

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 441—Chapter 50
“Application for Assistance”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 249A.4

State or federal law(s) implemented by the rulemaking: Iowa Code sections 249.3, 249.4, and 249A.4 and 20 CFR §416, subpart T

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 6, 2024
2 to 3 p.m.

Microsoft Teams
Meeting ID: 238 807 808 374
Passcode: sCAuM5

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed chapter outlines the application procedures and related criteria for state supplementary assistance programs administered by the Department.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
No costs were identified.
 - Classes of persons that will benefit from the proposed rulemaking:
A person applying for state supplementary assistance will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
As of March 2024, there were approximately 900 members enrolled in the state supplementary assistance programs administered by the Department. These rules provide for consistent eligibility determinations and accurate payments for the enrolled members and any future applicants of state supplementary assistance programs.
 - Qualitative description of impact:
These rules play an important role in providing additional context, specificity, structure and a legal basis for decisions made by the Department.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Department incurs personnel costs to implement the program.

- Anticipated effect on state revenues:

There are no additional costs beyond those already appropriated.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The absence of these rules could lead to confusion or lack of clear legal authority.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

A less costly method has not been identified to achieve the purpose of this rulemaking.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

None.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Much of the benefit can be achieved through employee manuals and forms prescribed by the Department. However, an additional framework is needed to provide clarity, consistency and a legal basis for decisions made by the Department.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

None were identified.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 50 and adopt the following **new** chapter in lieu thereof:

STATE SUPPLEMENTARY ASSISTANCE
TITLE V
CHAPTER 50
APPLICATION FOR ASSISTANCE

441—50.1(249) Definitions.

“Aged” means a person 65 years of age or older.

“Applicant” means a person who is requesting state supplementary assistance on the person’s own behalf or a person for whom state supplementary assistance is requested.

“Blind” means the same as defined in 20 CFR §416.981.

“*Client*” means a person who has been determined eligible and is a current or former recipient of state supplementary assistance.

“*Disabled*” means the same as defined in 20 CFR §416.905 or 20 CFR §416.906.

EXCEPTION: For the supplement for Medicare and Medicaid eligibles, being engaged in substantial gainful activity will not preclude a determination of disability. For purposes of state-administered payments, the department will determine disability according to 441—Chapter 75.

“*Payment for a dependent relative*” means a payment to a recipient on behalf of a dependent relative as defined in Iowa Code section 249.3(3).

“*Payment for a protective living arrangement*” means a payment to a recipient living in a family life home.

“*Payment for residential care*” means a payment to a recipient living in a residential care facility who is determined to be in need of care and payment is made on a per diem basis.

441—50.2(249) Application procedures.

50.2(1) In order to be eligible for state supplementary assistance, an aged, blind, or disabled person with need for a living arrangement as defined in Iowa Code section 249.3 shall be receiving supplemental security income benefits or shall meet all eligibility requirements for the benefits other than income, but have less income than the standards for the living arrangements as set forth in 441—Chapter 52 and 441—Chapter 177.

a. Payments for mandatory supplementation, blind allowance, dependent relative allowance, and the family life home program shall be federally administered. Income excluded in determining eligibility for or the amount of a supplemental security income benefit will be excluded in determining eligibility for or the amount of the state payment.

b. Payments for in-home, health-related care and residential care shall be state administered. Income excluded in determining eligibility for or the amount of a supplemental security income benefit, except the \$20 exclusion of any income, will be excluded in determining eligibility for or the amount of the state payment.

c. Payments for supplements for Medicare and Medicaid eligibles shall be state-administered. Income excluded in determining eligibility for the person’s Medicaid coverage group will be excluded in determining eligibility for the state payment.

50.2(2) Any person applying for payment for a protective living arrangement or payment for a dependent relative shall make application for supplemental security income at the Social Security Administration district office. The county office of the department of health and human services will certify to the Social Security Administration as to the nature of the living arrangement or the status of the dependent.

50.2(3) Any person applying for payment for residential care, a dependent person allowance, payment for a protective living arrangement, or in-home health-related care shall make application with the department of health and human services.

The application shall be made on a form prescribed by the department. The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person’s behalf.

a. Each person wishing to do so shall have the opportunity to apply for assistance without delay.

b. An applicant may be assisted by an authorized representative, as defined in rule 441—76.1(249A). If the applicant is unable to act on the applicant’s own behalf, a responsible person may act on the applicant’s behalf pursuant to rule 441—76.9(249A).

c. The department will notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or refusal to authorize the department to secure the information from other sources shall serve as a basis for denial of assistance.

50.2(4) An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) will be considered as an application for the supplement for Medicare and Medicaid eligibles.

441—50.3(249) Approval of application and effective date of eligibility.

50.3(1) Payment for a federally administered payment category when the applicant is not an SSI recipient will be effective the month following the month that an application is filed or, if later, the month following the month that all eligibility criteria are met, pursuant to 42 U.S.C. §1382(c)(7).

Payment for a federally administered payment category when the applicant is an SSI recipient will be effective as of the first day of the month in which an application is filed or the first day of the month in which all eligibility criteria are met, whichever is later, notwithstanding 42 U.S.C. §1382(c)(7).

50.3(2) Payment for residential care will be effective as of the date that eligibility first exists, notwithstanding 42 U.S.C. §1382(c)(7), but in no case will the effective date be earlier than 30 days prior to the date of application.

50.3(3) The application for residential care will be approved or denied within five working days after the Social Security Administration approves supplemental security income benefits. When supplemental security income benefits will not be received, the application will be approved or denied within five working days from the date of establishment of all eligibility factors.

50.3(4) Payment for the supplement for Medicare and Medicaid eligibles will be effective retroactive to October 1, 2003, or to the first month when all eligibility requirements are met, whichever is later.

441—50.4(249) Reviews.

50.4(1) Any eligibility factor will be reviewed whenever a change in circumstances occurs.

50.4(2) All eligibility factors will be reviewed at least annually.

50.4(3) For purposes of an annual review to be performed by the department, the client shall complete and return a form prescribed by the department.

441—50.5(249) Application under conditional benefits. When the applicant or client is seeking state supplementary assistance (SSA) under the conditional benefit policy of the supplemental security income (SSI) program in accordance with 20 CFR §416.1242 as amended to March 15, 2022, the applicant or client are required to do the following:

50.5(1) Complete and return Form 470-2909.

50.5(2) Complete and return Form 470-2908 as follows:

a. For personal property, every 30 days during the conditional benefits period.

b. For real property, 35 days after conditional benefits are granted and every 60 days thereafter for nine months. If eligibility continues and the real property is not sold, the applicant or client shall complete the form every 90 days.

50.5(3) Sign an agreement to repay the state supplementary assistance granted during the conditional period using a form prescribed by the department. The amount of repayment is limited to the lesser of:

a. The amount by which the revised value of resources (resources counted at the beginning of the conditional period plus the net value of resources sold) minus both the resource limit and the amount that SSI recovers for conditional benefits.

b. The amount of state supplementary assistance actually paid in the conditional period, minus the amount that SSI recovers for conditional benefits.

These rules are intended to implement Iowa Code sections 249.3, 249.4 and 249A.4.