

REV. 5-19-97/ADM
97-7

**SUBPOENAS
ISSUED BY THE
AGENCY**

Authority

The Agency Director is authorized by law to issue subpoenas in connection with either an administrative hearing or investigation being conducted by the Agency. Only administrative law judges or the Office of Administrative Hearings may issue subpoenas for administrative hearings. The Office of Inspector General (OIG) may issue subpoenas for OIG investigations.

Legal Base

The Social Welfare Act, MCLA 400.8; MSA 16.408:

**Appearance,
Documents**

Sec 8. The agency may issue a subpoena requiring any person to appear to be examined with reference to any matter within the scope of inquiry or investigation being conducted by the department, and to produce any books, records or papers, pertinent to such inquiry.

Legal Base

The Revised Judicature Act, MCLA 400.2552; MSA 27A.2552:

Reimbursement

Sec. 2552(3). "Witnesses shall receive for attending before any officer, person, or board authorized to take the examination of witnesses, \$12.00 for each day's attendance and \$6.00 for each half day; for traveling in such case 10 cents per mile in coming to the place of attendance and returning therefrom, to be estimated from the residence of such witnesses, if within this state, or from the boundary line of this state, which such witness passed in coming, if his residence is out of the state.

**SUBPOENA
REQUESTED BY A
PARTY IN A
CONTESTED
HEARING**

Legal Base

The Administrative Procedures Act, MCLA 27.273; MSA 3.560(173):

Sec. 73. An agency authorized by statute to issue subpoenas when a written request is made by a party in a contested case, shall issue subpoenas forthwith requiring the attendance and testimony of witnesses and the protection of evidence including books, records, correspondence and documents in their possession or under their control. On written request, the agency shall revoke a subpoena if the evidence, the production of which is required, does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. Witness fees shall

be paid to subpoenaed witnesses in accordance with Sec. 2552 of (The Revised Judicature Act). (See above.)

The Michigan Administrative Code, R 400.914:

- (1) An Agency subpoena authorized by law shall be issued to a party upon written request and a showing of need, general relevance to the issue involved, and the reasonable scope of the evidence sought requiring the attendance of witnesses and the production of identifiable records not exempt from disclosure by law.

SUBPOENA FOR ADMINISTRATIVE HEARINGS

A claimant, FIA local office, FIA Central Office unit, or representative wanting a subpoena related to an administrative hearing may request it by writing to Administrative Hearings giving the name and address of the witness and the information required by R400.914 (above). Administrative Hearings mails the original and a copy to the requestor. The original is to be served personally on the witness by a person 18 years of age or above. The witness fees must be paid at time of service from the requestor's funds. The rates described above (in the Revised Judicature Act) are the minimum, which must be paid. It is common procedure to pay a negotiated amount for an expert witness. Service must be at least two days prior to the hearing and may be made in several ways.

FIA employees are expected to attend administrative hearings in person or by telephone when the employee's attendance is requested by either the Agency or the client without the necessity of a subpoena. This includes attendance at a different county or district office if it is necessary. In cases where attendance has been requested, but the request is unreasonable, the employee may contact Administrative Hearings and request to be relieved of the duty to attend.

SERVICE OF PRIVATE CORPORATION

Serve a corporate office or leave a copy with the person in charge of the office and mail a copy to the principal Bureau of the corporation.

OTHER SERVICE

1. A subpoena may be served on a witness by leaving it with the witness personally. The fees for one day's attendance and mileage must be tendered to the person served at the time of service.
2. A subpoena may be served by mailing to the witness a copy of the subpoena and a post paid card acknowledging service and addressed to the party requesting service. The fees for attendance and mileage provided by law are to be given to the witness after the witness appears and the acknowledgment card must so indicate. If the card is not returned, the subpoena must be served personally.

3. A subpoena may be served by mailing the subpoena, with attendance fees and mileage, by certified mail, return receipt required, delivery restricted to the addressee.

**ENFORCEMENT OF
FIA ISSUED
SUBPOENAS**

A FIA issued subpoena which is not obeyed and which the Agency wishes to enforce should be sent to BLA along with a memo describing any action taken. Subpoenas requested by the OIG may be enforced by a county prosecutor or, in Wayne County, by the Attorney General's Criminal Division, at the direct request of the OIG.

INQUIRIES

Inquiries about safeguarding client records and information may be directed through supervisory channels to the Bureau of Legal Affairs.