

Council on Human Services

THURSDAY, DECEMBER 8, 2022

10 A.M. – 11:30 P.M.

[CLICK TO JOIN ZOOM MEETING](#)

Join by Phone: 1-551-285-1373

Meeting ID: 1618827935 Passcode: 497162

AGENDA

- 10:00 a.m. Call to Order**
- 10:05 a.m. Approval of November 10, 2022, meeting minutes**
- 10:05 a.m. Rules**

The following amendments to the administrative rules are presented for adoption at the December 8, 2022, Council on Human Services meeting.

R-1. Amendments to Chapter 50, “Application for Assistance -State Supplemental Assistance Program,” Iowa Administrative Code. (Align rules with current practice and Iowa Code).

This rule making adds definitions to provide clarity to the program. Form numbers are added, and form names are removed to provide consistency across programs. Outdated references and processes are removed from the rules. This review is part of the department’s five-year rules review process.

R-2. Amendments to Chapter 51, “Eligibility - State Supplementary Assistance Program,” Iowa Administrative Code. (Aligns rules with current practice and Iowa Code).

This rule making updates federal code references to provide accurate listings. Outdated references are removed. This review is part of the department’s five-year rules review process.

R-3. Amendments to Chapter 52, “Payment - State Supplementary Assistance Program,” Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)

This rules review resulted in proposed technical changes. References to federal regulations were updated to provide accurate listings. Outdated references were removed. This review is part of the department’s five-year rules review process.

R-4. Amendments to Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code. (Implements HF 2546 and 2578; Adopt Emergency after Noticed)

During the 2022 legislative session HF 2546 was passed which requires Iowa Medicaid to establish a rate for psychiatric intensive care in Iowa. HF 2578 was also passed which requires implementation of a tiered reimbursement methodology for psychiatric intensive patient care under the Medicaid program no later than January 1, 2023. This rule making defines acute psychiatric intensive care and identifies how a patient meets the need for that level of care. The rulemaking also identifies the payment methodology for the acute psychiatric intensive care services. These rules are being adopted emergency after notice for a January 1, 2023, effective date.

R-5. Amendments to Chapter 82, “Intermediate Care Facilities for Persons with an Intellectual Disability,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code).

This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Names of forms and outdated references were removed. This review is part of the department’s five-year rules review process.

R-6. Amendments to Chapter 84, “Early and Periodic Screening, Diagnosis and Treatment,” Iowa Administrative Code. (Align rules with current practice and federal regulations)

This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed. This review is part of the department’s five-year rules review process.

R-7. Amendments to Chapter 95, “Collections,” Iowa Administrative Code. (Implements HF 761)

This rules review resulted in technical changes. Amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are updated to provide accurate listings and outdated references are removed. Mailing addresses are updated. This review is part of the department’s five-year rules review process.

R-8. Amendments to Chapter 96, “Information and Records,” Iowa Administrative Code. (Align rules with current practice, the Iowa Code, and federal regulations).

This rules review resulted in technical changes. References to obsolete forms are replaced with current information. Mailing addresses are updated. This review is part of the department’s five-year rules review process.

R-9. Amendments to Chapter 97, “Collection Service Center,” Iowa Administrative Code. (Align rules with current practice, the Iowa Code, and federal regulations).

This rules review resulted in technical changes. References to obsolete language are being replaced with current information. This review is part of the department’s five-year rules review process.

The following amendments to the administrative rules are presented as Noticed rules.

N-1. Amendments to Chapter 74, “Iowa Health and Wellness Plan,” Iowa Administrative Code. (Align rules with current practice and Iowa Code).

Chapter 74 defines and structures the Iowa Health and Wellness Plan. This chapter is being rescinded and replaced to eliminate rules that are outdated, redundant and inconsistent. Terminology is being updated. The references to marketplace are being removed as they no longer exist. Retroactive enrollment is updated to include nursing facilities. The website has been added as a payment method for contributions. Members will no longer be required to pay premiums when services were no services were provided. This review is part of the department’s five-year rules review process.

N-2. Amendments to Chapter 81, “Nursing Facilities,” Iowa Administrative Code. (Implements 2022, HF 761)

This proposed rulemaking implements legislation from 2022 Iowa Acts, House File 761. This rulemaking provides for a quality incentive payment program (QIPP) for non-state government owned nursing facilities (NSGO) to promote, maintain and improve quality of care and health outcomes. The proposed rules identify the criteria the NSGO facility shall meet to qualify for participation in the program. The goal is to issue additional payments for quality of care above what is required by the Centers for Medicaid and Medicare. There is no fiscal impact anticipated as the provider/nursing facility will be paying the state share of the add-on rate, like other inter-governmental transfer programs.

N-3. Amendments to Chapter 81, “Nursing Facilities.” Iowa Administrative Code. (Implements 2022, HF 2578).

Legislation passed in 2022, Iowa Acts, House File 2578 updated the law to reduce the cost of an improvement project for an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds \$750,000. The previous amount was \$1.5 million dollars. This proposed rulemaking identifies the lower threshold of the \$750,000 amount. This amendment also includes HVAC projects as a qualifying project. How to calculate Medicaid utilization rates is also defined as part of this proposed rulemaking

N-4. Amendments to Chapter 172, “Family-Centered Services,” (Align rules with current practice and the Iowa Code)

Chapter 172 rules for family-centered services define and describe procedures for delivery of services for the child, parent, or kinship caregiver when the needs of anyone of these individuals are directly related to the safety, permanency, or well-being of the child, or to prevent the child from entering foster care. The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child. These proposed rules add and update definitions of services. These proposed rules remove Solution Based Casework® as a requirement for non-agency cases. In addition, the purpose and scope are clarified. This review is part of the department’s five-year rules review process.

- 10:30 a.m. Annual Report and Legislative Session Preview – Chief of Strategic Operations Matt Highland and Legislative Liaison Carrie Malone**
- 10:40 a.m. Medicaid Waiver Evaluation – Medicaid Director Liz Matney**
- 11:00 a.m. Director’s Report – Chief of Strategic Operations Matt Highland**
- 11:15 a.m. Council Update**
- 11:30 p.m. Adjourn**

This meeting is accessible to persons with disabilities. (If you have special needs, please contact the Department of Human Services (515) 281-5452 two days prior to the meeting.) Note: Times listed on agenda for specific items are approximate and may vary depending on the length of discussion for preceding items. Please plan accord

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to application for assistance.

The Human Services Department hereby amends Chapter 50, "Application For Assistance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 249.4 and 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 249.4 and 249A.4.

Purpose and Summary

Chapter 50 was reviewed as part of the Department's five-year rules review. Chapter 50 sets out the application process for the State Supplementary Assistance program. This rules review resulted in the following technical amendments. Definitions are added to provide clarity to the program. Form numbers are added and form names are removed to provide consistency across programs. Outdated references are removed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as ARC 6590C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Human Services Department on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441_1.8(17a,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 50 - Adopted and Filed Rules

The following rules are adopted:

ITEM 1. Amend rule 441—50.1(249) as follows:

441—50.1(249) Definitions.

“Aged” shall mean 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” shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

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

“Disabled” shall mean that a person is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death. Exception: For the supplement for Medicare and Medicaid eligibles, being engaged in substantial gainful activity shall not preclude a determination of disability. A child under the age of 18 is disabled if the child suffers from any medically determinable physical or mental impairment of comparable severity. For purposes of state-administered payments, the department shall determine disability according to ~~rule 441—75.20(249A)~~ 441—Chapter 75.

“Payment for a dependent relative” shall mean payment to a recipient on behalf of a dependent relative as defined in Iowa Code section 249.3(3). The payment shall be made in accordance with standards established by the department in rule 441—52.1(249).

“Payment for a protective living arrangement” shall mean payment to a recipient living in a family life home. The payment shall be made in accordance with standards established by the department ~~by rule in 441—Chapter 52~~ in rule 441—52.1(249).

“Payment for residential care” shall mean 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. The payment shall be made in accordance with standards established by the department in rule 441—52.1(249).

This rule is intended to implement Iowa Code section 249.3 ~~as amended by 2004 Iowa Acts, House File 2134, section 4.~~

ITEM 2. Amend rule 441—50.2(249) as follows:

441—50.2(249) Application procedures.

50.2(1) and **50.2(2)** No change.

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 ~~at a local office of with the department of human services or at the residential care facility where the person resides. Any person applying for a dependent person allowance or for payment for a protective living arrangement or in-home, health-related care shall make application at a local office of the department. An application may also be filed in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided.~~

The application shall be made on ~~the Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or 470-0462(S)~~ Form 470-5170 or 470-5170(S). 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 ~~individual~~ person wishing to do so shall have the opportunity to apply for assistance without delay.

~~b. An applicant may be assisted by other individuals in the application process; the client may be accompanied by the individuals in contact with the department, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process as an authorized representative, as defined in rule 441—76.1(249). 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).~~

~~e. The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the department shall send the necessary forms in the next outgoing mail.~~

~~d. c. The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The department shall 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) shall be considered as an application for the supplement for Medicare and Medicaid eligibles.

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 3. Amend rule 441—50.3(249) as follows:

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

50.3(1) to 50.3(3) No change.

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

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 4. Amend rule 441—50.4(249) as follows:

441—50.4(249) Reviews.

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

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

50.4(3) For purposes of an annual review to be performed by the department, ~~Form 470-3118 or 470-3118(S), Medicaid Review, shall be completed~~ the client shall complete and return Form 470-5482, 470-5482(S), 470-5482(M), or 470-5482(MS).

~~**50.4(4)** Rescinded IAB 10/31/01, effective 1/1/02.~~

This rule is intended to implement Iowa Code section 249.4.

ITEM 5. Amend rule 441—50.5(249) as follows:

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 shall be required to do the following:

50.5(1) Sign Complete and return Form 470-2909, Agreement to Sell Excess Property, in order to be eligible.

50.5(2) ~~Describe the efforts that are made to sell the property on~~ Complete and return Form 470-2908 ; Description of Efforts to Sell Property, as requested by the department. ~~The department shall request that the form be completed no more often than specified. as follows:~~

a. For personal property, ~~being sold Form 470-2908 shall be completed no more often than~~ every 30 days during the conditional benefits period.

b. For real property, ~~being sold Form 470-2908 shall be completed beginning~~ 35 days after conditional benefits are granted and ~~no more often than~~ 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 ~~shall be completed no more often than~~ every 90 days.

50.5(3) Sign an agreement to repay the state supplementary assistance granted during the conditional period using Form 470-2835, ~~State Supplementary Assistance Agreement to Repay Conditional Benefits~~. 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.

This rule is intended to implement Iowa Code sections 249.3, 249.4 and 249A.4.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Minor updates to eligibility criteria as required by the five-year rule review process.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Rules review mandate, Iowa Code 17A.7
3. Describe who this rulemaking will positively or adversely impact.
Neutral impact. No changes to policy. Updates for clarification of existing rules.
4. Does this rule contain a waiver provision? If not, why?
No.
5. What are the likely areas of public comment?
Unknown.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No.



Administrative Rule Fiscal Impact Statement

Date: June 20, 2022

Agency: Human Services

IAC citation: 441 IAC 50

Agency contact: Kelly Lindsay

Summary of the rule:

Minor updates to eligibility criteria as required by the five-year rule review process. No changes to policy. Updates for clarification of existing rules.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

These changes include updates to eligibility criteria in order to clarify existing policy. No changes to policy are being made so there is no fiscal impact.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY 23)	Year 2 (FY 24)
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	_____	_____
<p><input type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons:</p>		
<p><input type="checkbox"/> Funding has been provided for the rule change. <i>Please identify the amount provided and the funding source:</i></p>		
<p><input checked="" type="checkbox"/> Funding has not been provided for the rule. <i>Please explain how the agency will pay for the rule change:</i> No fiscal impact is expected.</p>		
<p><i>Fiscal impact to persons affected by the rule:</i> No impact.</p>		
<p><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i> No impact.</p>		
Agency representative preparing estimate:	Jason Buls	JH 06/21/2022
Telephone number:	515-281-5764	

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to eligibility

The Human Services Department hereby amends Chapter 51, "Eligibility," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249.2.

Purpose and Summary

Chapter 51 was reviewed as part of the Department's five-year rules review. Chapter 51 sets out requirements for eligibility to receive State Supplementary Assistance. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as ARC 6586C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441_1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 51 Adopted and Filed Rules

Adopt the following rules:

ITEM 1. Amend rule 441—51.3(249) as follows:

441—51.3(249) Eligibility for residential care.

51.3(1) Licensed facility. Payment for residential care shall be made only when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections and appeals pursuant to laws governing health care facilities.

51.3(2) Physician's statement. Payment for residential care shall 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 shall be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

51.3(3) Income eligibility. The resident shall be income eligible when the income according to 441—paragraph 52.1(3)“a” is less than 31 times the maximum per diem rate ~~of the facility~~. Partners in a marriage who both enter the same room of the residential care facility in the same month shall be income eligible for the initial month when their combined income according to 441—paragraph 52.1(3)“a” is less than twice the amount of allowed income for one person (31 times the maximum per diem rate ~~of the facility~~).

~~**51.3(4) Diversion of income.** Rescinded IAB 5/1/91, effective 7/1/91.~~

~~**51.3(5) Resources.** Rescinded IAB 5/1/91, effective 7/1/91.~~

This rule is intended to implement Iowa Code section 249.3.

ITEM 2. Amend rule **441—51.6(249)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.3 ~~as amended by 2005 Iowa Acts, House File 825, section 108.~~

ITEM 3. Amend subrule 51.9(1) as follows:

51.9(1) 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 ~~applicant or~~ 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 ~~as defined~~ changes as described in rule 441—76.10(249A) 441—Chapter 76.

“*Department*” means the department of human services.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Minor updates to eligibility criteria as required by the five-year rule review process.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Rules review mandate, Iowa Code 17A.7
3. Describe who this rulemaking will positively or adversely impact.
Neutral impact. No changes to policy. Updates for clarification of existing rules.
4. Does this rule contain a waiver provision? If not, why?
No.
5. What are the likely areas of public comment?
Unknown.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No.



Administrative Rule Fiscal Impact Statement

Date: July 29, 2022

Agency: Human Services

IAC citation: 441 IAC 51

Agency contact: Kelly Lindsay

Summary of the rule:

Minor updates to eligibility criteria as required by the five-year rule review process. No changes to policy. Updates for clarification of existing rules.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

Neutral impact. No changes to policy. Updates for clarification of existing rules.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

No fiscal impact.

Fiscal impact to persons affected by the rule:

No fiscal impact.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

No fiscal impact.

Agency representative preparing estimate: Jason Buls

JH 07/29/2022

Telephone number:

515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to payment.

The Human Services Department hereby amends Chapter 52, "Payment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249.2.

Purpose and Summary

Chapter 52 was reviewed as part of the Department's five-year rules review. Chapter 52 sets out the guidelines for payment by the Department to recipients under the State Supplementary Assistance program. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as ARC 6587C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441_1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 52- Payment- Adopted and Filed Rules

Adopt the following rules:

ITEM 1. Amend rule 441—52.1(249), introductory paragraph, as follows:

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 shall be published on the department's website. Assistance standards shall be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §§416.2095 and 416.2096 as amended to March 15, 2022. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

ITEM 2. Amend subrule 52.1(3) as follows:

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 rule 441—52.1(249). ~~The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).~~

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a ~~privately operated~~ licensed residential care facility shall be based on the maximum per diem rate. ~~Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate or be based on the cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in rule 441—52.1(249).~~

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. to f. No change.

~~g. The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.~~

~~(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.~~

~~(2) To compute the facilitywide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.~~



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Minor updates to eligibility criteria as required by the five-year rule review process.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Rules review mandate, Iowa Code 17A.7
3. Describe who this rulemaking will positively or adversely impact.
Neutral impact. No changes to policy. Updates for clarification of existing rules.
4. Does this rule contain a waiver provision? If not, why?
No.
5. What are the likely areas of public comment?
Unknown.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No



Administrative Rule Fiscal Impact Statement

Date: July 29, 2022

Agency: Human Services

IAC citation: 441 IAC 52

Agency contact: Kelly Lindsay

Summary of the rule:

Minor updates to eligibility criteria as required by the five-year rule review process. No changes to policy. Updates for clarification of existing rules.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

Neutral impact. No changes to policy. Updates for clarification of existing rules.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

No fiscal impact.

Fiscal impact to persons affected by the rule:

No fiscal impact.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

No fiscal impact.

Agency representative preparing estimate: Jason Buls

JH 07/29/2022

Telephone number:

515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to medical and remedial care.

The Human Services Department hereby amends Chapter 78, "Amount, Duration And Scope Of Medical And Remedial Services," and Chapter 79, "Other Policies Relating To Providers Of Medical And Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 249A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249A.

Purpose and Summary

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2546, which requires Iowa Medicaid to establish a rate for psychiatric intensive care in Iowa, was passed. 2022 Iowa Acts, House File 2578, which requires implementation of a tiered rate reimbursement methodology for psychiatric intensive patient care under the Medicaid program no later than January 1, 2023, was also passed.

This rule making defines "acute psychiatric intensive care" and identifies how a patient meets the need for that level of care. This rule making also identifies the payment methodology for the acute psychiatric intensive care services.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as ARC 6619C.

The department receive comments from three individuals representing two agencies. The comments and the department's responses are listed below:

COMMENTS:

UnityPoint Health

UnityPoint Health would like to acknowledge and thank both the Iowa Department of Health Humans Services (HHS) and the Iowa Hospital Association for their efforts in convening a workgroup of interested stakeholders for the development of psychiatric intensive care Medicaid administrative rules and rates. UnityPoint Health was an active participant in the state-sponsoring pre-rule-making sessions to develop these rules and our feedback along with that of other providers was incorporated into the proposed rules. As such, UnityPoint Health is generally supporting of the rules remaining without substantive changes, would offer some operational feedback.

Comment A: UnityPoint Health would respectfully request that HHS continue to monitor both minor and geriatric patients to evaluate future inclusion for psychiatric intensive care services.

Department Response to Comment A: The scope of the current rules was established to ensure timely implementation of House Files 2546 and 2578. Fiscal estimations that support the appropriation were based on the limited demographic identified in the rules. The Department concurs that additional conversation regarding expansion of this rate to include minors and geriatric patients is merited in the future. Iowa Medicaid is developing a monitoring plan for ongoing evaluation of rate implementation that may help inform future conversations.

Comment B: UnityPoint Health is concerned that neither hospitals nor managed care organizations (MCOs) will have sufficient time to update their software systems by the effective date. As a result, it is reasonable to believe that full program implantation will be delayed and that billing start dates will vary by hospital and/or MCO as HHS and the Iowa Legislature evaluate the effectiveness of this program and the adequacy of rates, we encourage a deeper dive into program/service utilization to ascertain when rates were fully able to be billed to make an informed judgement.

Department Response to Comment B: These rules and associated rates are being implemented in an expedited fashion, while maintaining a strong collaborative effort with impacted partners. The managed care organizations have been actively engaged in development of claims processing and utilization management standards. A policy clarification was submitted to the MCOs November 9, 2022 to provide written documentation needed to ensure MCO system updates will be in place by January 2023. The same information was shared with the psychiatric intensive care workgroup, including hospitals and MCOs, throughout October and November 2022. The Department acknowledges even with these efforts, this is a new rate that will take ongoing time and education to fully implement across all Iowa hospitals. Iowa Medicaid is developing a monitoring plan for ongoing evaluation of the rules and rate implementation that will include monitoring program and service utilization.

During the public notice and comment period, the state workgroup discussed additional changes to the rules. UnityPoint Health reviewed these proposed revisions, which are included below. UnityPoint opposes some changes while supporting others.

Comment C: A change was proposed to make the following strike ~~“A history of violence or current aggression that is secondary to mental illness.”~~ UnityPoint disagrees with this strike stating, a history of and known propensity for violence should not be excluded as a factor that demonstrates complexity of care.

Department Response to Comment C: This comment was discussed with the state workgroup with parties both for and against striking the language. The Department has determined it will not strike the language “A history of violence or” as such a history could impact clinical decision making for maintaining safety for the member, other patients, staff, and the facility.

Comment D: A change was proposed to modify language to, “A highly disorganized psychotic state or manic thought process that impairs the ability to function, or the safety of the patient or others; or”. UnityPoint disagrees with the inclusion of the subjective limiting adjective, “highly”. Highly disorganized psychotic state is not defined in code, and it is unclear what difference in documentation is required to prove disorganized psychotic state versus highly disorganized psychotic state. UnityPoint supports the suggested addition to the list of indicators that demonstrate complexity of need. This proposed revision adds “manic thought process” and also expands the manifestation for both conditions to include impaired function.

Department Response to Comment D: These modifications were discussed with the state workgroup. The term “highly” is being struck from the rule as it is subjective. “Or manic thought process that impairs the ability to function, or risks the safety of the patient or others” was added to provide additional clarity for providers.

Comment E: A change was proposed to modify language to “Actively suicidal or homicidal; or”. UnityPoint disagrees with the inclusion of the subject limiting adjective, “actively”. Actively suicidal is not defined in code, and it is unclear what difference in documentation is required to provide suicidal versus actively suicidal. We similarly disagree with the inclusion of this subjective limiting adjective to modify homicidal. In the alternative, UnityPoint would support removing this subpart in its entirety. It does appear that this subpart is redundant with (b)(2) “have a current, severe, imminent risk of serious harm to self or others;”.

Department Response to Comment E: These modifications were discussed with the state workgroup. The phrase “actively suicidal or homicidal” will not be added to the rule. The phrase “or a highly suicidal state” is being struck. The Department concurs this is redundant of section (b)(2).

Comment F: A change was proposed to modify language to, “Behavior that causes significant disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or”. UnityPoint disagrees with this inclusion of the subjective limiting adjective, “significant”. Significant disruption is not defined in code, and it is unclear what difference in documentation is required to prove disruption versus significant disruption.

Department Response to Comment F: This modification was discussed with the state workgroup. The Department concurs to not add the word “significant” as it is a subjective term that cannot easily be measured.

Comment G: A change was proposed to modify language to, “Any other atypical reason that the admitting psychiatrist treating mental health provider feels that additional resources are needed to keep the patient and other around the patient safe.” UnityPoint supports this revision. UnityPoint agrees that providers should not be limited to psychiatrist if other providers within the scope of practice and with appropriate privileges are able to treat such patients. In Iowa, this would allow Advanced Register Nurse Practitioners to continue to be considered a treating mental health provider.

Department Response to Comment G: This modification was discussed with the state workgroup. The Department concurs “admitting psychiatrist” should be modified to “treating mental health provider.” This modification will help avoid unintended limitations related to mental health providers in the inpatient setting.

Comment H: The following language changes were proposed,
“c. The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:

1. ~~Fall risk, precaution protocol in place,~~
2. Restraints or seclusion room required,
3. Requires assistance with activities of daily living,
4. Requirements for complex nursing care, Nursing care requirements,
5. Evaluation of Patient status (alertness/orientation), Acutely impaired cognitive functioning from baseline,
6. ~~Interventions to address the Complexity of mental illness and comorbidities,~~ Documentation of interventions to address acute complex mental illness and comorbidities,
7. Safety protocols in place to address the physical risk posed to staff, other patients, and infrastructure,
8. Elopement risk precaution protocol in place”

UnityPoint comments, “As described by state officials, the intent for these revisions is to identify a level of risk that requires documentation and to assure that services provided are mitigating the risk that is identified. These rules are not intended to require that all facilities have the same protocols but rather that all facilities are using protocols to identify risk. For example, each hospital should have protocols in place which determine if a patient is at risk for falls. UnityPoint Health support evidence-based care and protocols and is reassured to understand that these rules are not intended to require additional or different protocols than are in place today.”

Department Response to Comment H: These modifications were discussed with the state workgroup. The modifications are to create clarity for both providers and utilization management review teams. The modifications maintain the intent of the original language while creating

measurable documentation standards. The Department concurs with UnityPoint's statements on the intent of these revisions.

Although not included in the public notice, the workgroup discussed the Iowa HHS draft clinical criteria for Acute Psychiatric Intensive Care Services (LOC-008). The goal of these specialized services is acute stabilization and treatment of the member's presenting condition, including dangerous behavior, so that the member can transition to a general inpatient psychiatric unit or another less-intensive level of care.

Comment I: UnityPoint Health appreciates the time and effort of Iowa HHS in developing these clinical criteria and have provided additional considerations below as it relates to exclusion criteria #6.

"Exclusion Criteria #6: Behavioral dyscontrol in the context of traumatic brain injury, intellectual disability, pervasive developmental disorder, dementia, or other medical condition without indication of acute crisis related to a diagnosis listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders."

UnityPoint comments, "While the clinical criteria specify PICU services are directed towards assisting individuals with acute mental illness as opposed to other mental conditions, it should be noted that further appropriation of resources is needed for patients with other mental conditions as identified in exclusion criteria six. Often individuals with these conditions are boarded in hospital emergency departments or admitted to inpatient psychiatric units due to severe lack of treatment options, e.g., access centers, long term care facilities, and Intensive Residential Service Homes. With limited treatment options available, individuals listed in exclusion criteria six, will lack adequate access to PICU level care or be placed in care settings inappropriate or unequipped to manage severe and emergency behavioral health care.

Department Response to Comment I: The exclusion criteria identified in UnityPoint Health's comment are consistent with the intent and scope of the rule. The establishment of a psychiatric intensive care rate will help support acute care inpatient intensive psychiatric services, but the implementation of rate does not resolve the overall lack of treatment options identified in UnityPoint Health's comment. Iowa Medicaid is a willing partner in working to address larger challenges to Iowa's mental health system.

Iowa Hospital Association

Comment J: As HHS prepared to create the rulemaking to effectively implement House File 2546 and House File 2578, IHA is appreciative of the opportunity to include a broad audience of experts in hospital settings which includes behavioral health directors and providers as well as government relations and finance professionals. It was brought to our attention Iowa is the first in the nation to implement such a reimbursement methodology, and IHA's members are proud to be part of the opportunity in leading the nation alongside the department to increase behavioral health resources.

Department Response to Comment J: The Department appreciates the Iowa Hospital Associations (IHA) support and engagement. The workgroup consisted of subject matter experts within Iowa Medicaid, representatives from multiple hospitals, clinical providers, IHA representatives, representatives from the Tertiary Care workgroup, Iowa's managed care organizations claims teams, utilization management teams, and medical directors (representatives from Amerigroup, Iowa Total Care, and Molina). This workgroup collaborated to develop the rate, rules, state plan amendments, claims processing and utilization management standards, and training materials to implement House Files 2546 and 2578.

Based on the comments received the Department made changes to 78.3(8)"b" and "c" and 79.1(5)"i" as follows:

ITEM 1. Adopt the following new subrule 78.3(8):

78.3(8) Payment will be made for medically necessary inpatient acute psychiatric intensive care services that meet the criteria in this subrule, pursuant to 441—paragraph 79.1(5)“i.” This inpatient rate is only applicable to individuals 18 to 64 years of age. All inpatient acute psychiatric intensive care services shall require prior authorization.

- a. “Acute psychiatric intensive care” is defined as care provided for a condition with rapid onset that is accompanied by severe symptoms and is generally of brief duration, requiring emergency treatment and critical care.
- b. To meet the need for acute psychiatric intensive care, the patient must:
 - (1) Have a serious mental illness as defined in 441—subrule 77.47(1);
 - (2) Have a current, severe, imminent risk of serious harm to self or others; and
 - (3) Display additional complexity of need related to:
 1. Complex comorbidities, including intellectual or developmental disability, autism spectrum disorder, substance use disorders, or traumatic brain injuries; or
 2. A history of violence or current aggression that is secondary to mental illness; or
 3. A request for patient transfer that has been rejected by inpatient level of care by one or more hospitals due to severity of symptoms; or
 4. Lack of responsiveness to typical interventions or a condition that is treatment refractory; or
 5. A highly d-Disorganized psychotic state or manic thought process that impairs the ability to function, or risks the safety of the patient or others or a highly suicidal state; or
 6. Behavior that causes disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or
 7. High elopement risk; or
 8. Any other atypical reason that the admitting psychiatrist treating mental health provider feels that additional resources are needed to keep the patient and others around the patient safe.
- c. The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:
 - (1) Fall risk-precaution protocol in place,
 - (2) Restraints or seclusion room requirements,
 - (3) Requiring assistance with activities of daily living,
 - (4) Requirements for complex nursing care, Nursing care requirements,
 - (5) Patient status (alertness/orientation)-Acutely impaired cognitive functioning from baseline,
 - (6) Complexity of Documentation of interventions to address acute complex mental illness and comorbidities,
 - (7) P-Safety protocols in place to address the physical risk posed to staff, other patients, and infrastructure,
 - (8) Elopement risk precaution protocol in place.

ITEM 2. Amend paragraph **79.1(5)“i”** as follows:

i. Payment for certified physical rehabilitation hospitals and units, ~~and~~ psychiatric units, and acute psychiatric intensive care services. Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5)“r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” is prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

- (1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital’s base-year cost report pursuant to paragraph 79.1(5)“a.” No recognition will be given to the professional component of the hospital-based physicians except as noted under paragraph 79.1(5)“j.”
- (2) ~~Reserved.~~
- (3) (2) Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.
- (4) (3) Per diem recalculation. Hospital prospective reimbursement rates shall be established as of October 1, 1987, for the remainder of the applicable hospital fiscal year. Beginning July 1, 1988, all updated rates shall be established based on the state’s fiscal year.

(4) Acute psychiatric intensive care services. Services that meet the criteria at 441—subrule 78.3(8) shall be reimbursed as follows:

1. Services provided in a psychiatric unit certified pursuant to paragraph 79.1(5) “r” will be paid based on the hospital-specific per diem rate as calculated pursuant to subparagraph 79.1(5) “i”(1) plus a percentage increase as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

2. Services not provided in a psychiatric unit certified pursuant to paragraph 79.1(5) “r” will be paid based on the hospital-specific DRG payment rate as calculated pursuant to paragraph 79.1(5) “b” plus an add-on per diem rate as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

(5) Per diem billing. The current method for submitting billing and cost reports shall be maintained. All cost reports will be subject to desk review audit and, if necessary, a field audit.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a),(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 1, 2023, because The Department is requesting a January 1, 2023 effective date based on the effective date in the legislation. the rules also confer a benefit to members and providers by allowing the service to be available as of January 1, 2023. .

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

It is anticipated there will be a \$1.5 million state cost in state fiscal year 2023 and a \$3 million state cost in state fiscal year 2024 with the assumption that the implemented rate will be developed to align with the funding appropriated. The legislature has not yet appropriated the full annualized cost.

Jobs Impact

The additional funding may be utilized for increased staffing ratios, but it is unlikely a significant number of jobs will be created.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any pursuant to rule 441-1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 78 Adopted and Filed Rules

Adopt the following rules:

ITEM 1. Adopt the following new subrule 78.3(8):

78.3(8) Payment will be made for medically necessary inpatient acute psychiatric intensive care services that meet the criteria in this subrule, pursuant to 441—paragraph 79.1(5)“i.” This inpatient rate is only applicable to individuals 18 to 64 years of age. All inpatient acute psychiatric intensive care services shall require prior authorization.

a. “Acute psychiatric intensive care” is defined as care provided for a condition with rapid onset that is accompanied by severe symptoms and is generally of brief duration, requiring emergency treatment and critical care.

b. To meet the need for acute psychiatric intensive care, the patient must:

- (1) Have a serious mental illness as defined in 441—subrule 77.47(1);
- (2) Have a current, severe, imminent risk of serious harm to self or others; and
- (3) Display additional complexity of need related to:

1. Complex comorbidities, including intellectual or developmental disability, autism spectrum disorder, substance use disorders, or traumatic brain injuries; or

2. A history of violence or current aggression that is secondary to mental illness; or

3. A request for patient transfer that has been rejected by inpatient level of care by one or more hospitals due to severity of symptoms; or

4. Lack of responsiveness to typical interventions or a condition that is treatment refractory; or

5. A highly d-Disorganized psychotic state or manic thought process that impairs the ability to function, or risks the safety of the patient or others or a highly suicidal state; or

6. Behavior that causes disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or

7. High elopement risk; or

8. Any other atypical reason that the admitting psychiatrist treating mental health provider feels that additional resources are needed to keep the patient and others around the patient safe.

c. The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:

- (1) Fall risk-precaution protocol in place,

- (2) Restraints or seclusion room requirements,

- (3) Requiring assistance with activities of daily living,

- (4) Requirements for complex nursing care, ~~Nursing care requirements,~~

- (5) Patient status (alertness/orientation)-Acutely impaired cognitive functioning from baseline,

- (6) ~~Complexity of-~~ Documentation of interventions to address acute complex mental illness and comorbidities,

- (7) ~~P-~~ Safety protocols in place to address the physical risk posed to staff, other patients, and infrastructure,

- (8) Elopement risk precaution protocol in place.

ITEM 2. Amend paragraph 79.1(5)“i” as follows:

i. Payment for certified physical rehabilitation hospitals and units, and psychiatric units, and acute psychiatric intensive care services. Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5)“r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” is prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital's base-year cost report pursuant to paragraph 79.1(5) "a." No recognition will be given to the professional component of the hospital-based physicians except as noted under paragraph 79.1(5) "j."

~~(2) Reserved.~~

~~(3) (2)~~ Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.

~~(4) (3)~~ Per diem recalculation. Hospital prospective reimbursement rates shall be established as of October 1, 1987, for the remainder of the applicable hospital fiscal year. Beginning July 1, 1988, all updated rates shall be established based on the state's fiscal year.

(4) Acute psychiatric intensive care services. Services that meet the criteria at 441—subrule 78.3(8) shall be reimbursed as follows:

1. Services provided in a psychiatric unit certified pursuant to paragraph 79.1(5) "r" will be paid based on the hospital-specific per diem rate as calculated pursuant to subparagraph 79.1(5) "i"(1) plus a percentage increase as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

2. Services not provided in a psychiatric unit certified pursuant to paragraph 79.1(5) "r" will be paid based on the hospital-specific DRG payment rate as calculated pursuant to paragraph 79.1(5) "b" plus an add-on per diem rate as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

(5) Per diem billing. The current method for submitting billing and cost reports shall be maintained. All cost reports will be subject to desk review audit and, if necessary, a field audit.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Hannah Olson-Rebecca Curtiss	Telephone Number (515) 201-5543	Email Address holson1@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

HF 2546 directs the Department to implement a tiered rate reimbursement methodology for psychiatric intensive inpatient care by January 1, 2023.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

HF 2546
HF 2578

3. Describe who this rulemaking will positively or adversely impact.

These rules will positively impact hospitals statewide as they will be provided with additional resources needed to treat patients with high levels of psychiatric need. Members will benefit from being able to receive needed care, ideally at their local hospital.

4. Does this rule contain a waiver provision? If not, why?

A waiver provision is not necessary. 441 -1.8(17A, 217) provides for waiver of administrative rules in exceptional circumstances

5. What are the likely areas of public comment?

Definition of psychiatric intensive care unit, medical necessity criteria, and payment provision.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

Minimal – the additional funding may be utilized to account for increased staffing ratios, but it is unlikely a significant number of jobs will be created.



Administrative Rule Fiscal Impact Statement

Date: 09/01/2022

Agency:	Human Services		
IAC citation:	441 IAC 78.3(8), 441 IAC 79.X(x)		
Agency contact:	Hannah Olson		
Summary of the rule:			
To implement HF 2546 directing the Department to implement a tiered rate reimbursement methodology for psychiatric intensive inpatient care by January 1, 2023.			
<i>Fill in this box if the impact meets these criteria:</i>			
<input type="checkbox"/> No fiscal impact to the state. <input type="checkbox"/> Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years. <input type="checkbox"/> Fiscal impact cannot be determined.			
Brief explanation:			
Budget Analysts must complete this section for ALL fiscal impact statements.			
<i>Fill in the form below if the impact does not fit the criteria above:</i>			
<input checked="" type="checkbox"/> Fiscal impact of \$100,000 annually or \$500,000 over 5 years.			
Assumptions:			
<p>\$1.5M state cost in SFY23 and \$3.0M state cost in SFY24 with the assumption that the implemented rate will be developed to align with the funding appropriated.</p> <p>A 31% blended state match rate is being used to calculate total cost for both SFY23 and SFY24. This accounts for the service being spread across both the regular Medicaid population and IHWP.</p> <p>Available state revenue is reflected at \$1.5M in both SFY23 and SFY24 since the legislature has not yet appropriated the full annualized cost.</p> <p>There will be a funding need in SFY24 since they only appropriated for a half year in SFY23 but there will be a full year of cost in SFY24.</p>			
Describe how estimates were derived:			
SFY23 Blended FMAP - 31.00%			
Provider Type Description	Estimated Increase Total Dollars	Estimated Increase Federal Dollars	Estimated Increase State Dollars
Psychiatric Inpatient Intensive Care	\$4,838,710	\$3,338,710	\$1,500,000
		SFY23 Approp Revenue	\$1,500,000
		SFY23 Funding Need	\$0

SFY24 Blended FMAP - 31.00%

Provider Type Description	Estimated Increase Total Dollars	Estimated Increase Federal Dollars	Estimated Increase State Dollars
Physiatric Inpatient Intensive Care	\$9,677,419	\$6,677,419	\$3,000,000
		SFY23 Approp Revenue	\$1,500,000
		SFY24 Funding Need	\$1,500,000

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	1,500,000.00	1,500,000.00
Federal funds	3,338,710.00	6,677,419.00
Other (specify):		
TOTAL REVENUE	<u>4,838,710.00</u>	<u>8,177,419.00</u>
Expenditures:		
General fund	1,500,000.00	3,000,000.00
Federal funds	3,338,710.00	6,677,419.00
Other (specify):		
TOTAL EXPENDITURES	<u>4,838,710.00</u>	<u>9,677,419.00</u>
NET IMPACT	<u>0.00</u>	<u>1,500,000.00</u>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

HF 2546, HF 2578 Division V Sec. 31.1.n.(2).

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

During the 2022 Legislative Session, HF2546 requires Iowa Medicaid to establish a rate for psychiatric intensive care in Iowa.

During the 2022 Legislative Session, HF2578 (Appropriations Bill) requires implementation of a tiered rate reimbursement methodology for psychiatric intensive inpatient care under the Medicaid program no later than January 1, 2023.

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

Hospitals statewide will be positively impacted as they will be provided with additional resources needed to treat patients with high levels of psychiatric need.

Members will benefit from being able to receive needed care, ideally at their local hospital.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

No impact.

Agency representative preparing estimate: Jason Buls, JB 9/29/22

Telephone number: 515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to intermediate care facilities for persons with an intellectual disability.

The Human Services Department hereby amends Chapter 82, “Intermediate Care Facilities For Persons With An Intellectual Disability,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

Chapter 82 was reviewed as part of the Department’s five-year rules review. Chapter 82 sets out requirements for intermediate care facilities for persons with an intellectual disability, including licensing and certification, staffing and treatment, individual program plans, Medicaid participation, financial and statistical reports, eligibility for services, billing procedures and audits. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Names of forms and outdated references are removed. The word “enterprise” is removed from the Iowa Medicaid name. Outdated language is removed from cost reporting rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as ARC 6589C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441_81.(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 82 Adopted and Filed Rules

Adopt the following rules:

ITEM 1. Amend rule ~~441—82.1(249A)~~, definition of “Intermediate care facility for persons with an intellectual disability level of care,” as follows:

“*Intermediate care facility for persons with an intellectual disability level of care*” means that the individual has a diagnosis of intellectual disability made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or has a related condition as defined in 42 CFR 435.1009 ~~as amended to March 29, 2022~~; and needs assistance in at least three of the following major life areas: mobility, musculoskeletal skills, activities of daily living, domestic skills, toileting, eating skills, vision, hearing or speech or both, gross/fine motor skills, sensory-taste, smell, tactile, academic skills, vocational skills, social/community skills, behavior, and health care.

ITEM 2. Amend subparagraph ~~82.2(3)“b”(5)~~ as follows:

(5) Professional program staff shall be licensed, certified, or registered, as applicable, to provide professional services by the state in which the staff practices. Those professional program staff who do not fall under the jurisdiction of state licensure, certification, or registration requirements shall meet the following qualifications:

1. to 8. No change.

9. To be designated as a professional dietitian, an individual shall be eligible for registration by the ~~American Dietetics Association~~ Academy of Nutrition and Dietetics.

10. To be designated as a human services professional, an individual shall have at least a bachelor’s degree in a human services field (including, but not limited to, sociology, special education, rehabilitation counseling ~~and or~~ psychology).

ITEM 3. Amend subparagraph ~~82.2(4)“b”(4)~~ as follows:

(4) If a client is to be either transferred or discharged, the facility shall have documentation in the client’s record that the client was transferred or discharged for good cause, and shall provide a reasonable time to prepare the client and the client’s parents or guardian for the transfer or discharge (except in emergencies).

ITEM 4. Amend subparagraph ~~82.2(4)“c”(3)~~ as follows:

(3) Within 30 days after admission, the interdisciplinary team shall perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission. The comprehensive functional assessment shall take into consideration the client’s age (for example, child, young adult, elderly person) and the implications for active treatment at each stage, as applicable, and shall:

1. to 4. No change.

5. Include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development, ~~and~~ auditory functioning, cognitive development, social development, adaptive behaviors or independent living skills necessary for the client to be able to function in the community, and ~~as applicable~~, vocational skills as applicable.

ITEM 5. Amend subparagraph ~~82.2(5)“a”(1)~~ as follows:

(1) The facility shall develop and implement written policies and procedures for the management of conduct between staff and clients. These policies and procedures shall:

1. Promote the growth, development, and independence of the client.

2. to 4. No change.

ITEM 6. Amend subparagraph ~~82.2(6)“f”(1)~~ as follows:

(1) A complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the client’s oral condition, not later than one month after admission to the facility unless the examination was completed within 12 months ~~before~~ prior to admission.

ITEM 7. Amend paragraph ~~82.2(6)“n”~~ as follows:

n. *Laboratory services.*

(1) No change.

(2) If a facility chooses to provide laboratory services, the laboratory shall meet the management requirements specified in 42 CFR 493.1407 as amended to March 29, 2022, and provide personnel to direct and conduct the laboratory services.

The laboratory director shall be technically qualified to supervise the laboratory personnel and test performance and shall meet licensing or other qualification standards established by the state with respect to directors of clinical laboratories.

The laboratory director shall provide adequate technical supervision of the laboratory services and ensure that tests, examinations and procedures are properly performed, recorded and reported.

The laboratory director shall ensure that the staff has appropriate education, experience, and training to perform and report laboratory tests promptly and proficiently; is sufficient in number for the scope and complexity of the services provided; and receives in-service training appropriate to the type of complexity of the laboratory services offered.

The laboratory technologists shall be technically competent to perform test procedures and report test results promptly and proficiently.

(3) The laboratory shall meet the proficiency testing requirements specified in 42 CFR 493.801 as amended to March 29, 2022.

~~(4) The laboratory shall meet the quality control requirements specified in 42 CFR 493.1501.~~

~~(5)~~ (4) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory shall be an approved Medicare laboratory.

ITEM 8. Amend paragraph **82.3(1)“b”** as follows:

b. The facility shall request an application, Form 470-0254, ~~Iowa Medicaid Provider Enrollment Application~~, from the Iowa Medicaid ~~enterprise~~ provider services unit.

ITEM 9. Amend subrule 82.5(3) as follows:

82.5(3) *Submission of reports.* The facility's cost report shall be received by the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit no later than September 30 each year except as described in subrule 82.5(14).

a. The submission shall include a working trial balance that corresponds to all financial data contained on the cost report. The working trial balance must provide sufficient detail to enable the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit to reconcile accounts reported on the general ledger to those on the financial and statistical report. For reporting costs that are not directly assigned to the facility in the working trial balance, an allocation method must be identified for each line, including the statistics used in the calculation. Reports submitted without a working trial balance shall be considered incomplete, and the facility shall be subject to the rate reductions set forth in paragraph 82.5(3) “c.”

b. No change.

c. Failure to timely submit the complete report shall reduce payment to 75 percent of the current rate.

(1) The reduced rate shall be effective October 1 and shall remain in effect until the first day of the month after the delinquent report is received by the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit.

(2) The reduced rate shall be paid for no longer than three months, after which time no further payments will be made until the first day of the month after the delinquent report is received by the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit.

d. No change.

e. When an intermediate care facility for persons with an intellectual disability continues to include in the total costs an item or items which had in a prior period been removed through an adjustment made by the department or its contractor, the contractor shall recommend to the department that the per diem be reduced to 75 percent of the current payment rate for the entire quarter beginning the first day of the fourth month after the facility's fiscal year end. If the adjustment has been contested and is still in the appeals process, the facility may include the cost, but must include sufficient detail so the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit can determine if a similar adjustment is needed in the current period. The department may, after considering the seriousness of the offense, make the reduction.

f. Nothing in this subrule relieves a facility of its obligation to immediately inform the department that the facility has retained Medicaid funds to which the facility is not entitled as a result of any cost report process. A facility shall notify the Iowa Medicaid ~~enterprise~~ when the facility determines that funds have been incorrectly paid or when an overpayment has been detected.

ITEM 10. Amend paragraph **82.5(11)“e”** as follows:

e. A reasonable allowance of compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function. For this purpose, the following persons are considered immediate relatives: husband and wife; natural parent, child and sibling; adopted child and adoptive parent; stepparent, stepchild, stepbrother and stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law; grandparent and grandchild. Adequate time records shall be maintained. Adjustments may be necessary to provide compensation as an expense for nonsalaried working proprietors and partners. Members of religious orders serving under an agreement with their administrative office are allowed salaries paid persons performing comparable services. When maintenance is provided these persons by the facility, consideration shall be given to the value of these benefits and this amount shall be deducted from the amount otherwise allowed for a person not receiving maintenance.

(1) Compensation means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including, but not limited to, salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include, but are not limited to, costs of leave, employee insurance, pensions and unemployment plans. If the facility’s fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. All compensation paid to related parties, including payroll taxes, shall be required to be reported to the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit with the submission of the financial and statistical report. If it is determined that there have been undisclosed related-party salaries, the cost report shall be determined to have been submitted incomplete and the facility shall be subject to the penalties set forth in paragraph 82.5(3) “c.”

(2) Reasonableness—requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable institutions; and depends upon the facts and circumstances of each case.

(3) No change.

(4) The base maximum allowed compensation for an administrator who is involved in ownership of the facility or who is an immediate relative of an owner of the facility is \$1,926 per month plus \$20.53 per month per licensed bed capacity for each bed over 60, not to exceed \$2,852 per month. An administrator is considered to be involved in ownership of a facility when the administrator has ownership interest of 5 percent or more.

On a ~~semiannual~~ an annual basis, the maximum allowed compensation amounts for these administrators shall be increased or decreased by the inflation factor applied to facility rates.

(5) to (7) No change.

ITEM 11. Amend subparagraph **82.5(12)“a”(4)** as follows:

(4) When a participating facility is leased, a transfer of ownership is considered to have taken place. When the entire facility is leased, the total agreement with the lessor terminates. When only part of the facility is leased, the agreement remains in effect with respect to the unleased portion; but terminates with respect to the leased portion.

ITEM 12. Amend paragraph **82.5(14)“b,”** introductory paragraph, as follows:

b. Initial cost report. Following six months of operation as a Medicaid-certified ICF/ID, the facility shall submit a report of actual costs. The rate computed from this cost report shall be adjusted to 100 percent

occupancy plus the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. city average (hereafter referred to as the Consumer Price Index). ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used to adjust costs for inflation, instead of the annual percentage increase of the Consumer Price Index.~~ Business start-up and organization costs shall be accounted for in the manner prescribed by the Medicare and Medicaid standards. Any costs that are properly identifiable as start-up costs, organization costs or capitalizable as construction costs must be appropriately classified as such.

ITEM 13. Amend subparagraph **82.5(14)“d”(1)** as follows:

- (1) A new maximum allowable base cost will be calculated each year by increasing the prior year's maximum allowable base by the annual percentage increase of the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the prior year's maximum allowable base cost shall be increased by 3 percent, instead of the annual percentage increase of the Consumer Price Index.~~

ITEM 14. Amend paragraph **82.5(14)“e”** as follows:

e. Maximum rate. Facilities shall be subject to a maximum rate set at the eightieth percentile of the total per diem cost of all participating community-based ~~ICFs/MR~~ ICFs/ID with established base rates. The eightieth percentile maximum rate shall be adjusted July 1 of each year using cost reports on file December 31 of the previous year.

ITEM 15. Amend paragraph **82.5(14)“f,”** introductory paragraph, as follows:

f. Incentive factor. New facilities which complete the second annual period of operation that have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index, as described in 82.5(14)“d,” shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference multiplied by the actual per diem cost for the annual period just completed is the incentive factor. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the incentive factor shall be calculated using 3 percent in place of the percentage increase of the Consumer Price Index.~~

ITEM 16. Amend subparagraph **82.5(14)“g”(1)** as follows:

(1) The projected reimbursement for each period thereafter (until rebasing) will be calculated by multiplying the lower of the prior year's actual or the projected reimbursement per diem by the Consumer Price Index ~~plus one.~~ ~~For the period beginning July 1, 2009, and ending June 30, 2010, the projected reimbursement will be determined using a multiplier of 3 percent instead of the Consumer Price Index.~~

ITEM 17. Amend subrule 82.5(16) as follows:

82.5(16) Payment to existing facilities. The following reimbursement limits shall apply to all non-state-owned ~~ICFs/MR~~ ICFs/ID:

- a.* to *c.* No change.
- d.* Facilities which have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index ~~or of less than 3 percent for rates effective July 1, 2009, through June 30, 2010,~~ shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference multiplied by the actual per diem costs for the annual period just completed is the incentive factor.
 - (1) No change.
 - (2) Facilities whose annual per unit cost decreased from the prior year shall receive their actual per unit cost plus one and one-half the percentage increase in the Consumer Price Index as an incentive for cost containment. ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used in lieu of the percentage increase in the Consumer Price Index.~~
- e.* Administrative costs shall not exceed 18 percent of total facility costs. Administrative costs are comprised of those costs incurred in the general management and administrative functions of the facility.

Administrative costs include, but are not necessarily limited to, the administrative portion of the following:

- ~~(1) Administrator's salary.~~
 - ~~(2) Assistant administrator's salary.~~
 - ~~(3) Bookkeeper's salary.~~
 - ~~(4) Other accounting and bookkeeping costs.~~
 - ~~(5) Other clerical salaries and clerical costs.~~
 - ~~(6) Administrative payroll taxes.~~
 - ~~(7) Administrative unemployment taxes.~~
 - ~~(8) Administrative group insurance.~~
 - ~~(9) Administrative general liability and worker's compensation insurance.~~
 - ~~(10) Directors' and officers' insurance or salaries.~~
 - ~~(11) Management fees.~~
 - ~~(12) Indirect business expenses and other costs related to the management of the facility including home office and other organizational costs.~~
 - ~~(13) Legal and professional fees.~~
 - ~~(14) Dues, conferences and publications.~~
 - ~~(15) Postage and telephone.~~
 - ~~(16) Administrative office supplies and equipment, including depreciation, rent, repairs, and maintenance as documented by a supplemental schedule which identifies the portion of repairs and maintenance, depreciation, and rent which applies to office supplies and equipment.~~
 - ~~(17) Data processing and bank charges.~~
 - ~~(18) Advertising.~~
 - ~~(19) Travel, entertainment and vehicle expenses not directly involving residents.~~
 - (1) Administrator wages.
 - (2) Business office wages.
 - (3) Advertising and marketing wages.
 - (4) Employer's taxes (administrative).
 - (5) Group/life and retirement benefits (administrative staff).
 - (6) Workers' compensation insurance (administrative staff).
 - (7) Employment advertising and recruitment (administrative staff).
 - (8) Criminal record checks (administrative staff).
 - (9) Education and training (administrative staff).
 - (10) Office supplies (administrative staff).
 - (11) Telephone.
 - (12) Equipment rental.
 - (13) Home office costs.
 - (14) Management fees.
 - (15) Accounting fees.
 - (16) Professional organization dues.
 - (17) Licensing fees.
 - (18) Information technology expenses.
 - (19) Legal fees—direct patient-care-related.
 - (20) Legal fees—other.
 - (21) Working capital interest.
 - (22) General liability insurance.
 - (23) Travel, entertainment and auto expenses.
 - (24) Advertising and public relations.
 - (25) Other.
- f. No change.
- g. Total patient days for purposes of the computation shall be inpatient days as determined in subrule 82.5(7) or 80 percent of the licensed capacity of the facility, whichever is greater. The reimbursement rate shall

be determined by dividing total reported patient expenses by total patient days during the reporting period. This cost per day will be limited by an inflation increase which shall not exceed the percentage change in the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the inflation increase shall be 3 percent, notwithstanding the percentage change in the Consumer Price Index.~~

h. State-owned ~~ICFs/MR~~ ICFs/ID shall submit semiannual cost reports and shall receive semiannual rate adjustments based on actual costs of operation inflated by the percentage change in the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, costs of operation shall be inflated by 3 percent instead of the percentage change in the Consumer Price Index.~~

i. The projected reimbursement for the first annual period will be determined by multiplying the per diem rate calculated for the base period by the Consumer Price Index ~~plus one.~~

(1) The projected reimbursement for each period thereafter (until rebasing) will be calculated by multiplying the lower of the prior year's actual or the projected reimbursement per diem by the Consumer Price Index ~~plus one.~~ ~~For the period beginning July 1, 2009, and ending June 30, 2010, the projected reimbursement will be determined using a multiplier of 3 percent instead of the Consumer Price Index.~~

(2) No change

ITEM 18. Amend subrule 82.7(3) as follows:

82.7(3) Approval of level of care. Medicaid payment shall be made for ICF/ID care upon certification of need for this level of care by a licensed physician of medicine or osteopathy and approval by the Iowa Medicaid ~~enterprise (IME) medical services~~ quality improvement organization (QIO) unit.

ITEM 19. Amend rule ~~441—82.7(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.12 ~~as amended by 2012 Iowa Acts, Senate File 2336, section 58.~~

ITEM 20. Amend rule ~~441—82.8(249A)~~ as follows:

~~441—82.8(249A) Determination of need for continued stay.~~ For clients not enrolled with a managed care organization, certification of need for continued stay shall be made according to procedures established by the Iowa Medicaid ~~enterprise (IME) medical services~~ QIO unit. For all clients enrolled with a managed care organization, the managed care organization shall review the Medicaid client's need for continued care in an ICF/ID at least annually. The managed care organization must submit documentation to the ~~IME medical services~~ Iowa Medicaid QIO unit for all reviews that indicate a change in the client's level of care. The ~~IME medical services~~ Iowa Medicaid QIO unit shall make a final determination for any reviews that indicate a change in the level of care.

This rule is intended to implement Iowa Code section 249A.12.

ITEM 21. Amend subrule 82.13(1), introductory paragraph, as follows:

82.13(1) Content. The facility shall ~~as~~ at a minimum maintain the following records:

ITEM 22. Amend rule ~~441—82.14(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.12 ~~as amended by 2012 Iowa Acts, Senate File 2336, section 58.~~

ITEM 23. Amend subrule 82.15(1) as follows:

82.15(1) Claims. Claims for service for clients not enrolled with a managed care organization must be sent to the Iowa Medicaid ~~enterprise~~ after the month of service and within 365 days of the date of service. Such claims must be submitted electronically through ~~IME's~~ Iowa Medicaid's electronic clearinghouse.

a. No change.

b. Adjustments to claims may be made electronically as provided for by the Iowa Medicaid ~~enterprise~~.

ITEM 24. Amend paragraphs **82.17(2)“a”** and **“b”** as follows:

a. ~~The Iowa Medicaid enterprise~~, the department’s contracted managed care organizations, field auditors of the department of inspections and appeals and representatives of the U.S. Department of Health and Human Services, upon proper identification, shall have the right to audit billings to the department and receipts of client participation, to ensure that the facility is not receiving payment in excess of the contractual agreement and that all other aspects of the contractual agreement are being followed, as deemed necessary.

b. ~~The Iowa Medicaid enterprise~~, the department’s contracted managed care organizations, field auditors of the department of inspections and appeals and representatives of the U.S. Department of Health and Human Services, upon proper identification, shall have the right to audit records of the facility to determine proper handling of patient funds in compliance with subrule 82.9(3).



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Jessica McBride	Telephone Number 515-201-4157	Email Address jmcbrid@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Five year rule review
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 249A.4
3. Describe who this rulemaking will positively or adversely impact.
Technical review of rules, no direct impact on providers or Department.
4. Does this rule contain a waiver provision? If not, why?
N/A
5. What are the likely areas of public comment?
N/A
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
N/A



Administrative Rule Fiscal Impact Statement

Date: June 27, 2022

Agency: Human Services

IAC citation: 441 IAC 249A.4

Agency contact: Jessica McBride

Summary of the rule:

Technical update of the rules due to the five year rule review

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

The purpose of this rule is to make technical changes due to the five year rule review. There is no direct impact to providers or the Department with these changes, no fiscal impact is expected.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>
<input checked="" type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons: Iowa Code 249A.4		
<input type="checkbox"/> Funding has been provided for the rule change. <i>Please identify the amount provided and the funding source:</i>		
<input checked="" type="checkbox"/> Funding has not been provided for the rule. <i>Please explain how the agency will pay for the rule change:</i> There is no fiscal impact.		
<i>Fiscal impact to persons affected by the rule:</i> There is no fiscal impact expected to persons affected by the rule.		
<i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i> There is no fiscal impact expected to counties or other local governments.		
Agency representative preparing estimate:	Soraya Miller	JH 06/29/2022
Telephone number:	515-281-6017	

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to early and periodic screening, diagnosis and treatment.

The Human Services Department hereby amends Chapter 84, "Early And Periodic Screening, Diagnosis, And Treatment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

Chapter 84 was reviewed as part of the Department's five-year rules review. Chapter 84 defines the early and periodic screening, diagnosis, and treatment (EPSDT) services provided under the Medicaid program to eligible children under the age of 21. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as ARC 6588C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441_1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 84-EPSDT Adopted and Filed

Adopt the following rules:

ITEM 1. Amend **441—Chapter 84**, preamble, as follows:

PREAMBLE

This chapter defines and structures the early and periodic screening, diagnosis and treatment services provided under the Medicaid program to eligible children under the age of 21. As further described in these rules, services include physical and mental health screenings (including hearing and vision), laboratory tests, immunizations, and health education. Services are provided in compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to ~~November 16, 1984~~ March 29, 2022.

ITEM 2. Amend subrule 84.3(4) as follows:

84.3(4) Health education including anticipatory guidance. ~~See 441—subparagraph 78.18(6)“b”(1) for a description of the information services.~~ Services are provided in compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to March 29, 2022.

ITEM 3. Amend subrule 84.4(1) as follows:

84.4(1) The availability of early and periodic screening shall be discussed with the payee for any Medicaid-eligible child under the age of 21 at the time of application and periodically thereafter in compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to ~~November 16, 1984~~ March 29, 2022.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Tashina Hornaday), Telephone Number (515-201-3553), Email Address (thornad@dhs.state.ia)

1. Give a brief purpose and summary of the rulemaking:

The following changes and updates have been made to the proposed draft:

The purpose for this rulemaking is to make technical corrections including:

- Correcting or removing policy that is not accurate or is outdated
• Correcting rule references and cross-references to ensure they are accurate
• Correcting spelling or grammatical errors
• Changing Iowa Medicaid Enterprise to Iowa Medicaid
• Change IME Medical Services Unit to Iowa Medicaid Quality Improvement Organization
• Changing references to consumer(s) to member(s)
• Changing the name of an Iowa Medicaid unit
• Removing outdated program references

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Section 249A

3. Describe who this rulemaking will positively or adversely impact.

This rulemaking will positively impact providers by ensuring that the language in rule is up to date, accurate and relevant.

4. Does this rule contain a waiver provision? If not, why?

A waiver provision is not necessary. 441 -1.8(17A, 217) provides for waiver of administrative rules in exceptional circumstances.

5. What are the likely areas of public comment?

Public comment is not anticipated for the technical corrections

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

No impact to jobs.



Administrative Rule Fiscal Impact Statement

Date: July 15, 2022

Agency: Human Services

IAC citation: 441 IAC 84

Agency contact: Tashina Hornaday

Summary of the rule:

To make technical corrections to 441-84.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

The purpose for this rulemaking is to correct policy that is outdated, correct rule references and cross-references and make technical corrections. There is no fiscal impact expected with the technical changes in this rule.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

There is no fiscal impact expected to persons affected by the rule.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

There is no fiscal impact expected to counties or other local governments.

Agency representative preparing estimate: Soraya Miller

JH 08/01/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to collections.

The Human Services Department hereby amends Chapter 95, "Collections," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 252B.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.3.

Purpose and Summary

Chapter 95 was reviewed as part of the Department's five-year rules review. These rules outline the eligibility for child support recovery services under federal and state laws and the rules for children and families referred to the child support recovery unit who have applied for or are receiving public assistance.

The rules review resulted in technical changes. Amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are updated to provide accurate listings, and outdated references are removed. Mailing addresses are also updated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as ARC 6621C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any pursuant to rule 441_1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 95 Adopted and Files Rules

Adopt the following rules:

ITEM 1. Amend rule ~~441—95.1(252B)~~, definition of “Current support,” as follows:

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. ~~In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).~~

ITEM 2. Amend subrule 95.2(4) as follows:

95.2(4) *Application for services.*

A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2) “a,” “b,” and “c,” shall complete and ~~return~~ submit to the child support recovery unit Form 470-0188, ~~Application for Nonassistance Support Services, or an electronic version of such application,~~ for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of the child’s parents.

~~a. The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.~~

~~b. The person requesting services has the option to seek support from one or both of the child’s parents.~~

ITEM 3. Amend paragraph **95.3(1)“a”** as follows:

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, ~~“Income Withholding Return Document,”~~ to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

ITEM 4. Adopt the following new implementation sentence in rule ~~441—95.4(252B)~~:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 5. Amend subrule 95.5(1) as follows:

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to ~~August 4, 1989~~ September 1, 2022. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

ITEM 6. Amend paragraph **95.13(1)“a”** as follows:

a. An obligee may contact a customer service representative ~~in person at the department’s collection~~

~~services center~~, by telephone ~~through the specialized customer services unit~~, or by writing to the Collection Services Center, ~~727 East 2nd Street P.O. Box 9243~~, Des Moines, Iowa 50306.

ITEM 7. Amend paragraph **95.14(1)“a”** as follows:

a. The child support recovery unit may terminate services when the case meets at least one of the following case closure criteria and the child support recovery unit maintains supporting documentation for the case closure decision in the record:

(1) to (4) No change.

(5) The noncustodial parent’s location is unknown and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3 ~~;~~ as amended to September 1, 2022, all of which have been unsuccessful, within the applicable time frame:

1. and 2. No change.

(6) to (13) No change.

(14) The child support recovery unit documents failure by the initiating agency, as defined under 45 CFR 301.1 ~~;~~ as amended to September 1, 2022, to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR 301.1 ~~;~~ as amended to September 1, 2022, has notified the child support recovery unit that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR 301.1 ~~;~~ as amended to September 1, 2022, has notified the child support recovery unit that its intergovernmental services are no longer needed.

(17) and (18) No change.

ITEM 8. Amend subparagraph **95.14(1)“c”(2)** as follows:

(2) The child support recovery unit receives instructions for case closure from an initiating agency, as defined under 45 CFR 301.1 as amended to September 1, 2022. Within ten working days, the child support recovery unit must stop the income withholding order or notice and close the intergovernmental IV-D case.

ITEM 9. Amend subrule 95.14(2) as follows:

95.14(2) Case closure notifications. In cases meeting one of the criteria of subrule 95.14(1), except subparagraph 95.14(1)“a”(9), (10), or (11), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR 301.1 ~~;~~ as amended to September 1, 2022, in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If ~~;~~ in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR 301.1 ~~;~~ as amended to September 1, 2022, supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. to d. No change.

ITEM 10. Amend paragraph **95.15(2)“b”** as follows:

b. The child support recovery unit ~~attorney~~ shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

ITEM 11. Amend rule **441—95.15(252B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and ~~598.21~~ 598.21C.

ITEM 12. Rescind and reserve rule **441—95.16(252B)**.

ITEM 13. Adopt the following new implementation sentence in rule **441—95.17(252B)**:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 14. Amend rule 441—95.18(252B) as follows:

441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at ~~441—subrule 41.22(8)~~ 441—Chapter 41 or ~~441—subrule 75.14(3)~~ 441—Chapter 75, as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

95.18(1) Notice of services. When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, ~~Notice of Continued Support Services~~, to the family's last-known address within five working days of the notification of ineligibility, to inform the family of the following:

a. and b. No change.

95.18(2) Termination of services. A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, ~~Notice of Continued Support Services~~, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

95.18(3) No change.

This rule is intended to implement Iowa Code section 252B.4.

ITEM 15. Amend rule 441—95.19(252B) as follows:

441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

95.19(1) Cooperation defined. The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in ~~441—subrule 41.22(8)~~ 441—Chapter 41 or ~~75.14(8)~~ 441—Chapter 75 for refusal to cooperate, is established.

a. and b. No change.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, ~~Child Support Information~~, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.19(2) Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, ~~Notice of Noncooperation~~, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) Good cause or other exception.

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrules 41.22(8) through 41.22(12)~~ 441—Chapter 41.

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrule 75.14(3)~~ 441—Chapter 75. This rule is intended to implement Iowa Code section 252B.3.

ITEM 16. Amend rule ~~441—95.20(252B)~~, introductory paragraph, as follows:

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in ~~441—subrule 41.22(6)~~ 441—Chapter 41 and ~~rule 441—75.14(249A)~~ 441—Chapter 75 shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

ITEM 17. Amend subrule 95.21(2) as follows:

95.21(2) Failure to cooperate. The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under ~~95.14(1)“b”(1)~~ subparagraph 95.14(1)“a”(10).

ITEM 18. Amend subrule 95.25(1) as follows:

95.25(1) Verification process. CSRU shall send Form 470-2562, ~~Emancipation Verification~~, to the obligor and obligee on a case if CSRU has an address.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist	Telephone Number	Email Address
Paula Burns	515-650-9853	pburns@dhs.state.ia.us

1. Give a brief purpose and summary of the rulemaking:

The purpose of this rulemaking is to update 441 IAC Chapter 95 as a result of CSRU's five-year review of rules (Iowa Code § 17A.7(2)). We are requesting the following rules changes:

- Rule 441—95.1(252B): Striking the sentence regarding assessments as these fees are not being assessed nor is CSRU collecting them if they are being assessed.
- Subrule 95.2(4): Replacing the word “return” with “submit.” Updating the name of Form 470-0188 to be more customer friendly. Updating language to allow an electronic version of the application to be submitted. Updating language to indicate the application shall be submitted to the child support recovery unit. Striking paragraphs “a” and “b” because there is no longer a reason for them.
- Paragraph 95.13(1)“a”: Striking “in-person” and “through the specialized customer service unit” due to the Collection Services Center being a secured location and the specialized customer service center no longer existing. Replacing the Collection Services Center address with a P.O. Box address.
- Paragraph 95.13(3)“b”: Updating the link for 441-subrule 7.4(3). The original link is incorrect.
- Paragraph 95.15(2)“b”: Striking the word “attorney” as the attorney does not send this form – the unit does.
- Paragraph 95.15(3)“c”: Updating the legal reference from 598.21 to 598.21C as that section was renumbered and separated into 598.21A through G.
- Rule 441—95.16(252B): Rescinding and reserving this rule as CSRU no longer receives this information.
- Subrule 95.19(2): Replacing “Notice of Cooperation” with “Notice of Possible Sanction: Noncooperation with the Child Support Program” as that is the current name of the form.
- Subrule 95.21(2): Replacing “95.14(1)“b”(1)” with “95.14(1)“a”(10).”

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Iowa Code Chapter 252B

3. Describe who this rulemaking will positively or adversely impact.

These proposed amendments will positively impact CSRU customers by providing current and accurate information.

4. Does this rule contain a waiver provision? If not, why?

No. These rules do not contain waiver provisions. The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references.

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

No, these rules do not have an impact on private-sector jobs or employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

Agency: Human Services
IAC citation: 441 IAC 95
Agency contact: Paula Burns/Diane Barrett (fiscal)

Summary of the rule:
Support Recovery Collections

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
 Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references. Updates to forms and manuals can be made by current staff and within current budget.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

N/A

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	<u>0.00</u>	<u>0.00</u>
<input type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons:		
<input type="checkbox"/> Funding has been provided for the rule change. <i>Please identify the amount provided and the funding source:</i>		
<input checked="" type="checkbox"/> Funding has not been provided for the rule. <i>Please explain how the agency will pay for the rule change:</i> There is no fiscal impact.		
Fiscal impact to persons affected by the rule:		
N/A		
Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):		
N/A		
Agency representative preparing estimate:	Diane Barrett	JH 08/02/2022
Telephone number:	515-281-6024	

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related information and records.

The Human Services Department hereby amends Chapter 96, "Information And Records," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 252B.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.9.

Purpose and Summary

Chapter 96 was reviewed as part of the Department's five-year rules review. Title IV-D of the Social Security Act provides that state child support agencies providing services under the Act shall have access to information and records from third parties to assist in providing services. These rules provide the framework for a child support agency to request or administratively subpoena information from employers and other sources.

Technical changes are made as a result of the five-year rules review. A reference to an obsolete form is being replaced with current information. A mailing address is also amended.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as ARC 6620C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any pursuant to rule 441_1.8(17A, 217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Chapter 96 Adopted and Filed Rules

Adopt the following rules:

ITEM 1. Amend paragraph **96.1(3)“a”** as follows:

- a.* Form ~~470-3232, Employer Verification Request, Form 470-0177~~ 470-0177M, Employment and Health Insurance Questionnaire, or other forms as specified in appropriate rules from the child support recovery unit which request information described at subrule 96.1(1).
- b.*

ITEM 2. Amend paragraph **96.3(2)“b”** as follows:

- b.* If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with the child support recovery unit or with the child support agency of the other state. The person or entity shall request a conference with the child support recovery unit by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to the Iowa Department of Human Services, Bureau of Collections, Central Registry, P.O. Box ~~9218~~ 9136, Des Moines, Iowa ~~50306-9218~~ 50306-9136. The person or entity shall request a conference with the child support agency of the other state by following the requirements of that state’s laws and regulations.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Paula Burns), Telephone Number (515-650-9853), Email Address (pburns@dhs.state.ia.us)

1. Give a brief purpose and summary of the rulemaking:

The purpose of this rulemaking is to update 441 IAC Chapter 96 as a result of CSRU's five-year review of rules (Iowa Code § 17A.7(2)). We are requesting the following rules changes:

- Paragraph 96.1(3)“a”: Striking reference to Form 470-3232 as it is obsolete and replacing Form 470-0177 with Form 470-177M, the actual name of the form.
• Paragraph 96.3(2)“b”: Updating the P.O. box address and zip code.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Iowa Code Section 252B.9(f)(7)

3. Describe who this rulemaking will positively or adversely impact.

These proposed amendments will positively impact CSRU customers by providing current and accurate information.

4. Does this rule contain a waiver provision? If not, why?

No. These rules do not contain waiver provisions. The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references.

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

No, these rules do not have an impact on private-sector jobs or employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

Agency: Human Services
IAC citation: 441 IAC 96
Agency contact: Paula Burns / Diane Barrett (fiscal)

Summary of the rule:
Child Support Information and Records

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
 Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references. Rules changes can be made by existing staff.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to collection services center.

The Human Services Department hereby amends Chapter 97, "Collection Services Center," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 252B.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.16.

Purpose and Summary

Chapter 97 was reviewed as part of the Department's five-year rules review. The collection services center is the public agency designated by the State as the unit with responsibility for the receipt, recording and disbursement of specified support payments within the state of Iowa. The administrative guidelines within this chapter describe the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor and distribute support payments.

Technical changes are made as a result of the five-year rules review. References to obsolete language are being replaced with current information.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as ARC 6622C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441_1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making action is adopted:

Please see attached.

Adopted and Filed Chapter 97

Adopt the following rules:

ITEM 1. Amend rule 441—97.2(252B), introductory paragraph, as follows:

441—97.2(252B) Transfer of records and payments. For non-IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. “Core case information” means information listed in paragraphs 97.2(1) “a” and “b” and subrule 97.2(2). For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, obligees, and payors of ~~income~~ obligees based upon case type.

ITEM 2. Amend subrule 97.5(3), introductory paragraph, as follows:

97.5(3) Implementing electronic funds transmission. A payor of income implementing electronic funds transmission shall complete all the following ~~before the implementation date specified in subrule 97.5(5) in~~ advance of transmitting payments electronically:

ITEM 3. Rescind and reserve subrule **97.5(5)**.

ITEM 4. Amend subrule 97.6(3) as follows:

97.6(3) Electronic transfer. Obligees who want electronic transfer of support payments to a designated account shall complete Form 470-2612, ~~Authorization for Automatic Deposit~~, and submit it to the collection services center. Unless subrule 97.6(5) applies, any obligee not using automatic deposit to a designated account shall be issued an electronic access card for receipt of support payments.

ITEM 5. Amend paragraph **97.6(5)“c,”** introductory paragraph, as follows:

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on Form 470-3972, ~~Electronic Support Payments~~, that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return Form 470-3972 to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. The exemptions available under this paragraph are:



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Paula Burns	Telephone Number 515-650-9853	Email Address pburns@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The purpose of this rulemaking is to update 441 IAC Chapter 97 as a result of CSRU's five-year review of rules (Iowa Code § 17A.7(2)). We are requesting the following rules changes:

- Rule 441—97.2: Striking “notices of transfer to obligors, obligees, and payors of income” and replacing with “notices of transfer to obligors and obligees.”
- Subrule 97.5(5): Rescinding and reserving subrule since the conversion to electronic transmission of payments is long over.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Iowa Code Section 252B.16(2)

3. Describe who this rulemaking will positively or adversely impact.

These proposed amendments will positively impact CSRU customers by providing current and accurate information.

4. Does this rule contain a waiver provision? If not, why?

No. These rules do not contain waiver provisions. The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references.

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

No, these rules do not have an impact on private-sector jobs or employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

Agency: Human Services
IAC citation: 441 IAC 97
Agency contact: Paula Burns / Diane Barrett (fiscal)

Summary of the rule:
Collections Services Center

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
 Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references. Rules changes can be made by current staff.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.
Please identify the state or federal law:
 Identify provided change fiscal persons:

Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:
 There is no fiscal impact.

Fiscal impact to persons affected by the rule:
 N/A

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):
 N/A

Agency representative preparing estimate: Diane Barrett JH 08/02/2022
 Telephone number: 515-281-6024

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to the Iowa Health and Wellness Plan and providing an opportunity for public comment.

The Human Services Department hereby proposes to rescind and adopt new Chapter 74, "Iowa Health And Wellness Plan," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 249A.4 and 249N.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 249A.4 and 249N.6.

Purpose and Summary

This chapter is being reviewed as part of the Department's five-year rules review. Chapter 74 defines and structures the Iowa Health and Wellness plan. The chapter is being rescinded and replaced to eliminate rules that are outdated, redundant and inconsistent. Terminology is being proposed to be updated. The references to marketplace choice are being removed as they no longer exist. Retroactive enrollment is being updated to include residential nursing facilities. The website has been added as a payment method for contributions. Members will no longer be required to pay premiums when no services were provided.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441_1.8(17A, 217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

**Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us**

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Please see attached.

Proposed Rule Changes

ITEM 1. Rescind and Replace, Chapter 74 Iowa Health and Wellness Plan

PREAMBLE

This chapter defines and structures the Iowa Health and Wellness Plan, effective January 1, 2014, and administered by the department pursuant to Iowa Code 249A and 249N. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver granted by the Secretary. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

441—74.1(249A, 249N) Definitions. The following definitions apply to this chapter in addition to the definitions in 441-Chapter 75(249A).

“*Countable income*” means “modified adjusted gross income” (MAGI) or “household income,” as applicable, determined pursuant to 42 U.S.C. § 1396a(e)(14).

“*Enrollment period*” means the 12-month period for which Iowa Health and Wellness plan eligibility is established.

“*Essential health benefits*” means the essential health benefits defined at 42 U.S.C. § 18022.

“*Iowa Dental Wellness Plan*” means the managed care dental benefit program set forth in 441 – Chapter 73.

“*Iowa Health and Wellness Plan*” means the medical assistance program set forth in this chapter, for individuals with countable income that does not exceed 133 percent of the federal poverty level.

“*Iowa wellness plan*” means the benefits and services provided to Iowa Health and Wellness Plan members.

“*Managed care organization*” means an entity that (1) is under contract with the department to provide services to Medicaid recipients and (2) meets the definition of “health maintenance organization” as defined in Iowa Code section 514B.1.

“*Medically exempt individual*” means an individual exempt from mandatory enrollment in an alternative benefit plan pursuant to 42 CFR § 440.315 as amended to May 16, 2022.

“*Minimum essential coverage*” means health insurance defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code.

“*Prepaid ambulatory health plan*” has the meaning set forth in 42 C.F.R. § 438.2 as amended to May 16, 2022.

“*Qualified employer-sponsored coverage*” shall be defined pursuant to 42 U.S.C. § 1396e1(b).

441—74.2(249A, 249N) Eligibility factors. Except as more specifically provided in this chapter, Iowa Health and Wellness Plan eligibility shall be determined according to the requirements of 441—Chapter 75.

74.2(1) Persons covered. Subject to the additional requirements of this chapter and of 441—Chapter 75, medical assistance under the Iowa Health and Wellness Plan shall be available to persons 19 through 64 years of age who:

a. Are not eligible for medical assistance in a mandatory group under 441—Chapter 75;

Proposed Rule Changes

- b. Have countable income at or below 133 percent of the federal poverty level for their household size;
- c. Are not entitled to or enrolled in Medicare benefits under Part A or Part B of Title XVIII of the Social Security Act; and
- d. Are not pregnant at the time of application or reenrollment.

74.2(2) *Parents or caretakers of dependent children.* All children under the age of 21 living with a parent or other caretaker who will be claimed as a dependent by the parent or caretaker for state or federal income tax purposes must be enrolled in Medicaid, in the Children's Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent's or other caretaker's eligibility for Iowa Health and Wellness Plan benefits.

74.2(3) *Citizenship.* To be eligible for Iowa Health and Wellness Plan benefits, a person must meet the citizenship requirements in 441—Chapter 75.

441—74.3(249A, 249N) Application. Medicaid application policies and procedures described in 441—Chapter 76 shall apply to applications for the Iowa Health and Wellness Plan.

441—74.4(249A, 249N) Financial eligibility.

74.4(1) *Countable income.* Individuals are financially eligible for the Iowa Health and Wellness Plan if their countable income is no more than 133 percent of the federal poverty level, as of the date of a decision on initial or ongoing eligibility.

74.4(2) *Household size.* For financial eligibility purposes, household size shall be determined according to the modified adjusted gross income (MAGI) methodology.

441—74.5(249A, 249N) Enrollment period.

74.5(1) *Effective dates of eligibility.* Iowa Health and Wellness Plan eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of 441—Chapter 74.8(249A).

74.5(2) *Reinstatement.* Enrollment for the Iowa Health and Wellness Plan may be reinstated without a new application in accordance with 441—Chapter 76.

74.5(3) *Presumptive eligibility.* The enrollment period of 12 consecutive months shall not apply to individuals temporarily enrolled in Medicaid based on a presumptive eligibility determination by a qualified entity in accordance with 441—Chapter 76.

74.5(4) *Retroactive enrollment.* Medical assistance shall be available to a pregnant woman or an infant (under one year of age), or a resident of a nursing facility licensed under Iowa Code chapter 135C for all or any of the three months preceding the month in which an application is filed when eligibility requirements are met in accordance with 441—Chapter 76.

441—74.6(249A, 249N) Reporting changes.

74.6(1) *Reporting requirements.* In addition to the reporting requirements in 441—Chapter 76, as a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member turns 65.

Proposed Rule Changes

d. The member becomes entitled or enrolled in Medicare Part A or Part B or both.

e. A child under the age of 21 living with the member loses minimum essential coverage if the member is the child's parent or other caretaker and will claim the child as a dependent for state or federal income tax purposes.

f. The member is pregnant.

74.6(2) *Untimely report.* When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with 441—Chapters 75 and 11. Program expenditures may include, but are not limited to, premiums and capitation payments.

74.6(3) *Effective date of change.* After enrollment, changes reported during the month that affect the member's eligibility shall be effective the first day of the next calendar month unless:

a. Timely notice of adverse action is required as specified in 441—subrule 16.3(1); or

b. The enrollment period has expired and the member is not eligible for a new enrollment period.

441—74.7(249A, 249N) Reenrollment. A new eligibility determination is required for consecutive 12-month enrollment periods. The reenrollment process will follow the requirements in 441—Chapter 76.

441—74.8(249A, 249N) Terminating enrollment. Iowa Health and Wellness Plan enrollment shall end when any of the following occurs:

a. The enrollment period ends and coverage for the next enrollment period has not been renewed.

b. The member becomes eligible for medical assistance in a mandatory coverage group under 441—Chapter 75.

c. The member is found to have been ineligible for any reason.

d. The member dies.

e. The member turns 65.

f. The member abandons Iowa residency.

g. The member becomes entitled or enrolled in Medicare Part A or Part B or both.

h. A child under the age of 21 living with the member loses minimum essential coverage, if the member is the child's parent or other caretaker and will claim the child as a dependent for state or federal income tax purposes.

i. The member's countable income exceeds 133 percent of the federal poverty level.

j. The Iowa Health and Wellness Plan is discontinued according to the requirements in rule 441—74.14(249A,249N).

k. The member does not pay monthly contributions as required by subrule 74.11(2).

441—74.9(249A, 249N) Recovery. The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with 441—Chapter 75.

74.9(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—Chapter 75.

74.9(2) Funds received from third parties, including Medicare, by a provider other than a state mental health institute shall be reported to the department or the managed care organization, and an adjustment shall be made to a previously submitted claim.

Proposed Rule Changes

441—74.10(249A, 249N) Right to appeal.

74.10(1) Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed to the extent permitted by 441—Chapter 7.

74.10(2) Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A, 249N).

441—74.11(249A) Financial participation

74.11(1) Copayment. Payment for nonemergency use of a hospital emergency department shall be subject to an \$8 copayment by the member, which shall be subtracted from the Iowa Health and Wellness Plan payment otherwise due to the provider.

74.11(2) Monthly contributions. Members enrolled in the Iowa Health and Wellness Plan with household income at or above 50 percent of the federal poverty level are required to pay monthly contributions pursuant to this rule.

a. Monthly contribution amount. The monthly contribution amount for each member is based on the countable income of the member's household, determined pursuant to 441—Chapter 75, as a percentage of the federal poverty level (FPL) for the household. Monthly contribution amounts are as follows:

- (1) For a member with household income between 50 and 100 percent of the FPL, \$5;
- (2) For a member with household income above 100 percent of the FPL, \$10.

b. Waiver during the first year of enrollment. The monthly contribution will be waived during the member's first 12 months of continuous enrollment.

c. Monthly contribution exemptions. A member shall be exempt from monthly contribution payments when any of the following circumstances apply:

(1) The member completed healthy behaviors pursuant to subrule 74.11(4) in the previous enrollment period.

(2) The member is determined to be a medically exempt individual pursuant to subrule 74.12(3).

(3) The member has access to cost-effective, employer-sponsored coverage and is enrolled in the health insurance premium payment program pursuant to 441—Chapter 75.

(4) The member is exempt from premiums pursuant to 42 CFR 447.56(a)(1)(x) as amended to May 16, 2022 as an Indian who is eligible to receive or has received an item or service furnished by an Indian health care provider or through referral under contract health services.

(5) The member claims a hardship exemption indicating that payment of the monthly contribution will be a financial hardship. The member may claim a hardship exemption by telephoning the call center designated by the department, by checking the hardship box on the billing statement (for the month of the billing statement), or by submitting a written statement to the address designated by the department. The member's hardship exemption must be received or postmarked within five working days after the monthly contribution due date. If the hardship exemption request is not made in a timely manner, the exemption shall not be granted.

d. Billing and payment. Form 470-5285 or 470-5285(S) shall be used for billing and collection of the monthly contribution.

(1) *Method of payment.* Members shall submit contribution payments to the following address: Iowa Medicaid, Iowa Health and Wellness Plan Monthly Contributions, P.O. Box 14485, Des Moines, Iowa 50306-3485. Members can also submit contributions through the department's website.

Proposed Rule Changes

(2) Due date. When the department notifies a member of the amount of the monthly contribution, the member shall pay any monthly contributions due in accordance with the following:

1. The monthly contribution for each month is due on the last calendar day of the month that the monthly contribution is to cover.
2. If the last calendar day falls on a weekend or state or federal holiday, payment is due on the first working day following the weekend or holiday.
3. Monthly contribution payments must be received or postmarked by the due date.

(3) Application of payment. The department shall apply monthly contributions payments received to the oldest unpaid month in the current enrollment period. When monthly contributions for all months in the enrollment period have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

e. Failure to pay monthly contributions

(1) An Iowa Health and Wellness Plan member with household income between 50 and 100 percent of the FPL who fails to pay the assessed monthly contributions and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with rule 441—Chapter 75. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

(2) An Iowa Health and Wellness Plan member with household income above 100 percent of the FPL who fails to pay the assessed monthly contribution and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall have the member's eligibility terminated. In addition, the member shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with 441—Chapter 75. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

1. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before eligibility will be terminated or the unpaid amount will be subject to recovery.

2. A member whose eligibility is terminated due to nonpayment of monthly contributions may reenroll for Medicaid benefits pursuant to 441—Chapter 76.

3. Unpaid premiums shall not be considered a collectible debt by the state if, at the member's next annual renewal date, the member does not apply for renewed eligibility, and the member has no claims for services delivered after the month of the last premium payment.

f. Refund of monthly contributions.

(1) Monthly contributions paid for any period shall be refunded if the member qualified for a monthly contribution exemption pursuant to paragraph 74.11(2) "c" or when a member's Iowa Health and Wellness Plan coverage is terminated for the following reasons:

1. The member is no longer eligible for coverage in the Iowa Health and Wellness Plan; or
2. The member dies.

(2) The amount of any refund shall be offset by any outstanding monthly contributions owed.

(3) The refund shall be paid within two calendar months from the date of termination from the program.

Proposed Rule Changes

74.11(3) Aggregate annual limits on copayments and monthly contributions. The total aggregate annual amount of copayments and monthly contributions for an individual shall not exceed 5 percent of the household's countable annual income determined pursuant to 441—Chapter 75.

74.11(4) Healthy behaviors. An Iowa Health and Wellness Plan member who completes a wellness examination and health risk assessment during any enrollment year shall have monthly contributions waived in the subsequent enrollment year.

a. Under healthy behaviors, a wellness examination may be related to either physical health or oral health. Physical examinations must be performed by a medical provider and must assess a member's overall physical health consistent with standard clinical guidelines for preventive physical examinations and as defined by the department. Oral examinations must be performed by a dental provider consistent with standard oral health guidelines for preventive dental examinations and as defined by the department.

b. A health risk assessment is an assessment offered by a managed care plan through which the member is receiving Iowa Health and Wellness Plan benefits.

441—74.12(249A) Benefits and service delivery. Covered benefits and the service delivery method shall be determined by the member's health status.

74.12(1) Iowa Wellness Plan services. Members shall be enrolled in the Iowa Health and Wellness Plan unless the member is determined by the department to be a medically exempt individual.

a. Covered Iowa Wellness Plan services are essential health benefits, all other benefits required pursuant to 42 U.S.C. § 1396u-7(b)(1)(B), including prescription drugs, and dental services consistent with 441—Chapter 78.

b. Members enrolled in the Iowa Health and Wellness Plan shall be subject to enrollment in managed care, other than PACE programs, pursuant to 441—Chapter 73.

c. Dental services shall be provided under the Iowa Dental Wellness Plan as set forth at 441 – Chapter 73 through a contract with one or more dental prepaid ambulatory health plans. The department may restrict member access to those dental prepaid ambulatory health plans with which the department contracts. The dental prepaid ambulatory health plan shall provide the member with a dental card identifying the member as eligible for dental services.

74.12(2) Medically exempt individuals. An Iowa Health and Wellness Plan member who has been determined by the department to be a medically exempt individual shall be given the choice of the benefits and service delivery method provided by the Iowa Wellness Plan or receiving benefits and services pursuant to 441—Chapter 78.

a. A member may attest to being a medically exempt individual by submitting a completed Form 470-5194.

b. A provider with a current National Provider Identifier number, an employee of the department, a designee of the department of corrections, a managed care organization, or a mental health and disability services region established pursuant to Iowa Code sections 331.388 to 331.399 may refer a member for a medically exempt individual determination by submitting a completed Form 470-5198.

c. Upon receipt of Form 470-5194 or 470-5198, the department shall determine whether the member qualifies as a medically exempt individual in accordance with 42 CFR § 440.315 as amended to May 16, 2022.

Proposed Rule Changes

74.12(3) *Qualified employer-sponsored coverage.* An individual who has access to cost effective employer-sponsored coverage shall be subject to enrollment in the health insurance premium payment program pursuant to 441—Chapter 75.

441—74.13(249A, 249N) Claims and reimbursement methodologies.

74.13(1) *Payment for services.* Payment for services provided under the Iowa Wellness Plan services shall be provided in accordance with 441—Chapter 79 or as provided in a contract between the department or the member’s managed care organization and the provider.

441—74.14(249A, 249N) Discontinuance of program.

74.14(1) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state, or if federal law or regulation affecting eligibility or benefits for the Iowa Wellness Plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

74.14(2) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below 90 percent but not below 85 percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Jason Watson	Telephone Number 515-601-7277	Email Address jwatson2@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

Five-year rule review is conducted as an ongoing and comprehensive review to identify and eliminate rules that are outdated, redundant, or inconsistent.

The following changes and updates have been made to the proposed draft:

- Terms and language have been clarified and cleaned up
- Marketplace choice has been removed because it no longer exists
- Reference to 85GA & SF 466 have been removed (as they are no longer valid)
- Retroactive enrollment now includes residential nursing facilities
- The website has been added as a payment method for contributions
- Changes have been made to match the special terms and conditions (STC) language

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Waiver 1115 special terms and conditions & 249N

3. Describe who this rulemaking will positively or adversely impact.

- The unpaid premiums change for members who meet the criteria should have a positive impact as they will not be required to pay premiums when no services were provided.

4. Does this rule contain a waiver provision? If not, why?

The amendments do not contain waiver provisions. Waiver can be requested under the Department's general rule on exceptions at Iowa Admin. Code r. 441-1.8.

5. What are the likely areas of public comment?

Unknown.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

No



Administrative Rule Fiscal Impact Statement

Date: December 13, 2021

Agency: Human Services

IAC citation: 441 IAC 74

Agency contact: Jason Watson

Summary of the rule:

Five year rule review is conducted as an ongoing and comprehensive review to identify and eliminate rules that are outdated, redundant, or inconsistent.

The following changes and updates have been made to the proposed draft:

- Terms and language have been clarified and cleaned up
- Marketplace choice has been removed because it no longer exists
- Reference to 85GA & SF 466 have been removed (as they are no longer valid)
- Retroactive enrollment now includes residential nursing facilities
- The website has been added as a payment method for contributions
- Changes have been made to match the special terms and conditions (STC) language

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

This rule clarifies terms and language, updates references to obsolete forms, website, and special terms and condition. Since retroactive enrollment has been in effect with no change to policy, no fiscal impact is expected.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

249A and 249N

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

The unpaid premiums change for members who meet the criteria should have a positive impact to persons affected by the rule as they will not be required to pay premiums when no services were provided.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

There is no fiscal impact expected to counties or other local governments.

Agency representative preparing estimate: Soraya Miller

JH 06/27/2022

Telephone number:

515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to nursing facilities and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 House File 761.

Purpose and Summary

This proposed rule making implements legislation from 2022 Iowa Acts, House File 761. This rulemaking provides for a quality incentive payment program (QIPP) for non-state government owned nursing facilities (NSGO) to promote, maintain and improve quality of care and health outcomes. The proposed rules identify the criteria the NSGO facility shall meet to qualify for participation in the program.

The goal is to issue additional payments for quality of care above what is required by the Centers for Medicaid and Medicare. There is no fiscal impact anticipated as the provider/nursing facility will be paying the state share of the add-on rate, similar to other inter-governmental transfer programs.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. However, there will be a fiscal impact to counties or other local governmental agencies as they will be responsible for providing the provider's state share which is completed through the intergovernmental transfer process

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any pursuant to rule IAC 441_1.8(17A, 217)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

**Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us**

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Please see attached.

Proposed Rule Changes

ITEM 1. Amend rule **441—81.1(249) Definitions** as follows:

“Non-state government owned facility” a non-state government owned (NSGO) facility is a facility owned by a governmental entity that is not the state.

ITEM 2. Adopt new paragraph **441—81.6(16)i** as follows:

81.6(16)i Quality Incentive Payment Program (QIPP) The QIPP add-on rate shall be made to a qualified non-state government owned nursing facility (NSGO) to promote, maintain, and improve resident quality of care and health outcomes.

a. A NSGO nursing facility shall qualify for participation in the program if all the following conditions are met:

- (1) The NSGO nursing facility has executed a participation agreement with the Department.
- (2) The NSGO nursing facility has provided proof that the entity holds the NSGO nursing facility’s license and has complete operational responsibility for the NSGO nursing facility.
- (3) The NSGO nursing facility has filed a certification of eligibility application for the QIPP add-on rate program with the Department and has received approval from the Department for participation in the program.
- (4) The NSGO nursing facility is in compliance with all care criteria requirements.
- (5) The non-state government entity (NSGE) has executed a nursing facility provider contract with an NSGO nursing facility.
- (6) The NSGE has provided and identified the source of state share dollars for the intergovernmental transfer (IGT).

Proposed Rule Changes

(7) The NSGO has provided proof of ownership, if applicable, as the licensed operator of the NSGO nursing facility.

(8) The NSGO has provided, to the Department, an executed management agreement between the NSGE and the NSGO nursing facility manager if applicable.

(9) If at any time a provider is determined not eligible due to not meeting survey standards, they will be disqualified for the remainder of the year.

b. A NSGO shall qualify for participation in the program if all the following quality measures are met:

(1) Quality measures, metrics, tracking/scoring and data source

Quality Measures	Metrics	Tracking / Scoring	Data Resource
Staffing	Metric 1: Nursing facility maintains an additional four or more hours of Registered Nurse (RN) coverage per day beyond the CMS minimum standard (8hrs/day). Does not include managerial hours.	Staffing metrics 1, 2, and 3 must be met to be eligible for per diem rate add-on payment.	Payroll Based Journal (PBJ) or Cost Reports
	Metric 2: Nursing facility's per-resident day Certified Nursing Assistants (CNAs), rehabilitation aid, and other contracted aid services are at or above one-half standard deviation above the statewide mean of per-resident-day CNA hours. CNA hours include those of CNAs, rehabilitation aid, and other contracted aide services. CNA hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.		

Proposed Rule Changes

	<p>Metric 3: Nursing facility’s per-resident day total nursing hours are at or above one-half standard deviation above the statewide mean of per-resident-day total nursing hours.</p> <p>Nursing hours include those of RNs and Licensed Practical Nurses (LPNs) including restorative nurses. Nursing hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.</p>		
<p>Infection Control</p>	<p>Metric 1: Nursing Facility has an infection control program that includes antibiotic stewardship. The program incorporates policies and training as well as monitoring, documenting, and providing staff with feedback</p>	<p>Infection Control metrics 1, 2, and 3 must be met to be eligible for per diem rate add-on payment.</p>	<p>Nursing facility will be required to provide their infection control policy and procedure. In addition, facilities will need to provide information regarding; training, monitoring, documentation and monitoring of required elements to meet this metric on a periodic basis.</p> <p>Casper Report MDS Assessment Care Compare</p>
	<p>Metric 2: Percent of residents with urinary tract infections (UTI) at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on Minimum Data Set (MDS) data as applied to the nationally reported quality measures.</p>		
	<p>Metric 3: Percent of residents with up-to-date pneumonia vaccine measured against a fixed benchmark that is set as the most recently published national average for the related MDS quality metric.</p>		
<p>Quality Measures</p>	<p>Metric 1: Percent of high-risk residents with pressure ulcers (for longer term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>	<p>Quality measure metrics 1, 2, 3 and 4 must be met to be eligible per diem rate add-on payment.</p>	<p>Casper Report MDS Assessment Care Compare</p>

Proposed Rule Changes

	<p>Metric 2: Percent of residents who had a fall with major (for longer term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>		
	<p>Metric 3: Percent of residents who received antipsychotic medications are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>		
	<p>Metric 4: Percent of residents who required increased Activities of Daily Living (ADL) assistance (for longer term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>		
State Survey Results	Number of deficiencies will be at or below the state of Iowa average number of nursing facilities deficiencies <u>AND</u> the facility has no deficiencies with a scope of F, H, I, J, K, or L.	State survey results must be met to be eligible for per diem rate add-on payment.	Department of Inspections and Appeals (DIA) surveys
Quality Assurance Performance Improvement Report	Nursing facility must submit QAPI reports on quarterly basis	QAPI results must be submitted to be eligible for per diem rate add-on payment.	QAPI reports

c. A provider must submit the Intent to Participate Agreement on or before September 30 each year and include all necessary documentation related to the quality measures.

(1) Upon receipt of the participation agreement, the Department will complete a determination of eligibility based on the care criteria defined above.

Proposed Rule Changes

(2) Providers will be notified of their eligibility annually within sixty days of the agreement due date.

d. The nursing facility QIPP add-on rate provided to a participating NSGO under the program shall not exceed Medicare payment principles pursuant to 42 C.F.R. §447.272 and shall be calculated pursuant to 42 C.F.R. §438.6. The QIPP add-on rate shall be calculated and paid as follows:

(1) The methodology utilized to calculate the upper payment limit shall be based on the data available during the calculation period.

(2) The eligible amount used in determining the QIPP add-on rate shall be the difference between the state Medicaid payment and the Medicare upper payment limit as determined, on an annual basis, using all Medicaid claims, including fee-for-service (FFS) and Medicaid managed care claims.

(3) The difference calculated under subparagraph division (2) shall be divided by total patient days pursuant to 81.6(7).

(4) The QIPP add-on rate shall be paid prospectively.

e. A participating NSGO nursing facility shall notify the Department of any change of ownership that may affect the participating NSGO nursing facility's continued eligibility for the program, at minimum of thirty days prior to such change.

(1) If a participating NSGO nursing facility changes ownership to a privately owned entity, on or after the first day of the QIPP add-on rate calculation period, the privately owned provider is no longer eligible for the QIPP add-on rate.

Proposed Rule Changes

(2) A participating facility must meet the CMS and Iowa Medicaid requirements to be classified as a NSGO. All change of ownerships must be a fair market value transaction.

(3) If it is determined that a provider is not a qualified NSGO facility per CMS and Iowa Medicaid, the provider shall repay all the QIPP add-on payments back to the Department.

f. Providers that do not meet eligibility requirements above will be notified what metrics were not met.

g. A participating NSGO nursing facility shall secure allowable intergovernmental transfer funds from a participating NSGE to provide the state share amount. The process for the intergovernmental transfer shall comply with the following:

(1) The Department, or the Department's designee, shall notify the participating NSGO of the state share amount to be transferred in the form of an intergovernmental transfer for purposes of seeking federal financial participation for the QIPP add-on rate, within fifteen business days after the end of each month. The participating NSGO shall have until the end of the month to remit payment of the state share amount in the form of an intergovernmental transfer to the Department or the Department's designee.

(2) If there are any outstanding intergovernmental transfer amount at the end of the payment period the provider will not be able to participate in the following year.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Jessica McBride	Telephone Number 515-201-4157	Email Address jmcbri@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The quality incentive payment program is for non-state owned (NSGO) facilities to qualify for an additional payment based on quality measures met.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

HF 761.

3. Describe who this rulemaking will positively or adversely impact.

This rule will positively impact the providers who are already a NSGO. It may incentivize other facilities to partner with their city or county governmental authority to open and operate a facility with governmental financial support. The goal is to issue additional payments for quality of care above CMS set expectations.

4. Does this rule contain a waiver provision? If not, why?

No. A SPA is required to CMS.

5. What are the likely areas of public comment?

Public comments will be both positive and negative. This program is limited to specific providers at this time. There are also provider concerns about the quality measures being set too high to qualify for add-on payments. Comments regarding the "all of nothing" quality measures will be received. At this time, the Department cannot issue a payment based off a percentage of quality measures met. There may be comments about the timing of the participation timeline.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)

Yes, but not quantifiable. There will be a positive effect due to increase rates.



Administrative Rule Fiscal Impact Statement

Date:

Agency: Human Services

IAC citation: 441 IAC

Agency contact:

Summary of the rule:

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

Budget Analysts must complete this section for ALL fiscal impact statements.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	_____	_____

- This rule is required by state law or federal mandate.
Please identify the state or federal law:
Identify provided change fiscal persons:

- Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

- Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

Agency representative preparing estimate:
Telephone number:

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to nursing facilities and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 HF 2578.

Purpose and Summary

Legislation passed in 2022, Iowa Acts, House File 2578 updated the law to reduce the cost of an improvement project to an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds \$750,000. The previous amount was \$1.5 million dollars. This proposed rulemaking identifies the lower threshold of the \$750,000 amount. This amendment also includes HVAC projects as a qualifying project. How to calculate Medicaid utilization rates is also defined as part of this proposed rulemaking.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule IAC 441 1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Please see attached.

Proposed Rule Changes

ITEM 1. Amend rule **441—81.1(249A)** Definitions as follows:

“*Major renovations*” means new construction or facility improvements to an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds ~~\$1.5 million~~ \$750,000. The ~~or~~ \$750,000 threshold shall be calculated based on the total depreciable asset value of new construction or facility improvements placed into service during a two-year period ending on the date the last asset was placed into service. When the property costs of an asset have been included in a facility’s financial and statistical report that has already been used in a biennial rebasing, the costs of that asset shall not be considered in determining whether the facility meets the ~~\$1.5 million~~ \$750,000 threshold.

ITEM 2. Amend subparagraph **441—81.6(16)h(2)** as follows:

(2) Eligible projects. To qualify for either the capital cost per diem instant relief add-on or the enhanced non-direct care rate component limit, a facility must have undertaken a complete replacement, new construction, or major renovations for the purpose of:

1. Rectification of a violation of Life Safety Code requirements; or
2. Development of home- and community-based waiver program services.
3. Improving infection control by replacing or enhancing an HVAC system,

as defined in Iowa Code section 105.2

ITEM 3. Amend subparagraph **441—81.6(16)h(3)** as follows:

Proposed Rule Changes

(3) Additional requirements for all requests. To qualify for additional reimbursement, a facility with an eligible project must also meet the following requirements:

1. The facility has Medicaid-utilization at or above 40 percent. ~~for the two-month period before the request for additional reimbursement is submitted. Medicaid utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total licensed bed capacity as reported on the facility's most current financial and statistical report. Medicaid~~ patient day utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total patient days as reported on the facility's most current financial and statistical report. Medicaid hospice patient days shall be counted toward the total nursing facility Medicaid patient days.



Administrative Rule Fiscal Impact Statement

Date: 11/28/22

Agency: Human Services

IAC citation: 441 IAC 81

Agency contact: Jessica McBride

Summary of the rule:

The 89th Legislative session updated law to reduce the cost of an improvement project from \$1.5 million to \$750,000.00 to qualify for the infrastructure program. Medicaid utilization and HVAC projects were also changed from previous legislation.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

This rule reduces the threshold of an improvement project from \$1.5 million to \$750,000. This rule also includes HVAC projects as a qualifying project and also defines how Medicaid utilization is calculated for qualifying projects. Although this rule change will allow more providers to qualify, there is no fiscal impact to the state as this amount is appropriated annually from the general fund and these changes will not impact the overall funding pool.

Fill in the form below if the impact does not fit the criteria above:

- Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Funding for these projects is an annual amount appropriated from the general fund.

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	800,000.00	800,000.00
Federal funds		
Other (specify):		
TOTAL REVENUE	800,000.00	800,000.00
Expenditures:		
General fund	800,000.00	800,000.00
Federal funds		
Other (specify):		
TOTAL EXPENDITURES	800,000.00	800,000.00
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

HF 2578

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding is an annual amount appropriated from the general fund

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

This rule change will allow more nursing facility providers to possibly qualify for funds for quality improvement projects.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

There is no fiscal impact to counties or other local governments.

Agency representative preparing estimate: Soraya Miller

JH 11/29/2022, JB 11/30/22

Telephone number: 515-281-6017