

# HUMAN SERVICES DEPARTMENT[441]

## Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 62

“Rent Reimbursement”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 425.16 through 425.40

State or federal law(s) implemented by the rulemaking: Iowa Code sections 425.16 through 425.40

### *Public Hearing*

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

November 6, 2024

Microsoft Teams

2 to 3 p.m.

Meeting ID: 238 807 808 374

Passcode: sCAuM5

### *Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which 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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Des Moines, Iowa 50310

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### *Purpose and Summary*

This rulemaking provides guidance on eligibility for and parameters of Iowa's Rent Reimbursement Program.

### *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:

Iowans who are eligible for reimbursement of rent constituting property tax paid; i.e., low-income and elderly or disabled who rent property as opposed to owning it.

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:

There are no costs that are incurred as a result of these rules.

- Qualitative description of impact:

Having the guidance from the rules will benefit potential applicants by helping them understand some of the eligibility parameters and other program specifics. The rules also help program staff understand how the program is to be administered.

3. Costs to the State:

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

None beyond those necessitated by the underlying statutes.

- Anticipated effect on state revenues:

No impact.

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

Eliminating the rules altogether could lead to confusion and result in the need for staff to seek legal guidance.

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

The Policy Manual may be more accessible to potential claimants who have access to the internet. However, the rule contains information that is more applicable at the programmatic level rather than the claimant level..

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:

Iowa Code section 425.37 specifies that the Department shall adopt rules, particularly around preventing duplication of benefits with the property tax credit as well as preventing any undue hardships on applicants. The rules apply at the programmatic level as opposed to the claimant level, so it would not be appropriate to put that information in a Policy Manual.

#### *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?

Not applicable.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62

RENT REIMBURSEMENT

**441—62.1(425) Eligible claimants.** This rule is effective for rent reimbursement claims received by the department on or after January 1, 2023.

This rule is intended to implement Iowa Code section 425.16(2)“b.”

**441—62.2(425) Dual claims.**

**62.2(1)** A claimant changing homesteads during the base year who will make property tax payments during the fiscal year following the base year and who also made rent payments during the base year is entitled to receive both a property tax credit and rent reimbursement.

**62.2(2)** Claimants must file separate claim forms for the property tax credit and the rent reimbursement with the county treasurer and the department, respectively.

**62.2(3)** The claims are to be based on the actual property tax due and rent constituting property tax paid, with a combined maximum of \$1,000 upon which the credit and reimbursement can be calculated.

Example: \$800 property tax due \$400 rent constituting property taxes paid

a. The claim form for calculating the property tax credit must reflect the entire \$800 amount.

b. The claim form for calculating the rent reimbursement must reflect only the remaining \$200 of the \$1,000 maximum allowance.

c. The department will issue refund warrants for rent reimbursement claims. The county treasurer will apply the credit.

This rule is intended to implement Iowa Code section 425.24.

**441—62.3(425) Multipurpose building.**

**62.3(1)** A multipurpose building is a building which is used for other purposes in addition to being used for living accommodations. If a portion of a homestead property is utilized for business purposes, the property is considered to be a multipurpose building.

**62.3(2)** The portion of the property tax due or rent constituting property tax paid attributable to the homestead only is to be used in determining the allowable credit or reimbursement. This portion is to be calculated by determining the percentage of the homestead square footage to the square footage of the entire multipurpose structure. This percentage is then to be applied to the property tax due in the current fiscal year or rent constituting property tax paid for the base year.

This rule is intended to implement Iowa Code section 425.17(8).

**441—62.4(425) Income.**

**62.4(1)** Income includes the amount of in-kind assistance received by the claimant for housing expenses such as federal rent subsidy payments made directly to the landlord on behalf of the claimant and energy assistance benefits received by the claimant from or through a public utility.

**62.4(2)** In determining income, net operating losses and net capital losses are not to be considered. If the comparison of gains and losses results in a net gain, such amount shall be considered income. If the comparison results in a net loss, the net loss shall be disregarded.

This rule is intended to implement Iowa Code section 425.17(7).

**441—62.5(425) Simultaneous homesteads.** A person who rents one property and also rents another property for a simultaneous period of time is limited to claiming rent reimbursement on the property that is considered the person's domicile.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.6(425) Mobile, modular, and manufactured homes.** Rent paid by an eligible claimant for occupancy of a mobile, modular, or manufactured home subject to the annual tax as provided in Iowa Code chapter 435 is subject to reimbursement regardless of how the home is taxed.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.7(425) Totally disabled.**

**62.7(1)** A claimant is considered totally disabled only if the physical or mental impairment or impairments are of such severity that the claimant is not only unable to do work previously performed but cannot, considering the claimant's age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the claimant lives, or whether a specific job vacancy exists, or whether the claimant would be hired if the claimant applied for work.

**62.7(2)** For purposes of this rule, a person shall not be considered unable to engage in substantial gainful employment unless the person has attained the age of 18 on or before December 31 of the base year.

This rule is intended to implement Iowa Code section 425.17(11).

**441—62.8(425) Household.** "Household" includes the claimant and the claimant's spouse if living with the claimant at any time during the base year. "Living with" does not include a temporary visit. Only one claimant per household is entitled to a reimbursement.

This rule is intended to implement Iowa Code sections 425.17(5) and 425.22.

**441—62.9(425) Homestead.** A person who owns a homestead but is confined to a care facility shall be considered as occupying the owned homestead provided the person does not lease or otherwise receive profits from others for the use of the homestead. The person shall be eligible for a property tax credit but shall not be eligible for a rent reimbursement. This rule is intended to implement Iowa Code section 425.17(4).

**441—62.10(425) Gross rent/rent constituting property taxes paid.** "Gross rent" means the total amount of rent paid for use of the homestead by the claimant.

This rule is intended to implement Iowa Code section 425.17(3).

**441—62.11(425) Leased land.** An individual who owns a dwelling located on land owned by another may claim a credit of property taxes due on the dwelling and a reimbursement of rental payments made for the use of the land if the land has been assessed for taxation.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.12(425) Property: taxable status.** If the property was taxable for only part of the base year, the rent reimbursement must be prorated accordingly (OP.ST. BD. Tax Rev. 187). However, this restriction does not apply to property that became tax exempt on or after July 1, 1986, provided the claimant received a reimbursement of rent constituting property taxes paid on the property when it was in a taxable status and continues to reside in the same property.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.13(425) Income: spouse.** The income of a spouse does not have to be reported on the claimant's return unless the spouse lived with the claimant at the property upon which rent reimbursement is claimed. If the spouse lived with the claimant for only a portion of the base year, only that portion of the spouse's income which was received while living with the claimant must be reported as income on the claimant's return. If the spouse is eligible to claim reimbursement, the spouse does not have to include any income that was reported on the other claimant's (spouse's) return.

This rule is intended to implement Iowa Code section 425.17(6).

**441—62.14(425) Common law marriage.**

**62.14(1)** A common law marriage is a social relationship between two persons that meets all the necessary requisites of a marriage except that it was not solemnized, performed, or witnessed by an official authorized by law to perform marriages.

**62.14(2)** The necessary elements of a common law marriage are:

- a. A present intent of both parties freely given to become married,
- b. A public declaration by the parties or a holding out to the public that they are spouses,
- c. Continuous cohabitation together as spouses (this means consummation of the marriage), and
- d. Capability of both parties to enter into the marriage relationship.

**62.14(3)** No special time limit is necessary to establish a common law marriage.

This rule is intended to implement Iowa Code section 425.17.

**441—62.15(425) Audit of claim.**

**62.15(1) Authority.** The department may investigate the eligibility of a claimant for rent reimbursement.

**62.15(2) Recomputed rent reimbursement claim.** If the department determines a computed rent reimbursement is in error, the department shall collect any overpayment from the claimant or reimburse the claimant for any underpayment. If a claimant fails to reimburse the department for an overpayment, the amount of overpayment shall be deducted from any future rent reimbursement to which the claimant is entitled.

This rule is intended to implement Iowa Code section 425.27.

**441—62.16(425) Extension of time for filing a claim.** The granting of an extension of time for filing a claim for reimbursement does not extend the time within which or the dates on or by which eligibility requirements must be satisfied.

This rule is intended to implement Iowa Code section 425.20.

**441—62.17(425) Proration of claims.** If the director or the director's designee determines that the amount of funding provided pursuant to Iowa Code section 425.39 will be insufficient to pay all rent reimbursement claims filed, the director or the director's designee will estimate the percentage at which the claims will be paid and will prorate the payment of each rent reimbursement claim by the same estimated percentage.

This rule is intended to implement Iowa Code sections 25B.7 and 425.39.

**441—62.18(425) Unreasonable hardship.** In order to avoid any unreasonable hardship to a claimant, the director or the director's designee may review the facts and circumstances of the claim as set forth by the claimant. The director or the director's designee may investigate all factors related to the specific case as deemed appropriate by the director or the director's designee. If the director or the director's designee is satisfied that the claim qualifies as an undue hardship for the claimant, the claim will be approved by the director or the director's designee.

This rule is intended to implement Iowa Code section 425.37.

**441—62.19(425) Appeal.** Notice of adverse action taken by the department shall be issued in accordance with 441—Chapter 16, and the right to appeal shall be given in accordance with 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A