclusions. The treatment provider should be prepared to explain the reasons for not obtaining this documentation and to provide written verification that the documentation is not available.

9) BAIID Violations. BAIID violations that indicate the consumptions of alcohol shall not serve as a sole basis for not renewing, cancelling or revoking a permit.

c) Rebuttable Presumption. The presence of more than one DUI disposition on a petitioner's abstract shall create a rebuttable presumption that the petitioner suffers from a current alcohol/drug problem and should, therefore, be classified at least Significant Risk.

d) Evidence Considered. Evidence which shall be considered in determining whether the petitioner has met the burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not limited to, the following, where applicable:

1) The factors enumerated in Section 1001.430(c);

2) The similarity of circumstances between alcohol or drug-related arrests;

3) Any property damage or personal injury caused by the petitioner while driving under the influence;

4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change;

5) The chronological relationship of alcohol/drug-related arrests;

6) Length of alcohol/drug abuse pattern;

7) Degree of self-acceptance of alcohol/drug problem;

8) Degree of involvement in or successful completion of prior treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;

9) Prior relapses from attempted abstinence, except that BAIID violations that indicate the consumption of alcohol, shall not serve as the sole basis for not renewing or cancelling a permit;

10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;

11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;

12) The petitioner's explanation for the multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;

13) In out-of-state petitions, the evaluator's rationale for classifying a petitioner with multiple DUI dispositions as a Minimal or Moderate Risk. In these cases it is particularly important that the evaluator's classification be based on complete and accurate information;

14) The petitioner's criminal history, particularly drug offenses or offenses that in any way involved alcohol/drugs;

15) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;

16) The extent to which, in terms of completeness and thoroughness, a petitioner and service providers have addressed every issue raised by the hearing officers in previous hearings;

17) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations that deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon the degree to which the evaluation deviates from this standard and the standards imposed by DSUPR;

18) The petitioner's record of performance while driving with an interlock device and record of compliance with the terms and conditions of the breath alcohol ignition interlock device program or the monitoring device driving permit program. A BAIID violation indicating consumption of alcohol may not be the sole basis for denying driving relief;

19) Written or verbal statements from members of the public, including crime victims as defined in the Code of Criminal Procedure [725 ILCS 120/3] or family members of victims of offenses committed by a petitioner, so long as the statement is relevant to the issues at the hearing;

20) The service provider's clinical rationale or justification for changing the classification of a petitioner's alcohol/drug use, or for giving a classification that is different than that given in other evaluation or treatment documents or by other service providers;

21) The treatment provider's explanation for failing to obtain, when requested, documentation of the petitioner's most recent treatment;

22) Whether the petitioner has been incarcerated and was recently released after an extended period of incarceration and whether the petitioner participated in any rehabilitative activity during incarceration.

e) Documentation of Abstinence

1) Petitioners classified as High Risk Dependent, or any other petitioner with a recommendation of abstinence by a DSUPR licensed evaluator or treatment provider, must have a minimum of 12 consecutive months of documented abstinence, except as provided in subsections (e)(3), (4) and (7), in regard to opiate substitution, medical cannabis programs, and BAIID permittees. This means that the petitioner must be abstinent from alcohol and all controlled substances, legal and illegal, unless the drug is prescribed by a physician, and regardless of whether alcohol or another drug was the petitioner's drug of choice when using. Abstinence that occurs during a period of extended incarceration is not favored, unless petitioner took proactive steps toward rehabilitation while incarcerated, as it occurs in a controlled environment. Documentation of abstinence must be received from at least 3 independent sources. The sources should not be fellow members of a support group unless those members have regular and frequent contact with the petitioner outside the group meetings. The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Letters or witness testimony establishing abstinence should contain, at a minimum, the following:

A) The person's relationship to petitioner (friend, family member, fellow employee, etc.).

B) How long the person has known the petitioner.

C) How often the person sees the petitioner (daily, weekly, monthly, etc.).

D) How long the person knows the petitioner has abstained.

E) Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer. The petitioner's failure to maintain strict compliance with these requirements shall not be the sole basis for withdrawing from a hearing or denying relief.

2) Petitioners who are classified as Significant Risk or High Risk Non-Dependent and who are required by IVC Sections 6-205(a)(1.5) and 6-206(c)(3)(F) to prove 3 years of uninterrupted abstinence in order to obtain an RDP may prove that this abstinence occurred during any period of time after the most recent arrest for driving under the influence. Petitioners who are classified as High Risk Dependent who are required to prove 3 years of uninterrupted abstinence by IVC Sections 6-205(a)(1.5) and 6-206(c)(3)(F) in order to obtain an RDP must prove that their period of abstinence began after the most recent arrest for driving under the influence. They must also prove that they have been abstinent for the 3 years immediately prior to their hearing. Proof of abstinence must comply with the requirements of subsection (e)(1).

3) Waivers of the rule requiring 12 months of abstinence are discretionary when considering an RDP but shall not be granted unless the petitioner proves at least 6 months continuous abstinence at the time of the hearing.

4) Opiate Substitution Programs. Petitioners who are able to document that they are involved in a long-term opiate substitution program, such as methadone maintenance, are not required to prove abstinence from the substitute drug that has been prescribed to them in order to obtain driving relief. Rather, they must prove that they have been stable in the program for at least one year. The petitioner's documentation must include an Opiate Substitution form completed by the petitioner, the petitioner's primary or reviewing physician, and the petitioner's primary substance abuse provider or evaluator. The petitioner must satisfy the other requirements of this Subpart D, including abstinence from alcohol and all other drugs, in order to obtain driving relief.

5) Use of Medical Cannabis. Petitioners who are able to document that a physician has recommended the use of what is defined and authorized as "medical cannabis" in the Compassionate Use of Medical Cannabis Program Act are not required to prove abstinence from the cannabis that has been recommended in order to obtain driving relief. Rather, they must prove that they are stable. Petitioners who are classified as high-risk dependent and who have been diagnosed as dependent on cannabis must prove stability in the program for a minimum of 6 months before an RDP may be issued and a minimum of 12 months before reinstatement. The petitioner's documentation must include a Medical Cannabis form completed by the petitioner, the petitioner's primary or reviewing physician, and the petitioner's primary substance abuse provider or evaluator. The petitioner must satisfy the other requirements of this Subpart D, including abstinence from alcohol and all other drugs, in order to obtain driving relief.

6) Use of Prescribed Opiate Medication. Petitioners who are able to document that a physician has prescribed opiate medication are not required to prove abstinence from the prescribed opiates in order to obtain driving relief. Rather, they must prove that they are stable on the prescribed opiate medication. Petitioners who are classified as high-risk dependent and who have been diagnosed as dependent on the prescribed opiate must prove stability in the program for a minimum of 6 months before an RDP may be issued and a minimum of 12 months before granted reinstatement. The petitioner's documentation must include an Opiate Medication form completed by the petitioner, the petitioner's primary or reviewing physician, and the petitioner's primary substance abuse provider or evaluator. The petitioner must satisfy the other requirements of this Subpart D, including abstinence from alcohol and all other drugs, in order to obtain driving relief.

7) Consumption of "Near-Alcoholic" Beverages. The consumption of "near‑alcoholic" beverages does not violate the rule requiring abstinence. However, this conduct is a valid subject to be considered in determining the ultimate issue of whether the petitioner has met the burden of proving that the petitioner will be a safe and responsible driver. The Secretary will consider the petitioner's motivation for consuming near-alcoholic beverages, the circumstances under which they are consumed (when, where, why, with whom and how often), the strength of the petitioner's support system, the petitioner's degree of acceptance of the alcoholism/chemical dependency, and whether near-alcoholic beverages were ever used in the past (and whether this use occurred before or after the commission of a DUI). The petitioner carries the burden of proving that the use of near-alcoholic beverages is not a matter of concern.

8) When considering the renewal of an RDP for a petitioner classified as High Risk Dependent who currently utilizes a BAIID, the petitioner shall not be denied relief solely because the petitioner has failed to maintain abstinence.

f) Documentation of Non-Problematic Use

1) Petitioners classified as High Risk Nondependent must demonstrate at least 12 consecutive months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs. This evidence must be submitted from at least 3 independent sources and generally comply with the standards set forth in subsection (e).

2) Waivers are discretionary when considering an RDP, but shall not be granted unless the petitioner demonstrates at least 6 months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs.

g) Documentation of Support/Recovery Program

1) If the petitioner has been attending a support/recovery program, the petitioner must present at least 3 dated and signed letters or witness testimony from fellow support/recovery program members documenting at a minimum the following:

A) How long the person has known the petitioner;

B) How long the person knows that the petitioner has attended the program;

C) How often the petitioner attends the program.

2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer. The petitioner's failure to maintain strict compliance with these requirements shall not be the sole basis for withdrawing from a hearing or denying relief.

h) Internet Support/Recovery Programs. A petitioner's participation in internet Alcoholics Anonymous, Narcotics Anonymous or other support/recovery program "chat rooms" or any other support/recovery program services available over the internet may be an acceptable substitute for the regular attendance of meetings in person. The factors to be considered by the hearing officer and the Secretary in evaluating the effectiveness and probative value of this form of support include, but are not limited to, the following: the petitioner's reasons for not attending meetings in person; the petitioner's alcohol/drug use history and history of relapse; the length of the petitioner's abstinence at the time of the hearing; the proximity of A.A. and N.A. meetings to the petitioner's residence and workplace; the petitioner's physical/medical condition, as it affects the ability to travel; the availability of public and private transportation to meetings; whether the petitioner has attended meetings in person in the past, and the length of that attendance; whether the petitioner's evaluator and treatment provider are aware and approve of the petitioner's participation in this form of support; the extent of the petitioner's knowledge of, commitment to, and involvement in the program; the extent of the petitioner's knowledge of the disease process of alcoholism/chemical dependence; the extent of the petitioner's acceptance of the alcoholism/chemical dependence. The participation in internet support/recovery program chat rooms is not favored by the Secretary of State. Therefore, substantial documentation and testimony regarding this method of support is required in order for the petitioner to carry the burden of proof on this issue, including identification of the specific websites that the petitioner uses and verification of the petitioner's participation by chat room members.

i) Non-Traditional Support/Recovery Programs

1) If the petitioner's support/recovery program does not involve a structured, organized, recognized program such as A.A. or N.A., the petitioner is required to identify what that program is and explain how it works and keeps petitioner abstinent. The petitioner is required to present either witness testimony or written verification of the program from at least three independent sources involved in the program. If the verification is in the form of letters, those letters should be signed and dated. All such evidence must contain, at a minimum, the following:

A) The person's relationship to the petitioner (friend, family member, fellow employee, etc.);

B) How long the person has known the petitioner;

C) How often the person sees the petitioner (daily, weekly, monthly, etc.);

D) How the person is involved in the petitioner's recovery program and what role the person plays in helping the petitioner abstain from alcohol/drugs;

E) What changes the person has seen in the petitioner since petitioner's abstinence.

2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

j) Support/Recovery Program Sponsor. If the petitioner has a support/recovery program sponsor, a letter should be obtained (or the testimony submitted) from the sponsor documenting the data in subsection (g)(1). The purpose of a letter or the testimony of an A.A. sponsor is to provide the Secretary with substantial detail regarding the petitioner's progress and development in the A.A. program. However, this letter or testimony can also be used to satisfy the requirements of subsection (g). The submission of a letter from a petitioner's sponsor is not mandatory, but is strongly recommended. A petitioner's failure to submit a letter from the sponsor is not, by itself, a sufficient basis upon which to deny driving relief.

k) RDP for Support/Recovery Program − Information Required. In cases in which a petitioner seeks an RDP to allow driving to support/recovery program meetings, the petitioner must provide specific information identifying, at a minimum, the following:

1) The locations of the meetings the petitioner wishes to attend;

2) The days of the week when meetings are held at these locations;

3) The hours of the day when these meetings are held.

l) Early Intervention − Information Required. If the petitioner has undergone early intervention (Moderate Risk classification), the petitioner must provide a narrative summary that includes, at a minimum, the following:

1) The name, address and telephone number of the licensed service provider;

2) The dates the petitioner began and completed early intervention, as well as the number of days or hours the petitioner was involved in the intervention process;

3) A summary discussion of the intervention provided and its outcome, specifically, those issues that were addressed or explored and the provider's perception of what the petitioner gained from the experience and the petitioner's ability to avoid future development of alcohol problems;

4) The rationale for any modification in the early intervention requirements specified by DSUPR;

5) The dated signature of the professional staff person providing the early intervention information; and

6) The narrative summary shall be composed on the treatment provider's letterhead stationery.

m) Treatment − Information Required. If the petitioner has had alcohol or drug related treatment, the petitioner must provide the information listed in this subsection (m). A petitioner is required only to submit proof of the most recent primary treatment experience.

1) A narrative summary that includes, at a minimum:

A) The name, address and telephone number of treatment center;

B) The date the petitioner entered primary treatment and the date the petitioner was discharged from treatment; the number of days or hours the petitioner was involved in treatment; the admitting and discharge diagnosis;

C) The type of treatment received (e.g., outpatient, intensive outpatient or inpatient treatment; individual or group therapy);

D) A clinical impression or prognosis of either a Moderate or Significant Risk petitioner's ability to maintain a non-problematic pattern, or a High Risk petitioner's ability to maintain a stable recovery where applicable. Specifically, the treatment provider's perception of what the petitioner gained from the treatment experience and whether the experience was sufficient to substantially minimize the possibility of a recurrence of alcohol/drug related problems;

E) Any recommendations for continuing care or follow-up support, and an indication of the petitioner's participation, if applicable;

F) The rationale for any modification in the treatment requirements specified by DSUPR;

G) The dated signature of the professional staff person providing the treatment information.

2) Copies of the following documents required by DSUPR:

A) Individualized Treatment Plan. (See 77 Ill. Adm. Code 2060.421.)

B) Discharge Summary and Continuing Care Plan. (See 77 Ill. Adm. Code 2060.427.)

3) A current status report regarding the petitioner's involvement in continuing care. The Continuing Care Status Report must discuss the petitioner's level of progress in completing follow-up activities outlined in the Continuing Care Plan. It may be composed by either the evaluator or the treatment provider, and shall be composed on the letterhead stationery of the agency or individual who authored the report. If continuing care has been completed, a final summary report must be provided that discusses the petitioner's progress throughout the course of completing all follow-up activities detailed in the Continuing Care Plan. If continuing care has been determined to be unnecessary, a report must be provided that discusses the clinical rationale for that decision. This waiver may be composed only by the treatment provider.

4) The Department reserves the discretion to require a petitioner to submit a Treatment Needs Assessment or a waiver of treatment as a consequence of a petitioner being unable to provide documentation of treatment. If the petitioner and the evaluator or treatment provider are unable to provide the required information or treatment documents, they must provide documentary evidence of their attempts to obtain the information and the reason for its unavailability.

5) The information required in subsection (m)(1) should be provided in the "Treatment Verification" form composed, published and distributed to treatment providers as a courtesy by the Department. However, a petitioner's failure to submit a Treatment Verification form is not a sufficient basis, in and of itself, to deny driving relief, so long as the information required in subsection (m)(1) is submitted in some other format or in the other documents required to be submitted.

n) Evaluation Written for Court. If a petitioner presents an alcohol/drug evaluation that was obtained for the purpose of being sentenced on a DUI charge or some other traffic or criminal offense, that evaluation must meet the requirements of this Section in order to be accepted by the Secretary of State.

(Source: Amended at 45 Ill. Reg. 14985, effective November 12, 2021)