Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 441—Chapter 52
"Payment"

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

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 249 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 payment criteria and details 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:

Persons eligible 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 clarity, specificity, structure and a legal basis for determining financial need and the amount of assistance granted.

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 determining financial need and the amount of assistance granted.

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 52 and adopt the following **new** chapter in lieu thereof:

CHAPTER 52
PAYMENT

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted. Current assistance standards will be published on the department's website. Assistance standards will be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §416.2095 and 20 CFR §416.2096 as amended to March 15, 2022. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

52.1(1) *Protective living arrangement.* Assistance standards will be established by the department as provided in this chapter for care and personal allowances for persons living in a family-life home certified under rules in 441—Chapter 111.

52.1(2) *Dependent relative.* Assistance standards for the following categories will be established by the department as provided in this chapter for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative.

b. Aged or disabled client, eligible spouse, and a dependent relative.

c. Blind client and a dependent relative.

d. Blind client, aged or disabled spouse, and a dependent relative.

e. Blind client, blind spouse, and a dependent relative.

52.1(3) *Residential care.* For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate or on a cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in this chapter.

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a licensed residential care facility will be based on the maximum per diem rate.

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule will be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care will be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

(1) When income is earned, impairment related work expenses, as defined by SSI plus $65 plus one-half of any remaining earned income.

(2) An allowance established by the department consistent with this chapter will be given to meet personal expenses and Medicaid copayment expenses.

(3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse's countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard will be made.

(4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent's countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.

(5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, will be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, will also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family-life home, an in-home health-related care provider, a home- and community-based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry will not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment must be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment must be made in the form of a grant to the recipient on a post payment basis.

d. Payment must not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence that exceeds the 30-day annual limit. This information must be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, on a form prescribed by the department, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions detailed in rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed 20 days in any calendar month when the resident is absent due to hospitalization. A resident may not start state supplementary assistance on reserve bed days.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is $22 per month.

52.1(5) *In-home, health-related care.* Payment to a person receiving in-home, health-related care must be made in accordance with rules in 441—Chapter 77.

52.1(6) *Minimum income level cases.* The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions that were in effect in October 1972 shall be utilized.

52.1(7) *Supplement for Medicare and Medicaid eligibles.* Payment to a person eligible for the supplement for Medicare and Medicaid eligibles shall be $1 per month.

This rule is intended to implement Iowa Code chapter 249.