§ 1720.505 Interlocutory review of administrative law judge’s decision.

(a) The appeals officer will not review a ruling of an administrative law judge prior to the appeals officer’s consideration of the entire proceeding in the absence of extraordinary circumstances. Except as provided in §1720.140 an administrative law judge shall not certify a ruling for interlocutory review to an appeals officer unless a party so requests and the administrative law judge is of the opinion and finds either on the record or in writing that:

(1) A subsequent reversal of the ruling would cause unusual delay or expense, taking into consideration the probability of such reversal, or

(2) Substantial rights are at stake and the final decision might be materially affected.

(b) The certification by the administrative law judge shall be in writing and shall specify the material relevant to the ruling involved. The appeals officer may decline to consider the ruling certified if the officer determines that interlocutory review is not warranted or appropriate under the circumstances. If the administrative law judge does not certify a matter, a party who had requested certification may apply to the appeals officer for review. An application for review shall be in writing and shall briefly state the grounds relied on and shall be filed within 2 days after notice of the ruling complained of. Review will not be granted unless the appeals officer concludes that the administrative law judge erred in failing to certify the matter. Unless otherwise ordered by the administrative law judge, the hearing shall continue whether or not such certification or application is made. Failure to request certification or to make such application will not waive the right to seek review of the ruling of the administrative law judge after the close of the hearing.