**Section 1001.400 Applicability; Statement of Principle and Purpose**

a) Applicability. This Subpart applies to the decision making process on applications for: restricted driving permits by persons whose driving privileges have been suspended, revoked, cancelled or denied; the issuance of restricted driving permits conditioned upon the installation of a breath alcohol ignition interlock device (BAIID); the reinstatement of driving privileges; the granting of driving privileges after denial; and the termination of cancellations. Each petitioner's case is unique and all of the evidence and the petitioner's entire driving record must be considered with these standards before a decision is made. The issuance of both forms of driving relief are discretionary with the Secretary of State upon the evidence presented as set forth in this Subpart D.

b) Statement of Principle and Purpose

1) In cases in which a person's driver's license and driving privileges are suspended or revoked, the Secretary has been given the following statutory mandate: *In no event shall the Secretary issue such license unless and until such person has had a hearing pursuant to* the *Code and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.* [625 ILCS 5/6-208] In the discharge of this mandate, this Subpart D provides guidance to both the Department and the public for issuing and obtaining driving relief.

2) In the implementation of this Subpart D, the Office of the Secretary of State subscribes to the disease concept of alcoholism/chemical dependency, as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10] and incorporates by reference the Jellinek chart (E.M. Jellinek, The Disease Concept of Alcoholism, Hillhouse Press (1960, no further amendments or additions included)). Furthermore, it is the policy of the Secretary of State that this Subpart D is to be read, interpreted, and applied as an integrated whole, rather than separately and individually. Therefore, the purpose of this Subpart D is to assist the hearing process to determine, first, the nature and extent of a petitioner's alcohol/drug problem; second, whether the petitioner's alcohol/drug problem has been resolved; and, third, whether the petitioner will be a safe and responsible driver. The petitioner must carry the burden of proof on each of these 3 issues by clear and convincing evidence in order to obtain driving relief. A petitioner cannot prove that the petitioner will be a safe and responsible driver unless and until the petitioner has proven that the alcohol/drug problem has been resolved. The fact the petitioner has abstained from the use of alcohol/drugs is not sufficient, in and of itself, to prove that the petitioner's alcohol/drug problem has been resolved. Rather, a petitioner must also demonstrate successful completion of all recommended countermeasures and that significant improvement has occurred in the petitioner's attitude and lifestyle from that which existed at the time of the offenses resulting in the suspension or revocation of driving privileges, so that the Secretary will be reasonably assured that the petitioner will be a safe and responsible driver in the future.

3) It is also the policy of the Secretary of State that a complete and accurate alcohol/drug use history is essential in determining the nature and extent of a petitioner's alcohol/drug problem and that a service provider's classification of a petitioner's alcohol/drug problem is not credible without a complete and accurate alcohol/drug use history. Furthermore, significant discrepancies and/or inconsistencies among or between the alcohol/drug use history recited in an alcohol/drug evaluation and the petitioner's testimony at a driver's license hearing, or the other evidence admitted at a hearing, renders suspect and unreliable a service provider's classification of a petitioner's alcohol/drug problem.

4) The use of breath alcohol ignition interlock device (BAIID) pursuant to the provisions of this Subpart D is an effective tool to prevent individuals from operating a motor vehicle after consuming alcohol. When a BAIID registers a violation showing a permittee who has been issued a monitoring device driving permit or a restricted driving permit that requires the use of a BAIID has attempted to start a vehicle after consuming alcohol, that violation is proof the permittee continues to require the use of a BAIID. Therefore, BAIID violations that indicate the consumption of alcohol should never serve as the sole basis for cancelling or revoking a permit, which would result in the removal of the BAIID from the permittee's vehicle. Instead, any BAIID violation involving the consumption of alcohol will be made part of the BAIID permittee's record of performance to be considered at the petitioner's next formal hearing for driving relief. A BAID Multiple Offender (BMO) permittee who does not meet the requirements of Subpart D at the time of reinstatement as a result of BAIID violations incurred during the monitoring period may only be renewed for a maximum of 12 months. The petitioner must come into compliance with all provisions of Subpart D during that 12-month renewal period. Failure to come into compliance with Subpart D will result in denial of reinstatement and restart the 1,826-day requirement in Sec. 1001.443.

5) This Subpart D is to be read, interpreted, and applied as an integrated whole. Therefore, it is insufficient to a determination of whether a petitioner's alcohol/drug problem has been resolved and whether the petitioner will be a safe and responsible driver for a petitioner to prove the successful completion or accomplishment of only some or part of the requirements of the classification of the petitioner's alcohol/drug use. Primarily, proof of long-term abstinence from the use of alcohol/drugs is insufficient to obtain driving relief without the successful completion or accomplishment of the other requirements of the classification of a petitioner's alcohol/drug use. To do so would allow for the arbitrary application of this Subpart D.

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