

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 441—Chapter 51
“Eligibility”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217.6

State or federal law(s) implemented by the rulemaking: Iowa Code sections 249.3 and 249.4

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 eligibility 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, or interested in, 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 clarity, 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 51 and adopt the following **new** chapter in lieu thereof:

CHAPTER 51 ELIGIBILITY

441—51.1(249) Definitions.

“*Administrative overpayment*” means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

“*Agency error*” means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.

4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

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

“*Client error*” means assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report changes as described in 441—Chapter 76.

441—51.2(249) Application for other benefits. An applicant or any other person whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits, including supplemental security income or the family investment program, for which the person may be eligible. The person must cooperate in the eligibility procedures while making application for the other benefits. Failure to cooperate shall result in ineligibility for state supplementary assistance.

441—51.3(249) Supplementation. Any supplemental payment made on behalf of the recipient from any source other than a nonfederal governmental entity will be considered as income, and the payment will be used to reduce the state supplementary assistance payment.

441—51.4(249) Eligibility for residential care.

51.4(1) Licensed facility. Payment for residential care can only be made when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections, appeals, and licensing pursuant to laws governing health care facilities.

51.4(2) Physician’s statement. Payment for residential care must be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification will be updated whenever a change in the recipient’s physical condition warrants reevaluation, but no less than every 12 months.

51.4(3) Income eligibility. The resident is income eligible when the income according to paragraph 441—52.1(3)“a” is less than 31 times the maximum per diem rate. Partners in a marriage who both enter the same room of the residential care facility in the same month will be income eligible for the initial month when their combined income according to paragraph 441—52.1(3)“a” is less than twice the amount of allowed income for one person (31 times the maximum per diem rate).

441—51.5(249) Dependent relatives.

51.5(1) Income. Income of a dependent relative must be less than the amount established by the department based on assistance standards as provided in rule 441—52.1(249). When the dependent’s income is from earnings, an exemption of \$65 will be allowed to cover work expense.

51.5(2) Resources. The resource limitation for a recipient and a dependent child or parent is \$2,000. The resource limitation for a recipient and a dependent spouse is \$3,000. The resource limitation for a recipient, spouse, and dependent child or parent is \$3,000.

51.5(3) Living in the home. A dependent relative is eligible until out of the recipient’s home for a full calendar month starting at 12:01 a.m. on the first day of the month until 12 midnight on the last day of the same month.

51.5(4) Dependency. A dependent relative may be the recipient’s ineligible spouse, parent, child, or adult child who is financially dependent upon the recipient. A relative will not be considered to be financially dependent upon the recipient when the relative is living with a spouse who is not the recipient.

441—51.6(249) Residence. A recipient of state supplementary assistance must be living in the state of Iowa.

441—51.7(249) Eligibility for supplement for Medicare and Medicaid eligibles. The following eligibility requirements are specific to the supplement for Medicare and Medicaid eligibles:

51.7(1) Medicaid eligibility. The recipient must be eligible for and receiving full medical assistance benefits under Iowa Code chapter 249A without regard to eligibility based on receipt of state supplementary assistance under this rule, and without being required to meet a spend down or pay a premium to be eligible for medical assistance benefits.

51.7(2) SSI eligibility. The recipient must meet all eligibility requirements for supplemental security income benefits other than limits on substantial gainful activity and income.

51.7(3) Not otherwise eligible. The recipient must not be eligible for benefits under another state supplementary assistance group.

51.7(4) Medicare eligibility. The recipient must be currently eligible for Medicare Part B.

51.7(5) Living arrangement. A recipient may live in one of the following:

- a. The person's own home.
- b. The home of another person.
- c. A group living arrangement.
- d. A medical facility.

51.7(6) Income. Income of a recipient must be within the income limit for the person's Medicaid eligibility group, but must exceed 120 percent of the federal poverty level.

441—51.8(249) Income from providing room and board. In determining income from furnishing room and board or providing family-life home care, the amount established by the department based on assistance standards as provided in rule 441—52.1(249) will be deducted to cover the cost, and the remaining amount will be treated as earned income.

441—51.9(249) Furnishing of social security number.

51.9(1) As a condition of eligibility applicants or recipients of state supplementary assistance must furnish their social security account numbers or proof of application for the numbers if they have not been issued or are not known and provide their numbers upon receipt.

51.9(2) Assistance will not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicants or recipients are cooperating in providing information necessary for issuance of their social security numbers.

441—51.10(249) Recovery.

51.10(1) Amount subject to recovery. The department will recover from a client all state supplementary assistance funds incorrectly expended to or on behalf of the client, or when conditional benefits have been granted.

a. The department will seek to recover the state supplementary assistance granted during the period of time that conditional benefits were correctly granted the client under the policies of the supplemental security income program.

b. The incorrect expenditures may result from client or agency error, or administrative overpayment.

51.10(2) Notification. All clients will be promptly notified when it is determined that assistance was incorrectly expended. Notification will include for whom assistance was paid; the time period during which assistance was incorrectly paid; the amount of assistance subject to recovery, when known; and the reason for the incorrect expenditure.

51.10(3) Source of recovery. Recovery will be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery must come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

51.10(4) *Repayment.* The repayment of incorrectly expended state supplementary assistance funds will be made to the department.

51.10(5) *Appeals.* The client has the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code sections 249.3 and 249.4.