

## **HUMAN SERVICES DEPARTMENT[441]**

### **Regulatory Analysis**

Notice of Intended Action to be published:

441—Chapter 87 “Family Planning Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217.6 and 217.41B

State or federal law(s) implemented by the rulemaking: Iowa Code section 217.41B

### **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, 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:

Victoria L. Daniels  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.829.6021  
Email: [compliancerules@hhs.iowa.gov](mailto:compliancerules@hhs.iowa.gov)

### **Purpose and Summary**

This proposed chapter outlines the details of eligibility criteria, funding, provider criteria, and covered services for the Family Planning 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:

A person applying for, interested in, or participating in the State of Iowa Family Planning Program 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 2,800 members enrolled in the Family Planning Program. These rules provide for consistent and accurate eligibility determinations for individuals currently enrolled and any future applicants of the program.

- 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. This chapter also provides guidelines for provider participation, distribution of funds and claim submission.

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:

No additional costs are anticipated 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, lack of information, and 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 chapter.

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

- 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?

There is no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 87 and adopt the following **new** chapter in lieu thereof:

CHAPTER 87

FAMILY PLANNING PROGRAM

441—87.1(217) Definitions.

“Applicant” means a person who applies for assistance under the family planning program described in this chapter.

“Authorized Title X agency” means an agency or entity with an executed memorandum of understanding (MOU) with the department authorizing the agency to perform point-of-service eligibility determinations for the family planning program.

“Citizen” or “citizenship” includes both citizens of the United States and nationals of the United States as defined in 8 U.S.C. Section 1101(a)(22), as amended to August 1, 2024.

“Family planning services” means pregnancy prevention and related reproductive health services.

“Federal poverty level” means the levels published and updated periodically in the Federal Register by the United States Department of Health and Human Services (DHHS) under the

authority of 42 U.S.C. Section 9902(2), as amended to August 1, 2024, and revised annually on April 1.

“INA” means the Immigration and Naturalization Act of 1952. All references to the INA herein are as amended to August 1, 2024.

“Member” means a person who has been determined eligible and is a current or former recipient of family planning program services.

“Noncitizen” means the same as the term “alien” as defined at 8 U.S.C. Section 1101(a)(3), as amended to August 1, 2024.

“Qualified noncitizen” means the same as the term “qualified alien” as defined at 8 U.S.C. Section 1641(b) and (c), as amended to August 1, 2024, and refers to a person who is:

1. Lawfully admitted for permanent residence in the United States under the INA;
2. Granted asylum in the United States under Section 208 of the INA;
3. A refugee admitted to the United States under Section 207 of the INA;
4. Paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
5. A person whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA;
6. Granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;
7. An Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i) (V), as amended to August 1, 2024;
8. A Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7), as amended to August 1, 2024;

9. A battered noncitizen as described in 8 U.S.C. Section 1641(c), as amended to August 1, 2024;
10. Certified as a victim of trafficking as described in Section 107(b)(1)(A) of PL 106-386, as amended to August 1, 2024;
11. An American Indian born in Canada to whom Section 289 of the INA applies or a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e), as amended to August 1, 2024;
12. Under the age of 21 and lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii), as amended to August 1, 2024; or
13. Lawfully residing in the United States in accordance with a Compact of Free Association with the government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of PL 116-260, as amended to August 1, 2024.

“Qualifying quarters” means all of the qualifying quarters of coverage as defined under Title II of the Social Security Act as amended to August 1, 2024, worked by a parent of a noncitizen while the noncitizen was under the age of 18 and all of the qualifying quarters worked by a spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or the spouse is deceased. No qualifying quarters of coverage that are creditable under Title II of the Social Security Act, as amended to August 1, 2024, for any period beginning after December 31, 1996, may be credited to a noncitizen if the parent or spouse of the noncitizen received any federal means-tested public benefit during the period for which the qualifying quarter is credited.

441—87.2(217) Eligibility. Eligibility for the family planning program will be determined according to the provisions of this rule.

87.2(1) Persons covered. Subject to funding as described in subrule 87.7(1) and to the requirements of subrules 87.2(2), 87.2(4), and 87.2(6), assistance for family planning services will be available to the following individuals who are not enrolled in medical assistance pursuant to 441— Chapter 74 or 441—Chapter 75:

- a. Women who were enrolled in medical assistance when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 12-month postpartum period ends;
- b. Women who are under the age of 55, who are capable of bearing children but are not pregnant, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3);
- c. Men who are under the age of 55, who are capable of fathering children, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3).

87.2(2) Furnishing of social security number. As a condition of eligibility, except as provided by paragraph 87.2(2)“a,” an applicant or member must provide to the department or authorized Title X agency, as applicable, all social security numbers issued to each individual (including children) for whom family planning services are sought.

- a. The requirement of furnishing a social security number does not apply to an individual who:
  - (1) Is not eligible to receive a social security number;
  - (2) Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR §422.104 as amended to March 15, 2022; or
  - (3) Refuses to obtain a social security number because of a well-established religious objection.For this purpose, a well-established religious objection means that the individual:

1. Is a member of a recognized religious sect or division of a sect; and
2. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

b. If a required social security number has not been issued or is not known, the individual seeking coverage under the family planning program must cooperate with the department or authorized Title X agency, as applicable, in applying for a social security number with the Social Security Administration or in requesting the Social Security Administration to furnish the number.

87.2(3) Determination of household income. The department will determine the countable household income of an individual applying under paragraph 87.2(1)“b” or “c” as follows:

a. Household composition.

(1) The household includes the applicant or member, any dependent children, as defined below, living in the same home as the applicant or member, and any spouse living in the same home as the applicant or member, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act, as amended to August 1, 2024.

(2) Definition of dependent children. A dependent child is one under the age of 18 years or aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19.

b. Earned income. All earned income that is received by a member of the household shall be counted except for earnings of a child who is a full-time student as defined in subparagraph 87.2(3) “a”(1). Earned income, including but not limited to the following, will be counted:

(1) Salary.



(2) Wages.

(3) Tips.

(4) Bonuses.

(5) Commissions.

(6) Income from Job Corps.

(7) Earnings from self-employment defined as gross income less the allowable costs of producing the income.

c. Unearned income. The following unearned income of all household members will be counted:

(1) Unemployment insurance benefits.

(2) Child support.

(3) Alimony.

(4) Social security and railroad retirement benefits.

(5) Workers' compensation and disability payments.

(6) Benefits paid by the U.S. Department of Veterans Affairs to disabled members of the armed forces or survivors of deceased veterans.

d. Deemed income. Income deeming for a sponsored alien will be determined pursuant to subrule 87.2(5).

e. Deductions. Deductions from income will be made for any payments made by household members for the following:

(1) Court-ordered child support, alimony, or spousal support paid to nonhousehold members.

(2) Twenty percent of nonexempt earnings.

(3) Child care expenses or expenses related to care for an incapacitated adult. This deduction cannot exceed \$200 per month for each child under the age of two and \$175 per month for each adult or child aged two or older.

87.2(4) Citizenship or alienage requirements.

a. To be eligible for the family planning program, a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified noncitizen continuously present (as described in Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility, under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) at 62 CFR §61415 dated November 11, 1997, as amended to August 1, 2024) in the United States since August 22, 1996.

(3) A qualified noncitizen under the age of 21.

(4) A refugee admitted to the United States under Section 207 of the INA.

(5) A noncitizen who has been granted asylum under Section 208 of the INA.

(6) A noncitizen whose deportation is withheld under Section 243(h) or 241(b)(3) of the INA.

(7) A qualified noncitizen veteran who has an honorable discharge that is not due to alienage.

(8) A qualified noncitizen who is on active duty in the armed forces of the United States other than active duty for training.

(9) A qualified noncitizen who is the spouse or unmarried dependent child of a qualified noncitizen described in subparagraph 87.2(4)“a”(7) or 87.2(4)“a”(8), including a surviving spouse who has not remarried.

(10) A qualified noncitizen who has resided in the United States for a period of at least five years beginning on the date of the qualified noncitizen’s entry into the United States with a status within

the meaning of subparagraph 87.2(4)“a”(1), 87.2(4)“a”(4), or 87.2(4)“a”(9) under the definition of “qualified noncitizen” in rule 441—87.1(217).

(11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V), as amended to August 1, 2024.

(12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7), as amended to August 1, 2024.

(13) A certified victim of trafficking as described in Section 107(b)(1)(A) of PL 106-386, as amended to August 1, 2024.

(14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e), as amended to August 1, 2024.

(15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of PL 110-181, as amended to August 1, 2024, or to Section 602(b)(8) of PL 111-8, as amended to August 1, 2024.

(16) An Afghan paroled into the United States treated as a refugee pursuant to Section 2502 of PL 117-43, as amended to August 1, 2024.

(17) A qualified noncitizen lawfully residing in the United States in accordance with a Compact of Free Association with the government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of PL 116-260, as amended to August 1, 2024.

(18) A conditional entrant pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980.

b. As a condition of eligibility, all applicants for or members of the family planning program shall attest to their citizenship or qualified noncitizen status by signing the application or review form.

c. Except as provided in paragraph 87.2(4)“h,” applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“b” will present satisfactory documentation of citizenship as described in paragraph 87.2(4)“d” or “e.” A reference to a form in paragraph 87.2(4)“d” or “e” includes any successor form. An applicant or member who attests to citizenship must also verify the applicant’s identity. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the “reasonable period” begins on the date a written request for documentation is issued to an applicant or member and continues for 90 days.

(2) Family planning services will be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality.

d. Any one of the following documents must be accepted as satisfactory documentation of citizenship and identity:

(1) A United States passport, including a U.S. passport card issued by the U.S. Department of State, without regard to any expiration date as long as such passport or card was issued without limitation.

(2) A Certificate of Naturalization.

(3) A Certificate of United States Citizenship.

(4) A valid U.S. state-issued driver’s license, but only if the state issuing the license does either of the following prior to issuance of the license:

1. Requires proof of United States citizenship; or
2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian tribe as described at 42 CFR §435.407 as amended to March 15, 2022, including but not limited to a tribal enrollment card, a Certificate of Degree of Indian Blood, a tribal census document, or a document on tribal letterhead issued under the signature of the appropriate tribal official. Acceptable documentation:

1. Identifies the federally recognized Indian tribe that issued the document;
2. Identifies the individual by name; and
3. Confirms the individual's membership, enrollment, or affiliation with the tribe.

(6) Another document that provides proof of United States citizenship and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v), as amended to August 1, 2024.

e. Satisfactory documentation of citizenship and identity may also be demonstrated by the combination of any identity document described in paragraph 87.2(4)“f” and any one of the following:

(1) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the U.S. Virgin Islands, American Samoa, Swain's Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (if born after November 4, 1986 (CNMI local time)). The birth record document may be issued by a state, commonwealth, territory, or local jurisdiction. If the document shows that the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in this

paragraph, the individual may be a collectively naturalized citizen. The following establishes U.S. citizenship for collectively naturalized individuals:

1. Puerto Rico: Evidence of birth in Puerto Rico and the applicant's statement that the applicant was residing in the U.S., a U.S. possession, or Puerto Rico on or after January 13, 1941.

2. CNMI (formerly part of the Trust Territory of the Pacific Islands (TTPI)): Evidence of birth in the CNMI; evidence of TTPI citizenship and residence in the CNMI, the U.S., or a U.S. territory or possession on or after November 3, 1986 (CNMI local time); and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (CNMI local time); Evidence of TTPI citizenship, continuous residence in the CNMI since before November 3, 1981 (CNMI local time); voter registration before January 1, 1975; and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (CNMI local time); Evidence of continuous domicile in the CNMI since before January 1, 1974, and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (CNMI local time). Note: If a person entered the CNMI as a nonimmigrant and lived in the CNMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

(2) A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.

(3) A Report of Birth Abroad of a U.S. citizen.

(4) A certificate of birth in the U.S.

(5) A U.S. Citizen I.D. card.

(6) A Northern Marianas Identification Card issued by the U.S. Department of Homeland Security (or predecessor agency).

(7) A final adoption decree showing the child's name and U.S. place of birth or, if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.

(8) Evidence of U.S. Civil Service employment before June 1, 1976.

(9) A U.S. military record showing a U.S. place of birth. (10) Documentation that a child meets the requirements of Section 101 of the Child Citizenship Act of 2000 as amended to August 1, 2024 (8 U.S.C. Section 1431).

(11) Medical records, including but not limited to hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(12) A life, health, or other insurance record that indicates a U.S. place of birth.

(13) An official religious record recorded in the U.S. showing that the birth occurred in the U.S.

(14) School records, including preschool, Head Start, and day care, showing the child's name and U.S. place of birth.

(15) Federal or state census records showing U.S. citizenship or a U.S. place of birth. If the applicant does not have one of the documents listed in paragraph 87.2(4)“d” or subparagraphs 87.2(4)“e”(1) through 87.2(4)“e”(15), the applicant may submit an affidavit using a form prescribed by the department, signed under penalty of perjury by another individual who can reasonably attest to the applicant's citizenship. Such affidavit must contain the applicant's name, date of birth, and place of U.S. birth. The affidavit is not required to be notarized.

f. Any of the following documents must be accepted as satisfactory documentation of identity, provided the document has a photograph or other identifying information sufficient to establish identity, including but not limited to name, age, sex, race, height, weight, eye color, or address:

- (1) Identity documents listed at 8 CFR §274a.2(b)(1)(v)(B)(1) as amended to March 15, 2022, except a driver's license issued by a Canadian government authority.
- (2) A driver's license issued by a state or territory.
- (3) A school identification card.
- (4) A U.S. military card or draft record.
- (5) An identification card issued by the federal, state, or local government.
- (6) A military dependent's identification card.
- (7) A U.S. Coast Guard Merchant Mariner card.
- (8) For children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.
- (9) Two other documents containing consistent information that corroborates an applicant's identity. Such documents include but are not limited to employer identification cards; high school, high school equivalency, and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.
- (10) A finding of identity from a federal agency or another state agency, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual. If the applicant does not have any document specified in subparagraphs 87.2(4)“f”(1) through 87.2(4)“f”(10), the applicant may submit an affidavit using a form prescribed by the department signed under penalty of perjury by another individual who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in paragraph 87.2(4)“f.” The affidavit is not required to be notarized.



g. The department or authorized Title X agency, as applicable, must accept a photocopy, facsimile, scanned, or other copy of a document listed in paragraph 87.2(4)“d,”“e,” or “f” to the same extent as an original document, unless information on the submitted copy is inconsistent with other information available or there is reason to question the validity of, or information in, the document. The department must provide assistance in a timely manner to persons who need assistance in securing satisfactory documentation of citizenship or identity.

h. A person for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“b” is not required to present documentation of citizenship and identity for the family planning program if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare), as amended to August 1, 2024.

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 223 or 202, based on disability (as defined in Section 223(d) of the Act, as amended to August 1, 2024).

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act, as amended to August 1, 2024.

(4) The person is or was exempted while assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act, as amended to August 1, 2024, on the basis of being a child in foster care as defined in Iowa Code section 232.2(20B). This exemption does not apply, and the person is subject to the citizenship and identity documentation requirements described in paragraph 87.2(4)“c,” when services under Part B of Title IV, as amended to August 1, 2024, were terminated due to failure to meet citizenship requirements.

(5) The person is or was exempted while assisted by foster care as defined in Iowa Code section 232.2(20B) or adoption assistance funded under Part E of Title IV of the federal Social Security Act, as amended to August 1, 2024. This exemption does not apply, and the person is subject to the citizenship and identity documentation requirements described in paragraph 87.2(4)“c,” when services under Part E of Title IV, as amended to August 1, 2024, were terminated due to failure to meet citizenship requirements.

(6) The person has previously presented satisfactory documentation of citizenship and identity, as specified by the United States Secretary of Health and Human Services.

(7) The person was deemed eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4), as amended to August 1, 2024, on or after July 1, 2006, as the newborn of a Medicaid-eligible mother.

(8) The person was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e), as amended to August 1, 2024, as the newborn of a mother eligible for assistance under a State Children’s Health Insurance Program (SCHIP) pursuant to Title XXI of the Social Security Act, as amended to August 1, 2024.

i. Except as provided in paragraph 87.2(4)“h,” applicants or members for whom an attestation of qualified noncitizen status has been made pursuant to paragraph 87.2(4)“b” will present satisfactory documentation of qualified noncitizen status. Satisfactory documentation of qualified noncitizen status is documentation issued by the U.S. Citizenship and Immigration Services (USCIS) (formerly Immigration and Naturalization Service (INS)) of the Department of Homeland Security that identifies the person’s qualified noncitizen status.

87.2(5) Deeming of sponsor’s income.

a. When a qualified noncitizen admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1), as amended to August 1, 2024, on behalf of the qualified noncitizen, the income of the sponsor will be deemed to determine eligibility for the sponsored qualified noncitizen. The amount deemed to the sponsored qualified noncitizen will be the total countable income of the sponsor determined pursuant to paragraphs 87.2(3)“b” through “d.”

b. An indigent qualified noncitizen is exempt from the deeming of a sponsor’s income for 12 months after indigence is determined. A qualified noncitizen will be considered indigent if:

(1) The qualified noncitizen does not live with the sponsor; and

(2) The qualified noncitizen’s gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored qualified noncitizen’s household size.

c. A battered qualified noncitizen as described in 8 U.S.C. Section 1641(c), as amended to August 1, 2024, is exempt from the deeming of a sponsor’s income for 12 months.

d. Deeming of the sponsor’s income does not apply when:

(1) The sponsored qualified noncitizen attains citizenship through naturalization pursuant to Chapter 2 of Title II of the INA.

(2) The sponsored qualified noncitizen has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act , as amended to August 1, 2024, or can be credited with 40 creditable qualifying quarters as defined in rule 441—87.1(217).

(3) The sponsored qualified noncitizen or the sponsor dies.

(4) The sponsored qualified noncitizen is a child under the age of 21 as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii), as amended to August 1, 2024.

87.2(6) Residency requirements. Residency in Iowa is a condition of eligibility for the family planning program.

a. Definition of resident. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A person is a resident of Iowa when living there on other than a temporary basis. Residence will not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed.

b. Retention of residence. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

87.2(7) Investigation by quality control or the department of inspections, appeals, and licensing. As a condition of eligibility, an applicant or member must cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections, appeals, and licensing for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income does not affect family planning program eligibility. (More information can be found in 481—Chapter 72.) Failure to cooperate will serve as a basis for denial of an application or cancellation of family planning program eligibility. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but cannot be determined eligible until cooperation occurs.

87.2(8) Funding contingency. Initial and continuing eligibility for family planning services under this program is subject to the availability of funding appropriated for this purpose.

a. When appropriated funding is exhausted, ongoing eligibility will be terminated and new applications will be denied.

b. When appropriated funding becomes available, applications submitted thereafter will be considered on a first-come, first-served basis, based on the date of approval.

441—87.3(217) Enrollment.

87.3(1) Application. An individual who requests assistance for family planning services shall file an application on a form prescribed by the department. A woman eligible under paragraph 87.2(1)“a” is not required to file an application for assistance under this program. The department will automatically redetermine eligibility upon loss of other Medicaid eligibility within 12 months after the month when the 12-month postpartum period ends.

87.3(2) Place of filing. An application may be filed at any department office or authorized Title X family planning agency.

87.3(3) Information or verification needed to determine eligibility. The department or authorized Title X agency, as applicable, will notify the applicant or member, authorized representative, or responsible person in writing of the information or verification required to establish eligibility. This notice must be provided to the applicant or member, authorized representative, or responsible person personally or by mail or fax.

a. The department or authorized Title X agency, as applicable, will allow the applicant or member, authorized representative, or responsible person ten calendar days to supply the information or verification requested.

b. The department or authorized Title X agency, as applicable, may extend the deadline for a reasonable period of time when the applicant or member, authorized representative, or responsible person is making reasonable efforts but is unable to secure the required information or verification.

c. If benefits are denied for failure to provide information or verification and the information or verification is provided within 14 calendar days of the effective date of the denial, the department or authorized Title X agency, as applicable, will complete the eligibility determination as though the information or verification were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or member, authorized representative, or responsible person will have until the next business day to provide the information.

87.3(4) Annual review. An individual who requests that assistance continue for family planning services shall complete a form prescribed by the department. The member must submit the completed review form before the end of the eligibility period to any location specified in subrule 87.3(2).

87.3(5) Time limit for decision. An application or review form will be processed by the department or authorized Title X agency with which the form was filed. A determination of eligibility will be made within 45 days of receipt of the application or review form.

87.3(6) Notice of decision. The individual will be notified in writing of the decision regarding eligibility for the family planning program.

441—87.4(217) Effective date of eligibility. Subject to the availability of funding appropriated for this purpose, assistance for family planning services under this program will be effective on the first day of the month of application or the first day of the month in which all eligibility

requirements are met, whichever is later. Assistance will not be available under this program for any months prior to the month of application.

441—87.5(217) Period of eligibility. Eligibility for family planning services under this program will be limited to a period of 12 months from the effective date of eligibility, or the duration of appropriated funding, whichever is less. A new application or annual redetermination of eligibility is required for benefits to continue beyond 12 months.

441—87.6(217) Reporting changes.

87.6(1) Required changes to report. An individual applying for or receiving family planning services under this program shall report the following changes within ten days from the date the change is known:

- a. Change in mailing address;
- b. No longer a resident of Iowa;
- c. A woman becomes pregnant;
- d. No longer capable of bearing or fathering children;
- e. Becomes Medicaid or Iowa health and wellness plan eligible, except women meeting criteria in paragraph 87.2(1)“a”; or
- f. Turns 55 years of age.

87.6(2) Disregard of changes. An individual found to be eligible upon application or annual redetermination of eligibility will remain eligible for 12 months or the duration of appropriated funding, whichever is less, regardless of any change in income or household size.

441—87.7(217) Funding of family planning services program.

87.7(1) Distribution of funds. Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—

87.11(217). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. Effective July 1, 2018, eligible family planning providers shall be interpreted to include a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed. For the purposes of this subrule, “nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services. For the purposes of this subrule, “abortion” does not include any of the following:

- a. The treatment of a woman for a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.
- b. The treatment of a woman for a spontaneous abortion, commonly known as a miscarriage, when not all of the products of human conception are expelled.

87.7(2) Recovery. The department will recover from a member all funds incorrectly expended to or on behalf of the member for family planning program services.

441—87.8(217) Availability of services. Family planning services are payable for an individual enrolled in this program only when care is received at or authorized by a participating family planning provider.

87.8(1) Sterilization is a covered service subject to the limitations in 441—Chapter 78.

87.8(2) Covered services cannot include abortion services.



441—87.9(217) Payment of covered services. Payment for family planning services covered under this chapter, including services authorized but not provided by a participating family planning provider, can be made only to participating family planning providers on a fee schedule determined by the department. Family planning services program funds distributed in accordance with this rule will not be used for direct or indirect costs, including but not limited to administrative costs or expenses, overhead, employee salaries, rent, and telephone and other utility costs, related to providing abortions as specified in subrule 87.7(1).

87.9(1) Fee schedule. The fee schedule will include the amount of payment for each service and any limits on the service (e.g., a routine Pap smear is payable once annually).

87.9(2) Third-party payments. This program is the payer of last resort for services covered in this chapter. Any third-party payment received by the family planning agency or other provider of services plus any payments under this program cannot exceed the fee schedule allowance.

87.9(3) Supplementation. Payment made under this program is to be considered payment in full.

441—87.10(217) Submission of claims.

87.10(1) Family planning providers that participate in the program can submit claims to Iowa Medicaid for services rendered no later than 45 days from the last day of the month in which services were provided.

87.10(2) Following a successful review of the claim, the Iowa Medicaid enterprise will make payments to the family planning provider subject to the availability of funding and the allocation of available funds under subrule 87.7(1).

441—87.11(217) Providers eligible to participate.

87.11(1) Providers must be enrolled with the Iowa Medicaid program, subject to 441—Chapter 79, and otherwise qualified to provide family planning services under Medicaid, subject to the

limitations related to abortions, as specified above under subrule 87.7(1). Effective July 1, 2018, as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system will enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation that abortions are not performed at the distinct location. For the purposes of this subrule, “nonprofit health care delivery system” has the same meaning as provided under subrule 87.7(1).

87.11(2) Process for enrollment. Providers wishing to enroll under the state family planning program must complete the following steps:

- a. Must complete enrollment with Iowa Medicaid.
- b. Must complete a form prescribed by the department regarding nonprovision of abortions, pursuant to requirements referenced above under subrule 87.7(1).
- c. Forms must be sent to the department at P.O. Box 36450, Des Moines, Iowa 50315.

These rules are intended to implement Iowa Code section 217.41B