

191—4.24(17A) Criteria for waiver or variance. In response to a petition completed pursuant to rule 4.26(17A), the insurance division may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the division finds, based on clear and convincing evidence, all of the following:

1. Application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. Waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. Provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and
5. If the rule implements Iowa Code chapter 502, or is being applied in conjunction with implementation of Iowa Code chapter 502, a waiver may be granted only if the waiver is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Iowa Code chapter 502.