







## II. APPELLANT HAS NOT MET THE REQUIRED STANDARD FOR REVIEW

Appellant's application for review does not include any claim that there was any prejudicial error in the conduct of the proceedings before the ALJ, as he only challenges the legal conclusions contained in the ALJ's Decision.<sup>1</sup> However, his arguments challenging those conclusions do not appropriately address the considerations set forth in 16 CFR 1.147(b)(4)(ii)(B).

Appellant's argument that HISA and HIWU's lack of jurisdiction over Non-Covered Horses should permit Appellant to possess a Banned Substance without providing *any* evidentiary showing of the "compelling justification" required by Rule 3214(a) was correctly rejected in the ALJ's Decision. It concluded that, as a Covered Person, HISA and HIWU have jurisdiction over Appellant and, as a result, he is required to meet the evidentiary standard for a "compelling justification" for his Possession of a Banned Substance. In addition, the ALJ's Decision properly determined that Appellant did not support his claim that, in order to provide "due process" for Covered Persons, Rule 3214 should be required to identify factual scenarios that may meet the "compelling justification" standard. As set forth in the ALJ's Decision, requiring proof of this defense is clearly not a "due process" violation; Appellant was afforded due process under the ADMC Program because he had "ample opportunities" to provide a defense in two separate forums. Rather, Appellant is essentially arguing that he did not receive "due process" because his arguments were rejected by two adjudicators.

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<sup>1</sup> Contrary to Appellant's assertion, the acknowledgement that there was no evidence that he used the Banned Substance to treat Covered Horses is completely irrelevant to whether a Possession violation has been established. The ALJ's Decision correctly recognizes that this fact is relevant to Appellant's degree of Fault and the determination of Sanctions; it was considered in both the Arbitrator's Decision and the ALJ's Decision as a factor in reducing Appellant's period of Ineligibility.



