

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02

Office, Division, & Program: _____ Rule Author: Marc Mackert, Director, _____ Phone: Office: 720-512-8814
E-Mail: _____
marc.mackert@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

- a. Board Executive Director
b. Regular Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

- AG Initial Review Initial Board Reading AG 2nd Review Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

- Number
X Amended Rules
_____ New Rules
_____ Repealed Rules
_____ Reviewed Rules

What month is being requested for this rule to first go before the State Board?	September, 2021
What date is being requested for this rule to be effective?	September 3, 2021
Is this date legislatively required?	No.

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ **Date:** _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated 1st Board 9/3/2021 2nd Board Effective Date September 3,
Dates: November 30,
2021(Permanent)

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02
Office, Division, & Program: _____ Rule Author: Marc Mackert, Director, _____ Phone: Office: 720-512-8814
E-Mail: _____
marc.mackert@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

The charging documents for Child Abuse and Neglect cases Notices of Issues (NOI) include protected abuse and neglect information and regularly need to include some level of medical information for the alleged victim because an element of these cases is to show that the victim was abused or neglected. Mistreatment often-times involves investigation and diagnosis by a medical provider. The requirement to include medical information about the alleged victim in the NOI is in conflict with the state's obligation to protect this information.

Presently, the state may file a motion for a protective order from the court. However, the Office of Administrative Courts (OAC) currently does not permit the filing of such a motion prior to the submission of an NOI. As such, NOIs are routinely filed before the granting of a protection order, which, in turn, releases information before protection is in place.

Additionally, filing motions in all of these cases creates an undue burden on the Attorney General's office as well as the OAC which is not a good use of state resources and is inconsistent with the protection of neglected and/or abused children.

The rule change will resolve these concerns by requiring the OAC to issue protective orders at the time of the NOI.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- to comply with state/federal law and/or
- to preserve public health, safety and welfare

Justification for emergency:

Present procedure requires that certain sensitive abuse and neglect, as well as medical, information be made available to appellants in initial charging documents relating to Child Abuse and Neglect cases. It is in the interest of preserving public health, safety and welfare to have such information protected during proceedings before the OAC. Further, the state is obligated under state and federal law to protect such sensitive information. Without the uniform issuance of protective orders in all child welfare cases when they are set, there are concerns with victims' protected information being shared before an Administrative Law Judge can review and enter a protective order.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2020)	State Board to promulgate rules

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
19-3-216, C.R.S. (2020)	State Board shall promulgate rules to determine whether there is child abuse or neglect or if a child is neglected or dependent.

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02

Office, Division, & Program: _____ Rule Author: Marc Mackert, Director, _____ Phone: Office: 720-512-8814
E-Mail: _____
marc.mackert@state.co.us

19-3-313.5(3), C.R.S. (2020)	State Board shall promulgate rules to establish a process at the state level by which a person who is found to be responsible in a confirmed report of child abuse or neglect filed with the state department may appeal the finding of a confirmed report of child abuse or neglect to the state department.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02
Office, Division, & Program: Rule Author: Marc Mackert, Director, Phone: Office: 720-512-8814
E-Mail:
marc.mackert@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Appellants with substantiated findings indicating they were responsible for abuse or neglect of a child and the children that are the subjects of those findings.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

This rule change will afford greater protections of private, confidential, and sensitive information for children who have cases that are part of an appeal.

During the 2020-2021 Fiscal Year, 171 Child Abuse and Neglect cases were set by the Office of Administrative Courts. It can be assumed that a similar number of these cases will be set by the Office of Administrative Court in fiscal year 2021-2022. The children and persons involved in those cases will be impacted by this rule change in that their information will be more secure.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because..."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

This rule change may have a minor impact on the Office of Administrative Courts, as it will require the issuance of a protective order signed by an Administrative Law Judge in every Child Abuse and Neglect case. However, the Attorney General's office currently files motions for protective orders routinely in most, if not all, Child Abuse and Neglect cases, which requires the Administrative Law Judge to review a motion filed in every case and issue a ruling. Under the new procedure, the Administrative Law Judge will only be required to sign a standard protective order issued simultaneously with the procedural setting order, which may save the Office of Administrative Courts time and resources.

This rule change should have an impact on the legal costs incurred by the Administrative Review Division. The Attorney General's office estimates that approximately two hours of time are required to prepare, edit, and file a motion for a protective order and a proposed order in the Office of the Administrative Courts. Using the numbers from fiscal year 2020-2021 and assuming a similar case load in fiscal year 2021-2021 (if anything, the number of cases next year will rise), Child Abuse and Neglect cases will experience a reduction of approximately 342 hours in billable attorney hours, which are billed at a blended rate of \$106/hour, creating a potential annual savings of \$36,252.

County Fiscal Impact

As county departments are not involved in this specific aspect of the hearing process, there is no fiscal impact.

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02

Office, Division, & Program: _____ Rule Author: Marc Mackert, Director, _____ Phone: Office: 720-512-8814
E-Mail: _____
marc.mackert@state.co.us

Federal Fiscal Impact

The appeals process is funded through a cash fund. As such, there is no federal fiscal impact.

Other Fiscal Impact (such as providers, local governments, etc.)

None

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

During the current Fiscal Year (2020-2021), 171 Child Abuse and Neglect cases were set by the Office of Administrative Courts. Future impact analysis was based on the assumption of similar numbers.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

Until now, the Attorney General’s office has been filing motions requesting protective orders for each individual Child Abuse and Neglect appeal before the Office of Administrative Courts. While it would be possible to continue this practice, it expends considerable attorney time to draft and file the motions and proposed orders. It also requires time for an Administrative Law Judge from the Office of Administrative Courts to review and rule upon each motion filed. Because the Office of Administrative Courts generally will not consider motions for protective orders until an appeal has been placed at issue, through the filing of a Notice of Issues, there is a risk in this practice that confidential information will be disclosed in violation of rule and law before a protective order has entered. There is also a risk that the Administrative Law Judges may, in their individual discretion, deny motions for protective orders, resulting in inconsistent protection of the confidential information of child victims.

Addressing this challenge through rule-making will eliminate the need for the Attorney General’s office to file motions for protective orders in individual cases as well as the need for individual review by an Administrative Law Judge. By establishing the issuance of a standard protective order through rule, the risk of inconsistent protection of the confidential information of at-risk victims will also be reduced.

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02
Office, Division, & Program: Rule Author: Marc Mackert, Director, Phone: Office: 720-512-8814
E-Mail:
marc.mackert@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.112 (A)(2)	Lack of protection of medical information	<p>7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS</p> <p>A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:</p> <p>1. The date and time for a telephone scheduling conference with the parties.</p> <p>2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the</p>	<p>7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS</p> <p>A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:</p> <p>1. The date and time for a telephone scheduling conference with the parties.</p> <p>2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of</p>	Proposed language to provide for protection of medical and abuse and neglect information of children presently included in charging documents.	

Title of Rule: Child Abuse and Neglect Cases and Protective Orders

CDHS Tracking #: 21-08-18-02

Office, Division, & Program:

Rule Author: Marc Mackert, Director,

Phone: Office: 720-512-8814

E-Mail:

marc.mackert@state.co.us

		<p>scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of the deadlines in the order may file a request with the Administrative Law Judge.</p>	<p>the deadlines in the order may file a request with the Administrative Law Judge. THE OFFICE OF ADMINISTRATIVE COURTS SHALL ALSO ISSUE A PROTECTIVE ORDER WHICH WILL PROTECT AND GOVERN THE HANDLING OF ALL PLEADINGS, DISCOVERY, AND EVIDENCE. THE ORDER MUST BE SIGNED BY AN ADMINISTRATIVE LAW JUDGE AND MUST STATE THAT:</p> <p>a. ANY DOCUMENTS EXCHANGED BY THE PARTIES CONTAINING CONFIDENTIAL INFORMATION, INCLUDING, BUT NOT LIMITED TO PLEADINGS, TRAILS REPORTS AND INVESTIGATIVE RECORDS, MEDICAL RECORDS, LAW ENFORCEMENT INVESTIGATION RECORDS, AND DOCUMENTS REGARDING CHILD VICTIMS WILL BE USED FOR THE SOLE PURPOSE OF PROCEEDING WITH THIS APPEAL.</p> <p>b. THE PARTIES MAY</p>		
--	--	---	---	--	--

Title of Rule: Child Abuse and Neglect Cases and Protective Orders

CDHS Tracking #: 21-08-18-02

Office, Division, & Program:

Rule Author: Marc Mackert, Director,

Phone: Office: 720-512-8814

E-Mail:

marc.mackert@state.co.us

				<p>DISCLOSE CONFIDENTIAL INFORMATION TO THEIR ATTORNEYS OR ANY EXPERT WITNESS ONLY AS NECESSARY FOR THE PROSECUTION OR DEFENSE OF THE APPEAL. THE APPELLANT IS NOT AUTHORIZED TO DISCLOSE OR USE CONFIDENTIAL INFORMATION FOR ANY OTHER PURPOSE.</p> <p>c. THE PARTIES MAY EXCHANGE DISCOVERY CONTAINING INFORMATION THAT IS CONFIDENTIAL UNDER DEPARTMENT RULE 12 CCR 2509-2, § 7.111.</p> <p>d. TO THE EXTENT THAT THE PARTIES MAY DISCLOSE CONFIDENTIAL RECORDS TO EXPERT WITNESSES, THE PARTIES SHALL PROVIDE A COPY OF THE PROTECTIVE ORDER TO THE EXPERT WITNESSES AND ADVISE THE EXPERT WITNESS OF HIS OR HER OBLIGATION NOT TO DISCLOSE THE RECORDS</p>		
--	--	--	--	---	--	--

Title of Rule: Child Abuse and Neglect Cases and Protective Orders

CDHS Tracking #: 21-08-18-02

Office, Division, & Program:

Rule Author: Marc Mackert, Director,

Phone: Office: 720-512-8814

E-Mail:

marc.mackert@state.co.us

				<p>OR INFORMATION LEARNED FROM THE CONFIDENTIAL RECORDS.</p> <p>e. THE EXCHANGE AND USE OF THE CONFIDENTIAL INFORMATION OR RECORDS DOES NOT WAIVE THE RIGHT OF EITHER PARTY TO OBJECT TO THE ADMISSION OF THE DOCUMENTS INTO EVIDENCE ON ANY GROUNDS.</p> <p>f. IF THE PARTIES USE OR OFFER CONFIDENTIAL INFORMATION OR RECORDS AS EVIDENCE DURING THE COURSE OF THE HEARING, COUNSEL AND THE PARTIES SHALL TAKE REASONABLE MEASURES TO PROTECT SUCH INFORMATION OR RECORDS FROM PUBLIC DISCLOSURE INCLUDING BUT NOT LIMITED TO FILING RECORDS UNDER SEAL.</p> <p>g. THE APPELLANT MUST DESTROY OR RETURN TO THE DEPARTMENT ALL</p>		
--	--	--	--	---	--	--

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02

Office, Division, & Program: _____ Rule Author: Marc Mackert, Director, _____ Phone: Office: 720-512-8814
E-Mail: _____
marc.mackert@state.co.us

				<p>PROTECTED HEALTH AND ABUSE AND NEGLECT INFORMATION (INCLUDING ALL COPIES MADE) AT THE END OF THE APPEAL OR, SHOULD THE APPELLANT CHOOSE TO PURSUE ANY FURTHER ADMINISTRATIVE REMEDIES, WHEN THOSE REMEDIES HAVE BEEN EXHAUSTED.</p> <p>h. THE HEARING REGARDING THE FACTUAL BASIS FOR THE CHILD ABUSE AND/OR NEGLECT FINDING SHALL BE CLOSED TO THE PUBLIC.</p> <p>i. THIS ORDER DOES NOT PROHIBIT THE DEPARTMENT FROM USING DOCUMENTS OR INFORMATION AS AUTHORIZED, REQUIRED, OR PERMITTED BY LAW.</p>		
--	--	--	--	--	--	--

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02
Office, Division, & Program: Rule Author: Marc Mackert, Director, Phone: Office: 720-512-8814
E-Mail:
marc.mackert@state.co.us

Title of Rule: Child Abuse and Neglect Cases and Protective Orders
CDHS Tracking #: 21-08-18-02
Office, Division, & Program: _____ **Rule Author:** Marc Mackert, Director, _____ **Phone:** Office: 720-512-8814
 _____ **E-Mail:**
 _____ marc.mackert@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Attorney General's office

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Office of Administrative Courts, CDHS Office of Appeals

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Name of Sub-PAC	Child Welfare		
Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

Yes No

Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

DEPARTMENT OF HUMAN SERVICES

Social Services Rules

REFERRAL AND ASSESSMENT

12 CCR 2509-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

7.112 ATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS

- A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:
1. The date and time for a telephone scheduling conference with the parties.
 2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of the deadlines in the order may file a request with the Administrative Law Judge. THE OFFICE OF ADMINISTRATIVE COURTS SHALL ALSO ISSUE A PROTECTIVE ORDER WHICH WILL PROTECT AND GOVERN THE HANDLING OF ALL PLEADINGS, DISCOVERY, AND EVIDENCE. THE ORDER MUST BE SIGNED BY AN ADMINISTRATIVE LAW JUDGE AND MUST STATE THAT:
 - a. ANY DOCUMENTS EXCHANGED BY THE PARTIES CONTAINING CONFIDENTIAL INFORMATION, INCLUDING, BUT NOT LIMITED TO PLEADINGS, TRAILS REPORTS AND INVESTIGATIVE RECORDS, MEDICAL RECORDS, LAW ENFORCEMENT INVESTIGATION RECORDS, AND DOCUMENTS REGARDING CHILD VICTIMS WILL BE USED FOR THE SOLE PURPOSE OF PROCEEDING WITH THIS APPEAL.
 - b. THE PARTIES MAY DISCLOSE CONFIDENTIAL INFORMATION TO THEIR ATTORNEYS OR ANY EXPERT WITNESS ONLY AS NECESSARY FOR THE PROSECUTION OR DEFENSE OF THE APPEAL. THE APPELLANT IS NOT AUTHORIZED TO DISCLOSE OR USE CONFIDENTIAL INFORMATION FOR ANY OTHER PURPOSE.
 - c. THE PARTIES MAY EXCHANGE DISCOVERY CONTAINING INFORMATION THAT IS CONFIDENTIAL UNDER DEPARTMENT RULE 12 CCR 2509-2, § 7.111.
 - d. TO THE EXTENT THAT THE PARTIES MAY DISCLOSE CONFIDENTIAL RECORDS TO EXPERT WITNESSES, THE PARTIES SHALL PROVIDE A COPY OF THE PROTECTIVE ORDER TO THE EXPERT WITNESSES AND ADVISE THE EXPERT WITNESS OF HIS OR HER OBLIGATION NOT TO DISCLOSE THE RECORDS OR INFORMATION LEARNED FROM THE CONFIDENTIAL RECORDS.

- e. THE EXCHANGE AND USE OF THE CONFIDENTIAL INFORMATION OR RECORDS DOES NOT WAIVE THE RIGHT OF EITHER PARTY TO OBJECT TO THE ADMISSION OF THE DOCUMENTS INTO EVIDENCE ON ANY GROUNDS.
- f. IF THE PARTIES USE OR OFFER CONFIDENTIAL INFORMATION OR RECORDS AS EVIDENCE DURING THE COURSE OF THE HEARING, COUNSEL AND THE PARTIES SHALL TAKE REASONABLE MEASURES TO PROTECT SUCH INFORMATION OR RECORDS FROM PUBLIC DISCLOSURE INCLUDING BUT NOT LIMITED TO FILING RECORDS UNDER SEAL.
- g. THE APPELLANT MUST DESTROY OR RETURN TO THE DEPARTMENT ALL PROTECTED HEALTH AND ABUSE AND NEGLECT INFORMATION (INCLUDING ALL COPIES MADE) AT THE END OF THE APPEAL OR, SHOULD THE APPELLANT CHOOSE TO PURSUE ANY FURTHER ADMINISTRATIVE REMEDIES, WHEN THOSE REMEDIES HAVE BEEN EXHAUSTED.
- h. THE HEARING REGARDING THE FACTUAL BASIS FOR THE CHILD ABUSE AND/OR NEGLECT FINDING SHALL BE CLOSED TO THE PUBLIC.
- i. THIS ORDER DOES NOT PROHIBIT THE DEPARTMENT FROM USING DOCUMENTS OR INFORMATION AS AUTHORIZED, REQUIRED, OR PERMITTED BY LAW.

3. The notice of issues shall include the following:

- a. The specific allegations(s) that form the basis of the county department's finding that the Appellant was responsible for child abuse or neglect;
- b. The specific type and severity of child abuse asserted against Appellant and the legal authority supporting the finding; and,
- c. To the extent that the State Department determines that the facts contained in the state automated case management system support a modification of the type or severity of child abuse or neglect determined by the county department, the State Department shall so notify the county department and the Appellant of that modification and the process shall proceed on the modified finding(s).

4. The Appellant shall respond to the State Department's submittal by providing the factual and legal basis supporting the appeal to the State Department and to the Office of Administrative Courts.

5. If the Appellant fails to participate in the scheduling conference referenced above or fails to submit the response referenced herein, the Office of Administrative Courts shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

6. In the event that either party fails to respond to a motion to dismiss filed in the appeal, the Administrative Law Judge shall not consider the motion to be confessed and shall render a decision based on the merits of the motion.

B. The Administrative Law Judge shall conduct the appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:

1. The State Department shall have the burden of proof to establish the facts by a preponderance of the evidence and that the facts support the conclusion that the Appellant is responsible for the child abuse or neglect indicated in the notice of issues provided by the State Department. The state automated case management system is not the only acceptable evidence for establishing that the finding is supported by a preponderance of evidence;
 2. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination;
 3. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations;
 4. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to-face hearing must be filed with the Office of Administrative Courts and the other party at least ten (10) calendar days before the scheduled hearing. A request for a face-to-face hearing may necessitate the re-setting of the hearing; and,
 5. Where facilities exist that have videoconferencing technology local to the county department that made the founded finding, either party may request that the hearing be conducted via that technology. The requesting party shall investigate the feasibility of this approach and shall submit a written request outlining the arrangements that could be made for video conference. The Office of Administrative Courts shall hold the hearing via videoconferencing for the convenience of the parties whenever requested and feasible. A request for a hearing via videoconferencing may necessitate the re-setting of the hearing.
- C. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.
- D. The Initial Decision shall uphold, modify or overturn/reverse the county finding. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding to meet the evidence provided at the hearing. The Administrative Law Judge shall not order the county to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of the state automated case management system.
- E. When an Appellant fails to appear at a duly scheduled hearing having been given proper notice, without having given timely advance notice to the Office of Administrative Courts of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision Dismissing Appeal. In accordance with the procedures set forth in Section 7.114, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.