

## Council on Human Services

THURSDAY, NOVEMBER 10, 2022

10 A.M. – 12 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 October 13, 2022, meeting minutes**

**10:05 a.m. Rules**

The following amendments to the administrative rules are presented for emergency adoption at the October 10, 2022, Council on Human Services meeting.

**AE-I. Amendments to Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services, “Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Service,” Iowa Administrative Code. (Implements HF 2578). Subject to emergency adoption approval by ARRC at their November 15, 2022, meeting.**

2022 HF 2578 appropriated funds to increase specific Home and Community Based Services (HCBS) for waiver providers and HCBS habilitation providers reimbursement rates over the rates in effect June 30, 2022. Those increases are:

- Increase rates for Behavioral Health Intervention (BHIS) services by 20.6 percent.
- Increase rates for Applied Behavior Analysis (ABA) by 8.9 percent.
- Increase rates for Home Health Agency providers located in rural areas. These are the providers covered under the Low Utilization Payment Adjustment (LUPA) methodology whose rates may vary depending on the type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits.
- Currently LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817 of HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. The following changes are being amended because of the proposed rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and Habilitation services.
- Increase the monthly cap on HCBS Support Employment and Intellectual Disabilities (ID) Waiver respite services.
- Increase the annual or lifetime limitations for Home and Vehicle Modifications and Specialized Medical Equipment.
  
- Technical errors were also corrected as part of the rule filing.

This rule filing will also be filed as a Noticed rule to allow the public an opportunity to comment. See Noticed Rule N-9.

**The following amendments to the administrative rules are presented for adoption.**

**R-1. Amendments to Chapter 61, “Refugee Services Program,” Iowa Administrative Code. (Align rules with current practice and the federal code).**

This rule making updates the definition of “refugee” to match the definition in the federal regulations. References to federal agencies are updated to reflect the current name of those agencies. The time frame to which services may be provided to newly arriving refugees is increased to five years after arrival in the United States to reflect the Department’s current practices. Outdated processes are removed from the rules. This review is part of the department’s five-year rules review process.

**R-2. Amendments to Chapter 85, “Services in Psychiatric Institutions,” Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)**

This rule making updates federal code references and cross references to other Department rule chapters. Obsolete form names were removed from the rules. The locations of the state mental health institutes were also updated. This review is part of the department’s five-year rules review process.

**R-3. Amendments to Chapter 117, “Foster Parent Training,” Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)**

Before a foster parent is licensed the individual must complete a variety of agency-approved training courses that teach foster parents how to support a child's overall well-being and emotional needs. This rule making allows in-service training to be provided whether face-to-face or through interactive virtual training when provided to a group or an individual foster family. Training requirements are updated. This review is part of the department's five-year rules review process.

**R-4. Amendments to Chapter 133, "IV-A Emergency Assistance Program," Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)**

Definitions have been updated to match those used in other Department programs and to be consistent across programs. Services that are no longer available have been removed from the rules. A reference to the food assistance program is being updated to the Supplemental Nutrition Assistance Program (SNAP) to reflect the current program's name change. The list of specified relatives a child must be living with or has lived with in the past six months has been expanded to match current policy. This review is part of the department's five-year rules review process.

**R-5. Amendments to Chapter 142 "Interstate Compact on the Placement of Children," Iowa Administrative Code. (Align rules with current practice and the Iowa Code).**

Cross-references to Iowa Code have been updated. A clarification is made that placement into Iowa from any location or from Iowa to another location may include to or from any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and with the consent of Congress, the government of Canada or any providence thereof. This review is part of the department's five-year rules review process.

**R-6. Amendments to Chapter 143, "Interstate Compact on the Placement of Juveniles," Iowa Administrative Code. (Align rules with current practice and the Iowa Code)**

The name of the governing body of the Interstate Compact on the Placement of Juveniles is updated to reflect the current name, the Interstate Commission for Juveniles. This Commission includes representatives from all 50 states, the District of Columbia and the US Virgin Islands who work together to preserve child welfare and promote public safety. Form names used to send a juvenile out of state under the commission are revised to reflect the current name. The rules clarify the Department must pay for the return of any runaway, escapee, or absconder to the State of Iowa for whom the Department has legal custody or guardianship.

**R-7. Amendments to Chapter 166, "Quality Improvement Initiative Grants," Iowa Administrative Code (Align rules with current practice and the Iowa Code).**

Rules are updated to align with federal regulations regarding the use of civil money penalties (CMP) imposed by the Centers for Medicare and Medicaid (CMS). These rules also update the Department's purposes for CMP emergency reserve fund grants. This review is part of the department's five-year rules review process.

**R-8. Amendments to Chapter 177, "In-Home Health-Related Care," Iowa Administrative Code. (Align rules with current practice and the Iowa Code).**

Currently the In-Home Health-Related Care (IHHC) Program requires a registered nurse to provide supervision of a client's care plan to receive services. Over the past several years the Department has experienced more nursing agencies opting out of providing supervision services for this program. Medicaid programs providing similar services under the home-and community-based programs do not require a supervising practitioner when the services being provided are considered unskilled or are for personal care services. These amendments remove nursing supervision for unskilled personal care services and maintain nursing supervision for skilled services. Amendments also identify how the program is implemented from the application process through termination if termination is required. This rule making 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 58, "Emergency Assistance-Disaster Assistance)," Iowa Administrative Code. (Align rules with current practice and Iowa Code).**

Chapter 58 provides a state program of financial assistance and case management services to meet disaster-related expenses, food-related expenses, or serious needs of individuals and families who are adversely affected by a state-declared emergency. The program is intended to meet needs that cannot be met by other means of financial assistance. Definitions were updated. Proposed rules are being clarified that reimbursement of food or personal property may be in the form of checks or gift cards. Rules are being clarified to state the applicant must provide proof of their annual household income and an itemized list of the items that were damaged in the disaster. The proposed rule making allows insurance deductibles to be reimbursed up the \$5,000 limit per household if the household provides a denial letter from their insurance company. Rules are clarified regarding preexisting conditions, repairs, and amount of temporary housing coverage. Timeframes for the application period and length of time for approving grants were also clarified. This review is part of the department's five-year rules review process.

**N-2. Amendments to Chapter 80, “Procedure and Method of Payment,” Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)**

Chapter 80 provides information for providers of medical care participating in Medicaid on submitting claims to receive payment. 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.

**N-3. Amendments to Chapter 82, “Intermediate Care Facilities for Persons with an Intellectual Disability (Implements HF 2578).**

This proposed rule making implements HF 2578 to increase reimbursement rates for Intermediate Care Facilities for Persons with an Intellectual Disability (ICF ID) over the rates in effect on June 30, 2022. The entire rate increase is to be used for the wages and associated costs specific to wages, benefits and required withholding for direct support professionals and frontline management. These proposed amendments adopt a new wage add-on factor for community based ICF ID facilities to be included in the rates effective July 1, 2022, and after. The wage add-on factor is to be added to the maximum allowable base rate.

**N-4. Amendments to Chapter 87, “Family Planning Program,” (Align rules with current practice and the Iowa Code)** Chapter 87 defines the state family planning program which is a state funded program with an allocated portion within the Medical Assistance program. These proposed rules add language to allow Afghan parolees and the Compacts of Free Association (COFA) with three Pacific Island nations populations to clarify their eligibility for the program. Minor updates and clarifications to eligibility criteria are proposed as part of the review process. Definitions are being updated to provide clarify and correct references to other chapters. Enterprise is being removed from Iowa Medicaid to be consistent across all Medicaid chapters. References to federal regulations are also being updated to provide accurate listings. This review is part of the department’s five-year rules review process.

**N-5. Amendments to Chapter 90, “Case Management Services,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code).**

Chapter 90 provides information on case management services and when those services are available to members. This rules review resulted in proposed technical changes. Definitions are being updated to provide correct references in other chapters. References to federal regulations were updated to provide accurate listings. This review is part of the department’s five-year rules review process.

**N-6. Amendments to Chapter 98, “Support Enforcement Services,” Iowa Administrative Code. (Align rules with current practice the Iowa Code and federal regulations)**

Chapter 98 outlines the enforcement services provided by the Child Support Recovery Unit. This rules review resulted in proposed technical changes. These proposed rules update legal references for the Iowa Rules of Civil Procedure. Form names and numbers are being updated. References to the Iowa Code and federal regulations are also being updated to provide accurate listings. The name of the food assistance program is being updated to replace it with the federal name of the Supplemental Nutrition and Assistance Program. This review is part of the department’s five-year rules review process.

**N-7. Amendments to Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code. (Align rules with current practice, the Iowa Code, and federal regulations).**

Chapter 99 outlines the rules governing the provision of services provided by the Child Support Recovery Unit regarding the establishment of paternity, the establishment of support obligations, the review and adjustment of support obligations, the modification of support obligations and the suspension and termination of support obligations. This rules review resulted in proposed technical changes. These proposed amendments are being updated to align the rules with the current procedures for paternity establishment in the Iowa Code. References to federal regulations and Iowa Code are being updated to provide accurate listings. Outdated guidance on establishment of support obligations and guidelines for setting support awards are being rescinded. This review is part of the department’s five-year rules review process.

**N-8. Amendments to Chapter 152, “Foster Care Contracting,” Iowa Administrative Code. (Align rules with current practice the Iowa Code and federal regulations)**

Chapter 152 outlines the contracting process used for providers of foster group care, child welfare emergency services shelter and supervised apartment living. This chapter provides the rules for rate-setting, payments, and provider monitoring. The proposed amendments update definitions. Form names and numbers and legal references are also updated. This review is part of the department’s five-year rules review process.

**N-9. Amendments to Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services, “Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Service,” Iowa Administrative Code. (Implements HF 2578).** For description see Rule AE-I for emergency filing listed above.

- 10:40 a.m.**            **Managed Care Quarterly Report, SFY 2022, Quarter 4 –**  
Medicaid Management Analyst Kurt Behrens
- 11:00 a.m.**            **Child Protective Services Assessment – ACFS Division**  
Administrator Janee Harvey
- 11:30 a.m.**            **Director’s Report – Chief of Strategic Operations Matt Highland**
- 11:50 a.m.**            **Council Update**
- 12:00 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 refugee services program

The Human Services Department hereby amends Chapter 61, "Refugee Services Program," Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

### Purpose and Summary

Chapter 61 was reviewed as part of the Department's five-year rules review. The Department manages and coordinates the refugee program activities within the state. This chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program].

The proposed rule making updates the definition of "refugee" to match the definition in federal regulations. References to the United States Immigration and Naturalization Service are revised to reflect the current name of the agency, which is the United States Citizenship and Immigration Service. References to the bureau name for the United States Department of State's Bureau of Refugee Programs are also updated to Bureau of Population, Refugees, and Migration to reflect the current name.

Services that are specifically designed to assist refugees with obtaining employment and improving the employability of work skills of the individual are revised to match federal regulations and clarify services that are available. The time frame in which services may be provided to newly arriving refugees is increased to five years after arrival in the United States to reflect the Department's current process.

Requirements regarding refugee sponsors, adverse actions regarding sponsor applications and administrative review of denial of sponsorship applications are removed because this process no longer exists. The rule making clarifies that the Director of the Office of Refugee Resettlement is the individual who determines the number of unaccompanied minors to be resettled in Iowa pursuant to federal regulations. The process regarding providing interpreters and translators for legal proceedings is also removed to reflect current practices. The court systems have a process in place to obtain an interpreter or translator when requested for legal proceedings, as described in Iowa Code chapter 622A. Information relating to a pilot program regarding recredentialing services is removed because the pilot project ended in September 2003, and references to the Iowa Refugee Services Foundation are removed because it is not currently active.

### Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as ARC 6512C.

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 November 10, 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 IAC 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.**

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 61**, preamble, as follows:

PREAMBLE

The department of human services sets the strategic vision for, manages and coordinates refugee program activities in the state of Iowa. In this capacity, the department develops, implements, and oversees activities which reflect refugee policy priorities of the United States Department of State and the United States Department of Health and Human Services and which address sound practices on behalf of the state of Iowa as outlined in the Iowa state refugee program plan. ~~Serving in the role of~~ The Iowa state refugee program coordinator, ~~the director~~ coordinates with resettlement agency administrators active in the resettlement of refugees within the state of Iowa. Although the department manages many activities and programs in the administration of the state of Iowa's refugee program, the central focus is to promote as expeditiously as possible economic self-sufficiency and social self-reliance for refugees.

These rules define and structure the department's refugee services program. Eligibility criteria, application procedures, reasons for adverse actions, and appeal procedures for clients and sponsors are outlined.

ITEM 2. Adopt the following **new** definitions of "Cash assistance" and "Individual employability plan" in rule **441—61.1(217)**:

*"Cash assistance"* means financial assistance to refugees, including Temporary Assistance for Needy Families (TANF), supplemental security income (SSI), refugee cash assistance and general assistance as defined in 42 CFR 400.2 as amended to June 7, 2022.

*"Individual employability plan"* means a written plan outlining an individual's vocational goal and the services to be provided to reach the goal.

ITEM 3. Rescind the definitions of "Legal proceeding," "Portal-to-portal" and "Presiding judicial officer" in rule **441—61.1(217)**.

ITEM 4. Amend rule **441—61.1(217)**, definitions of "Refugee" and "Resettlement agency," as follows:

*"Refugee"* means any person who:

1. Is outside any country of the person's nationality or, in the case of a person having no nationality, is outside any country in which the person last habitually resided; and
2. Is unable or unwilling to return to that country and unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, as defined under the Immigration and Nationality Act, Title I, Section 101.

In special circumstances, the President of the United States may specify any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion as a refugee.

The term "refugee" does not include any person who ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group or political opinion.

*"Resettlement agency"* means any business, organization or group of related persons having a current contract with the U.S. United States Department of State's Bureau ~~for Refugee Programs of Population, Refugees, and Migration~~ for the resettlement of refugees within the United States of America.

ITEM 5. Amend rule 441—61.2(217) as follows:

**441—61.2(217) Authority.** The department has been given authority to administer the refugee

program by Executive Order Number 21, signed by the governor December 24, 1985. ~~U.S. United States~~ Department of State and ~~U.S. United States~~ Department of Health and Human Services rules govern various program operations.

ITEM 6. Amend rule 441—61.3(217) as follows:

**441—61.3(217) Eligibility for refugee services.** Refugees eligible for services under this chapter include people who have one of the following statuses, as issued by the United States Citizenship and Immigration and Naturalization Service:

**61.3(1) to 61.3(3)** No change.

**61.3(4)** A Cuban or Haitian entrant in accordance with requirements in 45 CFR Part 401, as amended to ~~March 22, 2000~~ June 7, 2022. Cuban and Haitian entrants include:

a. No change.

b. Any other national of Cuba or Haiti who meets both of the following conditions:

(1) The person either:

1. and 2. No change.

3. Has an application for asylum pending with the United States Citizenship and Immigration and Naturalization Service.

(2) No change.

**61.3(5) to 61.3(7)** No change.

ITEM 7. Amend subrule 61.5(4) as follows:

**61.5(4) Resettlement services.** These services involve securing and training sponsors, arranging for refugees to resettle in Iowa and providing case management, employment services, and social adjustment services.

As required under the resettlement contract with the ~~U.S. United States~~ Department of State, the department provides case management, employment services, and social adjustment services to the refugees it resettles during their first 90 days in Iowa.

ITEM 8. Rescind and reserve subrules **61.5(6)** and **61.5(7)**.

ITEM 9. Amend paragraph **61.5(11)“a”** as follows:

a. Employment services which include such activities as the development of a family self-sufficiency plan, individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and follow-up.

ITEM 10. Amend paragraphs **61.5(11)“e”** to **“g”** as follows:

e. Vocational training which includes referrals to driver education and training when provided as part of ~~a family self-sufficiency~~ an individual employability plan.

f. Skills recertification which includes referrals to training that meets the criteria for appropriate training ~~as provided for in paragraph “b.”~~ If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice the individual’s profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training:

(1) Is approved as part of the individual’s employability plan by the state agency, or its designee;

(2) Does not exceed one year’s duration (including any time enrolled in such program in the United States prior to the refugee’s application for assistance);

(3) Is specifically intended to assist the professional in becoming relicensed in the professional’s profession; and

(4) If completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed.

g. ~~Day Child~~ care which includes referrals to day child care ~~for children~~ necessary for participation in an employability service or for the acceptance or retention of employment.

ITEM 11. Adopt the following **new** paragraph **61.5(11)“l”**:

*l.* Referral to the Iowa department of workforce development for provision of any or all of the above services.

ITEM 12. Amend subrule 61.6(1) as follows:

**61.6(1) Priority of services.** Services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

~~*a.* All newly arriving refugees during their first year in the United States, who apply for services.~~

~~*b.* a. Refugees who are receiving cash assistance.~~

~~*c.* b. Unemployed refugees who are not receiving cash assistance.~~

~~*d.* c. Employed refugees in need of services to retain employment or to attain economic independence.~~

*d.* All newly arriving refugees in the United States who apply for services during the five-year period from their date of arrival.

ITEM 13. Amend subrule 61.6(2) as follows:

**61.6(2) Limitations on eligibility.** Services as described in rule 441—61.5(217) may be provided in the first 60 months of resettlement unless the Office of Refugee Resettlement grants an exception to the 60-month limit. Referral, interpretation, citizenship, and naturalization services may be provided to the extent feasible past 60 months of resettlement for refugees, except that refugees who are receiving employability services, as defined in 441—subrule 61.5(11), as part of an employability plan, as of September 30, 1995, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the United States, pursuant to 45 CFR 400.315(b) as amended to June 7, 2022. In any case, services shall first be provided for those refugees who are in the first two years of resettlement and who are in need of assistance in securing self-sufficiency.

ITEM 14. Amend paragraph **61.6(3)“c”** as follows:

*c.* Services shall be provided, to the maximum extent feasible, in a manner that includes the use of bilingual or bicultural women on service agency staffs to ensure adequate service access by refugee women.

ITEM 15. Adopt the following **new** paragraphs **61.6(3)“h”** and **“i”**:

*h.* In order to avoid interference with refugee employment, English language instruction and vocational training must be provided to the fullest extent feasible outside normal working hours.

*i.* English language instruction must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

ITEM 16. Amend paragraphs **61.8(1)“e”** and **“f”** as follows:

~~*e.* The service for which the client is eligible is currently not available. A list of these services will be posted in the bureau’s offices.~~

~~*f.* Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in the bureau offices.~~

ITEM 17. Amend paragraph **61.8(2)“b”** as follows:

*b.* After repeated assessment, it is evident that the family or individual is unable to achieve or maintain goals set forth in the family self-sufficiency or individual employability plan.

ITEM 18. Amend paragraph **61.8(2)“f”** as follows:

~~*f.* Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in the bureau’s offices.~~

ITEM 19. Amend subrule 61.8(4) as follows:

**61.8(4) Notice of adverse action.** In case of an action to terminate, reduce, or deny services, the bureau department shall give timely or adequate notice to the person or persons affected pursuant to 441—Chapter 16.

ITEM 20. Rescind and reserve rules **441—61.10(217)** to **441—61.12(217)**.

ITEM 21. Amend rule 441—61.13(217) as follows:

**441—61.13(217) Refugee resettlement moneys.** The department receives a certain amount of money from the ~~U.S. United States~~ Department of State for each refugee it resettles. A portion of that money is made available to the refugee sponsor for financial assistance in resettling the refugee unit. All of the moneys must be spent in accordance with financial requirements and approved expenditures of the department, ~~U.S. United States~~ Department of State, and the state of Iowa comptroller and must go toward the benefit of the refugee unit. ~~The sponsor must sign Form 402-0025, Receipt Letter, to document the receipt of all refugee resettlement funds. The refugee sponsor must not financially benefit in any way from the refugee resettlement moneys.~~

ITEM 22. Amend rule 441—61.14(217) as follows:

**441—61.14(217) Unaccompanied refugee minors program.** The department administers the unaccompanied refugee minors program under rules covered in 441—Chapters 156, 202, 112, 113, 114, 115, and 116 and by federal guidelines provided by the ~~U.S. United States~~ Department of Health and Human Services. In consultation with other resettlement agencies, the director ~~of the Office of Refugee Resettlement~~ determines the number of unaccompanied minors to be resettled in Iowa pursuant to 45 CFR 400.11(b)(1) as amended to June 7, 2022. Resettlement agencies may not bring unaccompanied minors into Iowa without the authorization of the director.

ITEM 23. Rescind and reserve rules **441—61.15(217,622A)** and **441—61.16(217)**.

ITEM 24. Amend rule 441—61.17(217), introductory paragraph, as follows:

**441—61.17(217) Targeted assistance grants.** “Targeted assistance grants” means ~~U.S. United States~~ Department of Health and Human Services formula allocation funding granted to the department for assistance to counties where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

ITEM 25. Rescind and reserve rule **441—61.18(217)**.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Mak Suceska/Matt Highland), Telephone Number (515-680-9812), Email Address (msucesk@dhs.state.ia.us)

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

Chapter 61 was reviewed as part of the Department's five-year rules review process. The Department manages and coordinates the refugee program activities within the state. This Chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program].

The proposed rule making updates the definition of "refugee" to match the definition in federal regulations. References to the United States Immigration and Naturalization Service are revised to reflect the current name of the agency, which is the United States Citizenship and Immigration Service. References to the bureau name for the United States Department of State's Bureau of Refugee Programs is also updated to Bureau of Population, Refugees and Migration to reflect the current name.

Services that are specifically designed to assist refugees with obtaining employment and improving the employability of work skills of the individual are revised to match federal regulations and clarify services that are available. The timeframe that services may be provided to newly arriving refugees is increased up to five years after arrival in the United States to reflect the Department's current process.

Requirements regarding refugee sponsors, adverse actions regarding sponsor applications and administrative review of denial of sponsorship applications are removed as this process no longer exists. Clarify the director of the Office of Refugee Resettlement is the individual who determines the number of unaccompanied minors to be resettled in Iowa pursuant to federal regulations. The process regarding providing interpreters and translators for legal proceedings is also removed to reflect current practices. The court systems have a process in place to obtain an interpreter or translator when requested for legal proceedings, as described in Iowa Code 622A. Information relating to a pilot program regarding recertifying services are removed as the pilot project ended in September 2003 and references to the Iowa refugee services foundation have been removed as it not currently active.

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

Iowa Code 217.6

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

The proposed rulemaking is made to bring the chapter into compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program] and provide information about current processes and services provided by the Bureau of Refugee Services. This is considered a positive change.

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

The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department's general rule on exceptions at Iowa Admin. Code 441—1.8.

5. What are the likely areas of public comment?

As the proposed amendment is believed to be a positive changes for the public, there is no likely area of public comment.

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.)

The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



# Administrative Rule Fiscal Impact Statement

Date: July 8, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC Chapter 61  
**Agency contact:** Mak Suceska/Matt Highland

**Summary of the rule:**

Chapter 61 was reviewed as part of the Department’s five-year rules review process. The Department manages and coordinates the refugee program activities within the state. This Chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program].

The proposed rule making updates the definition of “refugee” to match the definition in federal regulations. References to the United States Immigration and Naturalization Service are revised to reflect the current name of the agency, which is the United States Citizenship and Immigration Service. References to the bureau name for the United States Department of State’s Bureau of Refugee Programs is also updated to Bureau of Population, Refugees and Migration to reflect the current name.

Services that are specifically designed to assist refugees with obtaining employment and improving the employability of work skills of the individual are revised to match federal regulations and clarify services that are available. The timeframe that services may be provided to newly arriving refugees is increased up to five years after arrival in the United States to reflect the Department’s current process.

Requirements regarding refugee sponsors, adverse actions regarding sponsor applications and administrative review of denial of sponsorship applications are removed as this process no longer exists. Clarify the director of the Office of Refugee Resettlement is the individual who determines the number of unaccompanied minors to be resettled in Iowa pursuant to federal regulations. The process regarding providing interpreters and translators for legal proceedings is also removed to reflect current practices. The court systems have a process in place to obtain an interpreter or translator when requested for legal proceedings, as described in Iowa Code 622A. Information relating to a pilot program regarding recredentialing services are removed as the pilot project ended in September 2003 and references to the Iowa refugee services foundation have been removed as it not currently active.

*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.](#)

Chapter 61 was reviewed as part of the Department’s five-year rules review process. The Department manages and coordinates the refugee program activities within the state. This Chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program]. 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**

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

This Chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program].

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 07/26/2022

Telephone number:

515-281-6024

# HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Rule making related to services in psychiatric institutions.

The Human Services Department hereby amends Chapter 85, "Services In Psychiatric Institutions," 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 85 was reviewed as part of the Department's five-year rules review. As part of this review, federal code references and cross-references to other Department chapters are proposed to be updated. Obsolete form names are proposed to be removed from the rules. The locations of the state mental health institutes are proposed to be updated.

## Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as ARC 6529C.

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 November 10, 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  
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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.

The following rules are adopted:

ITEM 1. Amend subparagraph **85.1(1)“a”(5)** as follows:

(5) Is under the jurisdiction of the ~~division of behavioral, developmental, and protective services for families, adults, and children~~ of the department.

ITEM 2. Amend rule 441—85.2(249A) as follows:

**441—85.2(249A) Out-of-state placement.** Placement in an out-of-state psychiatric hospital for acute care requires prior approval by the bureau of managed care and clinical services and shall be approved only if special services are not available in Iowa ~~facilities as determined by the division of behavioral, developmental, and protective services for families, adults, and children.~~

ITEM 3. Amend subrule 85.3(3) as follows:

**85.3(3) Certification of need for care.** For persons eligible for Medicaid prior to admission, an independent team shall certify that ambulatory care resources available in the community do not meet the treatment needs of the recipient, that proper treatment of the recipient’s psychiatric condition requires services on an inpatient basis under the direction of a physician, and that the services can reasonably be expected to improve the recipient’s condition or prevent further regression so that the services will no longer be needed. Team members are independent when they are not employees of or consultants to the facility. Form 470-2780, ~~Certification of Need for Inpatient Psychiatric Services~~, may be used to document these criteria.

a. to c. No change.

ITEM 4. Amend subrule 85.3(4) as follows:

**85.3(4) Financial eligibility for persons under the age of 21.** To be eligible for payments for the cost of care provided by a psychiatric facility, persons under the age of 21 must be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75.

ITEM 5. Amend rule 441—85.4(249A) as follows:

**441—85.4(249A) Eligibility of persons aged 65 and over.** To be eligible for payment for the cost of care provided by an institution for mental disease, persons must be aged 65 or over and be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75.

ITEM 6. Amend subrule 85.5(1) as follows:

**85.5(1) Before July 2005.** For months before July 2005, the resident shall be liable to pay client participation toward the cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to ~~rule 441—75.16(249A)~~ 441—Chapter 75.

ITEM 7. Amend paragraph **85.6(2)“a”** as follows:

a. ~~A Case Activity Report~~, Form 470-0042, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized in a general hospital, leaves for visitation, or is discharged from the facility.

ITEM 8. Amend paragraph **85.7(1)“b”** as follows:

b. Allowable costs are those defined as allowable in 42 CFR, Subpart A, Sections 413.5 and 413.9, as amended to ~~December 2, 1996~~ June 15, 2022, and 42 CFR 447.250 as amended to ~~September 23, 1992~~ June 15, 2022. Only those costs are considered in calculating the Medicaid inpatient reimbursement.

ITEM 9. Amend subrule 85.8(1) as follows:

**85.8(1) Facility.** Acute care in a psychiatric hospital is covered for persons aged 21 through 64 only at the state mental health institutes at Cherokee, ~~Clarinda, and~~ Independence, ~~and Mount Pleasant~~.

ITEM 10. Amend subrule 85.8(2) as follows:

**85.8(2) Basis of eligibility.** To be eligible for payment for the cost of care provided by one of the covered facilities, a person aged 21 through 64 must be ~~either:~~ eligible for one of the coverage groups listed in 441—Chapter 75.

~~a. Eligible for one of the coverage groups listed in 441—75.1(249A); or~~

~~b. Eligible under the IowaCare program pursuant to 441—Chapter 92.~~

ITEM 11. Amend subrule 85.8(4) as follows:

**85.8(4) Extent of eligibility.**

~~a.~~ While on inpatient status, a person eligible under a coverage group listed in 441—75.1(249A) is entitled to the full scope of Medicaid benefits.

~~b. While on inpatient status, a person eligible under the IowaCare program is entitled to the services listed at 441—92.8(249A,81GA,eh167).~~

ITEM 12. Amend subrule 85.22(3) as follows:

**85.22(3) Certification for need for care.** For persons eligible for Medicaid prior to admission, an independent team shall certify that ambulatory care resources available in the community do not meet the treatment needs of the recipient, that proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician, and that the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed. Team members are independent when they are not employees of or consultants to the facility. Form 470-2780, ~~Certification of Need for Inpatient Psychiatric Services,~~ may be used to document these criteria.

a. to c. No change.

ITEM 13. Amend subrule 85.22(4) as follows:

**85.22(4) Financial eligibility for persons under the age of 21.** To be eligible for payments for the cost of care provided by psychiatric medical institutions, persons under the age of 21 shall be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75, except medically needy.

ITEM 14. Amend rule 441—85.23(249A) as follows:

**441—85.23(249A) Client participation.** The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to ~~rule 441—75.16(249A)~~ 441—Chapter 75.

ITEM 15. Amend paragraph **85.24(2)“a”** as follows:

a. ~~A Case Activity Report,~~ Form 470-0042, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

ITEM 16. Amend paragraph **85.25(1)“a”** as follows:

a. Rates for new facilities are based on historical costs submitted on Form 470-0664, ~~Financial and Statistical Report for Purchase of Service Contracts,~~ if the institution is established and has the historical data. If the institution is newly established, the rate shall be based on a proposed budget submitted on Form 470-0664. A Form 470-0664 with actual cost data shall be submitted after at least six months of participation in the program for a new rate adjustment.

ITEM 17. Amend rule 441—85.43(249A) as follows:

**441—85.43(249A) Eligibility of persons aged 65 and over.** To be eligible for payment for the cost of care provided by nursing facilities for persons with mental illness, persons must be aged 65 or over and be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75,

except for medically needy.

ITEM 18. Amend rule ~~441—85.47(249A)~~, implementation sentence, as follows:  
This rule is intended to implement Iowa Code Supplement section 249A.30A.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Hannah Olson	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:

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

- Updating date certain references for CFR citations
- Remove references to obsolete structures
- Align with an update to Chapter 75

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

Section 249A.4

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 on private sector jobs.





# Administrative Rule Fiscal Impact Statement

Date: June 30, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 85

**Agency contact:** Hannah Olson

**Summary of the rule:**

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

- Updating date certain references for CFR citations
- Remove references to obsolete structures
- Align with an update to Chapter 75

*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 update rule references for CFR citations, remove references to obsolete structures, align with an update to Chapter 75 rules and make technical corrections. There is no fiscal impact anticipated with the technical corrections and the changes in these 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 23)</u>	<u>Year 2 (FY 24)</u>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	<u>0.00</u>	<u>0.00</u>
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>
<b>NET IMPACT</b>	<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		
<b><i>Fiscal impact to persons affected by the rule:</i></b> There is no fiscal impact expected to persons affected by the rule.		
<b><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i></b> There is no fiscal impact to counties or other local governments.		
Agency representative preparing estimate:	Soraya Miller	JH 08/03/2022
Telephone number:	515-281-6017	

# HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to foster parent training.

The Human Services Department hereby amends Chapter 117, “Foster Parent Training,” Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237.3.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.3.

## Purpose and Summary

The rules in Chapter 117 were reviewed as part of the Department’s five-year rules review. This proposed rule making reduces the minimum number of persons required to be in a group for preservice foster parent training. Each foster parent is required to complete preservice training before licensure. Before a foster parent is licensed, the individual must complete a variety of agency-approved training courses that teach foster parents how to support a child’s overall well-being and emotional needs.

This proposed rule making allows in-service training to be provided either face-to-face or through interactive virtual training when provided to a group or an individual foster family. The proposed rule making requires foster parents to be certified in first aid every two years instead of every three years as currently required. The requirement to complete the course “Caring for Children with HIV” or an approved alternative course that contains information on the unique aspects of pediatric HIV disease, transmission and infection control, the spectrum of HIV disease, confidentiality, death and bereavement, and self-care for the caregiver is proposed to be rescinded because communicable diseases are covered by other trainings. This rule making also adds a requirement that the Department’s recruitment and retention contractor be notified if a foster parent elects not to receive a training stipend.

## Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as ARC 6536C.

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 November 10, 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

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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.

The following rules are adopted:

ITEM 1. Amend paragraph **117.1(2)“d”** as follows:

*d. Group method.* The program shall be provided in groups that consist of ~~six~~ three or more persons. The training shall be offered to a foster family individually only when the foster family is unable to attend group training for reasons such as serious medical conditions, as approved by the social work administrator or designee.

ITEM 2. Amend subrule 117.1(4) as follows:

**117.1(4) Additional preservice training.** Before licensure, each foster parent shall complete training in an agency-approved medication management course, cardiopulmonary resuscitation (CPR), first aid, the reasonable and prudent parent standard, and the mandatory reporter training on child abuse identification. Training shall also be completed that teaches foster parents how to support a child’s overall well-being and emotional needs.

ITEM 3. Amend rule 441—117.3(237), introductory paragraph, as follows:

**441—117.3(237) Application materials for in-service training.** Applications for approval of an in-service training program shall be submitted on Form 470-2541, ~~Foster Parent Training Application~~, and must be approved before the delivery of the training. Applications submitted after a training is completed shall not be approved.

ITEM 4. Amend subrule 117.5(3) as follows:

**117.5(3) Denial.** Preservice training programs which do not meet the requirements in rules 441—117.1(237), ~~441—117.3(237)~~, and ~~441—117.4(237)~~ and in-service training programs which do not meet the criteria in rules ~~441—117.3(237)~~, ~~441—117.4(237)~~ and ~~441—117.7(237)~~ shall be denied approval. The applicant may submit a revised program for approval at a later date.

ITEM 5. Amend rule 441—117.7(237), introductory paragraph, as follows:

**441—117.7(237) Required in-service training.** At least six hours of in-service training are required to assist foster parents in confidently and effectively addressing the needs of children placed in foster care. ~~The Foster Parent Training Plan~~, Form 470-3341, shall be used to address in-service training needs. The training plan shall be developed with the department or retention and recruitment contractor and the foster parent annually.

ITEM 6. Amend subparagraphs **117.7(2)“b”(1)** and **(2)** as follows:

- (1) Face-to-face or interactive virtual training to a group.
- (2) Face-to-face or interactive virtual training to an individual foster family.

ITEM 7. Amend paragraph **117.7(2)“c”** as follows:

*c. Credit hours.* Credit hours for approved training shall be as follows:

- (1) Group training shall receive one credit hour for each face-to-face or interactive virtual contact hour.
- (2) Written materials shall receive one credit hour for each 100 pages.
- (3) DVDs or videotapes shall receive one credit hour for each two program hours.
- (4) College courses shall receive one credit hour for each college credit hour.
- (5) Internet training classes shall receive one credit hour for each program hour. A maximum of three hours of training credit per year may be earned through the ~~Web-site~~ website [www.fosterparents.com](http://www.fosterparents.com).

ITEM 8. Amend paragraph **117.7(3)“c”** as follows:

*c. Documentation.* Each individual foster parent shall submit Form 470-2540, ~~Foster Parent Training Report~~, to the recruitment and retention contractor within 30 days after completion of each in-service training.

ITEM 9. Amend subrule 117.8(2) as follows:

**117.8(2) *First aid.*** All foster parents shall be certified in first aid at least every ~~three~~ two years and shall maintain their first-aid certification and a certificate or card indicating the date of training and expiration.

ITEM 10. Rescind subrule **117.8(4)**.

ITEM 11. Amend subrule 117.9(1) as follows:

**117.9(1) *Training stipend.*** Each family that is issued an initial or renewal foster family home license shall receive a \$100 stipend to be used for the family's annual in-service training. The department's recruitment and retention contractor shall issue one stipend per license on or after the date that the license is issued. When a family with a two-year foster family home license has completed the first training cycle of six hours of in-service training, the contractor shall issue the next training stipend no earlier than the start of the second year of licensure contingent upon the foster family's completion of the in-service training hours in the first cycle. Foster families who elect not to receive the \$100 stipend shall notify the department and the contractor.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Nancy Swanson	Telephone Number 515-281-6379	Email Address nswanso@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 117 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made:

- Reduced the number required in a group training
- Culture and gender responsive language added regarding pre-service training
- Interactive virtual training option added
- First Aid required time frame updated
- Caring for Children with HIV section deleted – Communicable diseases is covered in other trainings
- Added that contractor would be notified if foster parent refused training stipend money

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

237.3 gives the administrator of ACFS the authority to write rules.

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

It is expected that clarifying our rules and providing updated information will provide a positive benefit to members of the public, RRTS providers, and licensed foster/adoptive parents.

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

No

5. What are the likely areas of public comment?

We do not expect any public comment on these rules.

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 is expected to private sector jobs or employment opportunities in Iowa.



## Administrative Rule Fiscal Impact Statement

Date: April 20, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC 117  
**Agency contact:** David O. Philmon, Jr, MBA, MSBA

**Summary of the rule:**

The rules in Chapter 117 were reviewed as part of the Department's five-year rules review project. As a result, minor changes to the rules were made providing clarifying updates.

*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.](#)

There are only clarifying updates, no monetary updates have been made.

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	_____	_____

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:***

No impact.

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

No impact.

Agency representative preparing estimate: David O. Philmon, Jr, MBA, MSBA

JH 04/21/2022

Telephone number:

404-345-1088

# HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

## Rule making related to IV-A Emergency Assistance Program

The Human Services Department hereby amends Chapter 133, “IV-A Emergency Assistance Program,” Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 234.6 and 235.3.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 234.6 and 235.3.

### Purpose and Summary

This chapter was reviewed as part of the Department’s five-year rules review. The definition of “child” is proposed to be updated to match the Temporary Assistance for Needy Families (TANF) definition of “child.” The definition of “emergency assistance” is proposed to be revised to remove tracking, monitoring, and outreach services from the list of possible services that may be provided in response to a IV-A emergency assistance application. Tracking, monitoring, and outreach services are also proposed to be removed from the list of services for which an applicant must have a need to be eligible for emergency assistance. The rule that authorized tracking, monitoring, and outreach services (441—151.33(232)) was rescinded effective May 1, 2016. The list of specified relatives a child must be living with or have lived with in the past six months is proposed to be expanded to match current policy. A reference to the food assistance program is proposed to be updated to the Supplemental Nutrition Assistance Program (SNAP) to reflect a change to the name of the program.

### Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as ARC 6530C.

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 November 10, 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.

The following rules are adopted:

ITEM 1. Amend rule ~~441—133.1(235)~~, definitions of “Child” and “Emergency assistance,” as follows:

“Child” means a person under 18 years of age - or a person 18 or 19 years of age who meets any of the following conditions:

1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma,
2. Is attending an instructional program leading to a high school equivalency diploma, or
3. Has been identified by the director of special education of an area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1)“a.”

A person over 18 years of age who has received a high school diploma or a high school equivalency diploma is not a child within this definition.

“Emergency assistance” means any one or more of the following services provided in response to a IV-A emergency assistance application:

1. Family-centered services as set forth in 441—Chapter 172.
2. Shelter care as set forth in 441—Chapters 156 and 202, except for placements of less than 48 hours.
3. Protective child care as set forth in 441—Chapter 170.
4. ~~Tracking, monitoring, and outreach as set forth in 441—Chapter 151, Division III.~~

ITEM 2. Amend subrule 133.3(3) as follows:

**133.3(3) Residence.** The child is living, or within six months prior to the month in which assistance is requested has been living, with ~~one or both parents, or a grandparent, adoptive parent, stepparent, sibling, aunt, uncle or cousin in a place of residence maintained as the child’s own home a specified relative.~~ “Relative” includes people related by blood, marriage, or adoption. The child may be considered as meeting the requirement of living with a specified relative if the child’s home is with one of the following or with a spouse of one of the following even though the marriage is terminated by death or divorce:

- a. Father—adoptive father.
- b. Mother—adoptive mother.
- c. Grandfather—grandfather-in-law, meaning the subsequent husband of the child’s natural grandmother, i.e., stepgrandfather—adoptive grandfather.
- d. Grandmother—grandmother-in-law, meaning the subsequent wife of the child’s natural grandfather, i.e., stepgrandmother—adoptive grandmother.
- e. Great-grandfather—great-great-grandfather.
- f. Great-grandmother—great-great-grandmother.
- g. Stepfather, but not his parents.
- h. Stepmother, but not her parents.
- i. Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.
- j. Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.
- k. Uncle—~~aunt, of whole or half blood.~~
- l. Uncle-in-law—~~aunt-in-law.~~
- m. Great uncle—~~great-great-uncle.~~
- n. Great aunt—~~great-great-aunt.~~
- o. First cousins—~~nephews—nieces.~~
- p. Second cousins, meaning the son or daughter of one’s parent’s first cousin.

ITEM 3. Amend subrule 133.3(4) as follows:

**133.3(4) Service need.** The applicant must demonstrate a need for one or more of the emergency assistance services as follows:

- a. Family-centered services as established in 441—Chapter 172.
- b. Shelter care as established at rule 441—202.2(234).

*c.* Protective child care as established at 441—subparagraph 170.2(2)“*b*”(3).

~~*d.* Tracking, monitoring, and outreach as established at rule 441—151.33(232).~~

ITEM 4. Amend paragraph **133.3(6)“a”** as follows:

*a.* Is receiving FIP, SSI, ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) benefits, or Medicaid in the month of the application, or

ITEM 5. Amend rule 441—133.4(235) as follows:

**441—133.4(235) Method of service provision.** ~~Except for tracking, monitoring, and outreach services, services~~ Services shall be provided through department workers or through purchase of service agreements with providers that are approved by the department as qualified to provide specified services and have a current contract with the department of human services to provide services.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Linda Dettmann), Telephone Number ((515) 281-3012), Email Address (ldettma@dhs.state.ia.us)

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

Chapter 133 was reviewed as part of the Department’s five-year rules review. The definition of “child” is updated to match the definition of child in Iowa Code Section 234.1 as amended by 2022 Legislative Session House File 2252. The definition of “Emergency assistance” is revised to remove tracking, monitoring, and outreach from the list of possible services that may be provided in response to an IV-A emergency assistance application. Tracking, monitoring, and outreach services have also been removed from the list of service that an applicant must have a need for to be eligible. The rule that authorized tracking, monitoring, and outreach services (441 IAC 151.33(232)) was rescinded effective May 1, 2016. The list of specified relatives a child must be living with, or have lived with in the past six months, has been expanded to match current policy. A reference to the food assistance program was updated to the Supplemental Nutrition Assistance Program (SNAP) to reflect the programs current name.

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

Iowa Code Section 234.6 and 235.3

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

This chapter is revised to reflect current policies relating to this program. The updates will positively impact any individual who applies for IV-A emergency assistance.

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

The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department’s general rule on exceptions at Iowa Admin. Code 441—1.8.

5. What are the likely areas of public comment?

As the proposed amendments are believed to be positive changes for appellants, there is no likely area of public comment.

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.)

The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



## Administrative Rule Fiscal Impact Statement

Date: August 4, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC Chapter 113  
**Agency contact:** Linda Dettmann

**Summary of the rule:**

Chapter 133 was reviewed as part of the Department's five-year rules review. The definition of "child" is updated to match the definition of child in Iowa Code Section 234.1 as amended by 2022 Legislative Session House File 2252. The definition of "Emergency assistance" is revised to remove tracking, monitoring, and outreach from the list of possible services that may be provided in response to an IV-A emergency assistance application. Tracking, monitoring, and outreach services have also been removed from the list of service that an applicant must have a need for to be eligible. The rule that authorized tracking, monitoring, and outreach services (441 IAC 151.33(232)) was rescinded effective May 1, 2016. The list of specified relatives a child must be living with, or have lived with in the past six months, has been expanded to match current policy. A reference to the food assistance program was updated to the Supplemental Nutrition Assistance Program (SNAP) to reflect the programs current name.

*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.](#)

Chapter 133 was reviewed as part of the Department's five-year rules review. Definitions were updated in accordance with Code. Revisions were made to reflect current policies relating to this program. There is no fiscal impact to the state. .

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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:

Iowa Code Section 234.6 and 235.3

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:**

No impact is anticipated.

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

No impact is anticipated.



Agency representative preparing estimate: David Philmon, Jr.

JH 08/15/2022

Telephone number:

404-345-1088

# HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

### Rule making related to interstate compact the placement of children.

The Human Services Department hereby amends Chapter 142, “Interstate Compact On The Placement Of Children,” Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 232.158.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 232.158.

### Purpose and Summary

Chapter 142 regarding the Interstate Compact on the Placement of Children was reviewed as part of the Department’s five-year rules review. The Compact Administrator may appoint Deputy Compact Administrators to serve as active members of the Association of Administrators of the Interstate Compact on the Placement of Children. The name of the association is proposed to be updated in subrule 142.2(1) to reflect the current name. References to what is not considered a child care agency or institution for the purposes of Article II(d) are proposed to be removed since this language is duplicative of the language in Iowa Code section 232.158(2)“d.” Because the term “sending state” no longer appears in Article III(a) in Iowa Code section 232.158 but does appear in Article V(c), citations to Article III(a) are proposed to be removed while a citation to Article V(c) is proposed to be added in new rule 441—142.7(232). Lastly, a clarification is made that placement into Iowa from any location or from Iowa to another location may include placement into or from any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico and, with the consent of Congress, the government of Canada or any province thereof.

### Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as ARC 6509C.

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 November 10, 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.

The following rules are adopted::

ITEM 1. Amend subrule 142.2(1) as follows:

**142.2(1)** The compact administrator may appoint up to three deputy compact administrators to serve as active members of the association of administrators of the interstate compact on the placement of children and who shall be responsible for day-to-day operation of the interstate compact.

ITEM 2. Rescind and reserve rules **441—142.3(232)** and **441—142.4(232)**.

ITEM 3. Renumber rules **441—142.7(232)** to **441—142.9(232)** as **441—142.8(232)** to **441—142.10(232)**.

ITEM 4. Adopt the following **new** rule 441—142.7(232):

**441—142.7(232) Article V(c).** For the purposes of article V(c), “sending state” shall mean “sending agency.”

ITEM 5. Amend renumbered rule 441—142.9(232) as follows:

**441—142.9(232) Applicability.** The requirements of this compact shall be in effect for all placements into Iowa from any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico and, with the consent of Congress, the government of Canada and any province thereof, or from Iowa to any state ~~within~~, territory or possession of the United States, and the District of Columbia, the commonwealth of Puerto Rico and, with the consent of Congress, the government of Canada and any province thereof.

ITEM 6. Amend **441—Chapter 142**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 232, division IX~~ section 232.158.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Tricia Barto), Telephone Number (515-281-7151), Email Address (pbarto@dhs.state.ia.us)

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

Chapter 142 was reviewed as part of the Department’s five-year rules review process. The compact administrator may appoint compact administrators to serve as active members of the Association of Administrators of the Interstate Compact on the Placement of Children. The name of the association is proposed to be updated to reflect the current name. References to what is not considered a child care agency or institution for the purposes of Article II(d) are proposed to be removed as it is duplicative of the language in Iowa Code 232.158(2)(d). The term “sending state” no longer appears in Article III(a) of Iowa Code 232.158, however, it does appear in Article V(c). Cross-references to Iowa Code are proposed to be updated. A clarification is made that placement into Iowa from any location or from Iowa to another location may include to or from any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico and with the consent of Congress, the government of Canada or any providence thereof.

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

Iowa Code Section 232.158(7)

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

The proposed amendments bring the rules into compliance with the Iowa Code. Therefore, this is seen as having a positive impact.

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

The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department’s general rule on exceptions at Iowa Admin. Code 441—1.8.

5. What are the likely areas of public comment?

There is likely no area of public comment.

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.)

The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



## Administrative Rule Fiscal Impact Statement

Date: June 22, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 142

**Agency contact:** Trisha Barto

**Summary of the rule:**

Chapter 142 was reviewed as part of the Department's five-year rules review process. Changes are proposed to bring this chapter into compliance with Iowa Code requirements.

*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.](#)

Changes are proposed to bring this chapter into compliance with Iowa Code requirements, there is no fiscal impact to bringing the chapter into compliance.

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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:  
 Iowa Code Section 232.158(7)
- 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: David Philmon, Jr.

JH 08/02/2022

Telephone number: 404-345-1088

# HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to Interstate Compact on Juveiles

The Human Services Department hereby amends Chapter 143, “Interstate Compact On Juveniles,” Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 232.171.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 232.171.

## Purpose and Summary

The rules in Chapter 143 were reviewed as a part of the Department’s five-year rules review. As a result, this proposed rule making clarifies that the Department participates in contractual agreements with the other 49 states, the District of Columbia and the United States Virgin Islands. Guam, American Samoa, the Commonwealth of Puerto Rico and the Northern Marianas Islands are eligible to become compacting states should they decide to do so but are not currently active.

The name of the governing body of the Interstate Compact for Juveniles is updated to reflect the current name, the Interstate Commission for Juveniles. This Commission includes representatives from all 50 states, the District of Columbia and the United States Virgin Islands who work together to preserve child welfare and promote public safety.

Form names for the forms used to send a juvenile out of state under the compact are revised to reflect the current names. Also, the proposed rule making clarifies the Department must pay for the return to the state of Iowa of any runaway, escapee or absconder for whom the Department has legal custody or guardianship responsibility, which reflects the Department’s current practice.

## Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as ARC 6510C.

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 November 10, 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.

The following rules are adopted:

ITEM 1. Amend ~~441—Chapter 143~~, preamble, as follows:

PREAMBLE

Iowa Code section 232.171 authorizes the state of Iowa to enter into the interstate compact on juveniles and incorporates into the Iowa Code the 15 basic articles and optional amendments that govern the interstate compact for all participating parties. The department implements the interstate compact on juveniles and participates in the contractual agreement with the other 49 states, the District of Columbia or its designee, and the United States Virgin Islands, ~~and Guam~~. The contractual agreement allows the parties to cooperate on the interstate aspects of juvenile delinquency as well as the return from one state to another of nondelinquent children who have run away from home.

ITEM 2. Amend rule 441—143.1(232) as follows:

**441—143.1(232) Compact agreement.** As a member of the interstate compact on juveniles, Iowa is in a contractual agreement with the other 49 states, the District of Columbia or its designee, ~~Puerto Rico and Guam~~ the United States Virgin Islands, in which the department of human services shall cooperate on interstate aspects of juvenile delinquency, and the return from one state to another of nondelinquent children who have run away from home.

ITEM 3. Amend subrule 143.2(1) as follows:

**143.2(1)** The compact administrator may appoint a deputy compact administrator to serve as an active member of the ~~association of juvenile compact administrators~~ interstate commission for juveniles and who shall be responsible for day-to-day operation of the interstate compact.

ITEM 4. Amend subrules 143.3(2) and 143.3(3) as follows:

**143.3(2)** Interstate Compact for Juveniles Form IA VI, Application for ~~Compact Services~~; ~~and Interstate Compact Form VI, Memorandum of Understanding~~ and Waiver, shall be signed by the juvenile and parents or guardian, the Iowa juvenile court judge consenting to the placement in the receiving state, and the juvenile compact deputy.

**143.3(3)** The ~~Memorandum of Understanding~~ Application for Services and Waiver shall have the conditions of the probation or parole as granted by the court of jurisdiction attached.

ITEM 5. Amend subrule 143.5(6) as follows:

**143.5(6)** The ~~interstate unit~~ department shall pay for the return to Iowa of any runaway, escapee, or absconder for whom the department has, at the time the juvenile left the state, legal custody or guardianship responsibility. ~~The interstate unit shall also pay upon request for the return of any runaway who is an Iowa resident and whose parent is unable or unwilling to pay for the juvenile's return.~~ The responsibility for the payment for the return of a runaway, escapee, or absconder not under custody or guardianship of the department shall be that of the juvenile court having legal jurisdiction of the juvenile.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Tricia Barto), Telephone Number (515-281-7151), Email Address (pbarto@dhs.state.ia.us)

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

The rules for Chapter 143 were reviewed as a part of the Department's five-year rules review project. As a result, this proposed rulemaking clarifies the Department participates in contractual agreements with the other 49 states, the District of Columbia and the United States Virgin Islands. Guam, American Samoa, the Commonwealth of Puerto Rico and the Northern Marianas Islands are eligible to become compacting states should they decide to do so, but are not currently active.

The name of the governing body of the Interstate Compact for Juveniles is updated to reflect the current name, the Interstate Commission for Juveniles. This commission includes representatives from all 50 states, the District of Columbia and the US Virgin Islands who work together to preserve child welfare and promote public safety.

Form names for the forms used to send a juvenile out of state under the compact is revised to reflect the current name. Also, the proposed rulemaking clarifies the Department must pay for the return of any runaway, escapee or absconder to the State of Iowa for whom the department has legal custody or guardianship responsibility, which brings reflects the Department's current practice.

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

Iowa Code section 232.171

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

.The courts, staff and the family and juveniles who are involved in interstate compact cases.

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

No, as it is not needed nor required.

5. What are the likely areas of public comment?

There are no likely areas that will generate public comment.

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: March 11, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC Chapter 143  
**Agency contact:** Tricia Barto

**Summary of the rule:**

The rules for Chapter 143 were reviewed as a part of the Department's five-year rules review project. As a result, this proposed rulemaking clarifies the Department participates in contractual agreements with the other 49 states, the District of Columbia and the United States Virgin Islands. Guam, American Samoa, the Commonwealth of Puerto Rico and the Northern Marianas Islands are eligible to become compacting states should they decide to do so, but are not currently active.

The name of the governing body of the Interstate Compact for Juveniles is updated to reflect the current name, the Interstate Commission for Juveniles. This commission includes representatives from all 50 states, the District of Columbia and the US Virgin Islands who work together to preserve child welfare and promote public safety.

Form names for the forms used to send a juvenile out of state under the compact is revised to reflect the current name. Also, the proposed rulemaking clarifies the Department must pay for the return of any runaway, escapee or absconder to the State of Iowa for whom the department has legal custody or guardianship responsibility, which brings reflects the Department's current practice.

*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 are technical changes that align with current practice. 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**

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

N/A

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

N/A

Agency representative preparing estimate: David Philmon, Jr. JH 08/02/2022

Telephone number: 404-345-1088

# HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

### Rule making related to quality improvement initiative grants.

The Human Services Department hereby amends Chapter 166, "Quality Improvement Initiative Grants," Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.57.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.57.

### Purpose and Summary

This chapter was reviewed as part of the Department's five-year rules review. Rules are proposed to be updated to align with federal regulations regarding the use of civil money penalties (CMPs) imposed by the Centers for Medicare and Medicaid Services (CMS). This proposed rule making also updates the purposes for which CMP emergency reserve fund grants, also known as quality improvement initiative grants, may be used.

### Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as ARC 6511C.

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 November 10, 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.



The following rules are adopted:

ITEM 1. Amend ~~441—Chapter 143~~, preamble, as follows:

PREAMBLE

Iowa Code section 232.171 authorizes the state of Iowa to enter into the interstate compact on juveniles and incorporates into the Iowa Code the 15 basic articles and optional amendments that govern the interstate compact for all participating parties. The department implements the interstate compact on juveniles and participates in the contractual agreement with the other 49 states, the District of Columbia or its designee, and the United States Virgin Islands, ~~and Guam~~. The contractual agreement allows the parties to cooperate on the interstate aspects of juvenile delinquency as well as the return from one state to another of nondelinquent children who have run away from home.

ITEM 2. Amend rule 441—143.1(232) as follows:

**441—143.1(232) Compact agreement.** As a member of the interstate compact on juveniles, Iowa is in a contractual agreement with the other 49 states, the District of Columbia or its designee, ~~Puerto Rico~~ and Guam the United States Virgin Islands, in which the department of human services shall cooperate on interstate aspects of juvenile delinquency, and the return from one state to another of nondelinquent children who have run away from home.

ITEM 3. Amend subrule 143.2(1) as follows:

**143.2(1)** The compact administrator may appoint a deputy compact administrator to serve as an active member of the ~~association of juvenile compact administrators~~ interstate commission for juveniles and who shall be responsible for day-to-day operation of the interstate compact.

ITEM 4. Amend subrules 143.3(2) and 143.3(3) as follows:

**143.3(2)** Interstate Compact for Juveniles Form ~~IA VI~~, Application for ~~Compact Services~~; ~~and Interstate Compact Form VI, Memorandum of Understanding~~ and Waiver, shall be signed by the juvenile and parents or guardian, the Iowa juvenile court judge consenting to the placement in the receiving state, and the juvenile compact deputy.

**143.3(3)** The ~~Memorandum of Understanding~~ Application for Services and Waiver shall have the conditions of the probation or parole as granted by the court of jurisdiction attached.

ITEM 5. Amend subrule 143.5(6) as follows:

**143.5(6)** The ~~interstate unit~~ department shall pay for the return to Iowa of any runaway, escapee, or absconder for whom the department has, at the time the juvenile left the state, legal custody or guardianship responsibility. ~~The interstate unit shall also pay upon request for the return of any runaway who is an Iowa resident and whose parent is unable or unwilling to pay for the juvenile's return.~~ The responsibility for the payment for the return of a runaway, escapee, or absconder not under custody or guardianship of the department shall be that of the juvenile court having legal jurisdiction of the juvenile.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Jeanne Schirmer	Telephone Number 5153217247	Email Address jschirm@dhs.state.is.us
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1. Give a brief purpose and summary of the rulemaking:

This rule is amended to align with federal regulations regarding the use of civil money penalties (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). This rule is also amended to update the department's process to describe the purposes for CMP emergency reserve fund grants.

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

Sections 1819(h)(2)(B)(ii)(IV)(ff) and 1919(h)(3)(C)(ii)(IV)(ff) of the Social Security Act, 42 CFR Part 488.433(b)(2), 488.433(b)(5) and Iowa Code 249A.57.

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

Nursing facility residents and nursing facilities will be affected by the updated rule.

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

This amendment does not contain a waiver provision because the federal government requirements do not allow for waiver of the state's use of civil money penalty funds. Uses of these funds must be approved by the Centers for Medicare and Medicaid Services.

5. What are the likely areas of public comment?

Not expected.

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.)

This amendment will not have an impact on private-sector jobs and employment opportunities.



# Administrative Rule Fiscal Impact Statement

Date: July 8, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 166

**Agency contact:** Jeanne Schirmer

**Summary of the rule:**

This rule is amended to align with federal regulations regarding the use of civil money penalites (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). This rule is amended to describe the two uses of CMP funds.

*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 is intended to align with federal regulations and amend language in the use of CMP funds. 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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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:

Sections 1819(h)(2)(B)(ii)(IV)(ff) and 1919(h)(3)(C)(ii)(IV)(ff) of the Social Security Act, 42 CFR Part 488.433(b)(2), 488.433(b)(5) and Iowa Code 249A.57.

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 impact.

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

No impact.

Agency representative preparing estimate: Jason Buls

JH 07/08/2022

Telephone number:

515-281-5764

# HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to in-home health-related care.

The Human Services Department hereby amends Chapter 177, “In-Home Health-Related Care,” 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 chapter 249.

## Purpose and Summary

This chapter was reviewed as part of the Department’s five-year rules review. Currently the In-Home Health-Related Care (IHHRC) program requires a registered nurse to provide supervision of a client’s care plan in order for the client to receive services. Over the past several years, the Department has experienced more nursing agencies opting out of providing supervision services for this program. Several counties have no nursing agencies willing to provide the supervision necessary for the program services. This results in individuals being enrolled in the program with physicians having to provide supervision, which is an unreasonable expectation, or individuals being enrolled in the program without a supervising practitioner, which requires an exception to the administrative rule. Medicaid programs providing similar services under the home- and community-based programs do not require a supervising practitioner when the service being provided is considered unskilled or is for personal care services.

These proposed amendments remove the requirement of nursing supervision for unskilled personal care services and maintain the requirement of nursing supervision for skilled services. Proposed amendments also identify how the program is implemented from the application process through termination, if termination is necessary.

## Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as ARC 6531C.

The Department received one comment suggesting the expectation of the service worker to review the documentation of services if they are writing the service plan.. The commenter stated that it appears the service worker is only responsible for writing the plan and updating if the service worker is made aware of a change in condition.

The Department agrees that this area should be further clarified and as a result added a new subrule 177.7(3) Service Documentation.

The Department has added a new subrule to clarify the service worker's responsibilities. It is 177.7(3).

### 177.7(3) Service Documentation.

- a. The service worker shall review the service documentation submitted by the client or the provider, including any requests for supplementation of services.
- b. If there are concerns as a result of such a review, there will be a change in the service plan.

## **Adoption of Rule Making**

**This rule making was adopted by the Council on Human Services on November 10, 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.**

The following rules are adopted:

ITEM 1. Amend rule 441—177.1(249) as follows:

**441—177.1(249) In-home health-related care.** In-home health-related care is a program ~~of designed to provide nursing care in an individual's own home , as defined in rule 441—177.2(249), to provide personal services to an individual because such individual's state of~~ whose physical, developmental, or mental health prevents independent self-care.

ITEM 2. Amend rule 441—177.2(249) as follows:

**441—177.2(249) Own-home Definitions.** ~~Own home means an individual's house, apartment, or other living arrangement intended for single or family residential use.~~

"Client participation" has the meaning assigned to it in rule 441—177.10(249).

"Nursing care" includes skilled services and personal care services.

"Own home" means an individual's house, apartment, or other living arrangement intended for single or family residential use.

"Personal care services" includes:

1. Services that assist a client with the activities of daily living, such as, but not limited to, helping the client with bathing, toileting, getting in and out of bed, ambulation, hair care, oral hygiene and administering medications that are physician-ordered but ordinarily self-administered.

2. Services that help or retrain the client in necessary skills for daily living.

3. Incidental household services that are essential to the client's health care at home and are necessary to prevent or postpone institutionalization.

"Skilled nursing services" are services for which an individualized assessment of a patient's clinical condition demonstrates that the specialized judgment, knowledge, and skills of a registered nurse or, when provided by regulation, a licensed practical (vocational) nurse ("skilled care") are necessary.

"Skilled services" include skilled nursing services or other services that, based on a physician's certification, are required to be performed under the supervision of a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

"Supervising practitioner" means a physician, nurse practitioner, clinical nurse specialist, or a physician assistant qualified to supervise skilled services.

ITEM 3. Rescind rule 441—177.3(249) and adopt the following **new** rule in lieu thereof:

**441—177.3(249) Service criteria.**

**177.3(1) Skilled services.** Skilled services must be certified by a physician as provided in rule 441—177.6(249) and must be supervised by a supervising practitioner.

**177.3(2) Personal care services.** Personal care services must be certified by a physician as provided in rule 441—177.6(249). Personal care services do not require supervision by a supervising practitioner.

**177.(3) Service Documentation**

a. The service worker shall review the service documentation submitted by the client or provider, including any requests for supplementation of services.

b. If there are concerns as a result of such a review, there will be change in the service plan.

ITEM 4. Amend rule 441—177.4(249) as follows:

**441—177.4(249) Eligibility and application.**

**177.4(1) Eligible individual Eligibility.** To be eligible for in-home health-related care:

a. The individual ~~shall~~ must be eligible for supplemental security income in every respect except for income.

~~b. The physician's certification shall include a statement of the specific health care services and that the~~ A physician must certify in accordance with rule 441—177.6(249) that the individual requires either skilled services or personal care services and that those services can be provided in the individual's own home. The certification shall be given on a form prescribed by the department or on a similar plan of care form presently used by public health agencies provided using Form 470-0673.

c. The individual shall live in the individual's own home. Notwithstanding the foregoing, an individual will remain eligible for a period not to exceed 15 days in any calendar month when the client is temporarily absent from the client's home.

~~d. The client shall require and be receiving qualified health care services. Qualified health care services are health care services supervised by a registered nurse and approved by individual shall obtain a physical examination report annually and shall be under the supervision of a physician.~~

e. The required skilled services or personal care services must not be available under any other state or federal program.

~~177.4(7) f. Income for adults.~~ The countable income of the individual and spouse living in the home shall be limited to \$480.55 per month if one needs care or \$961.10 if both need care, after the following disregards from gross income:

~~a- (1)~~ (1) The amount of the basic supplemental security income standard for an individual or a couple, as applicable.

~~b- (2)~~ (2) When income is earned, \$65.00 plus one-half of any remaining income.

~~c- (3)~~ (3) The amount of the supplemental security income standard for a dependent plus any established unmet medical needs, for each dependent living in the home. Any income of the dependent shall be applied to the dependent's needs before making this disregard.

~~d- (4)~~ (4) The amount of the established medical needs of the ineligible spouse which are not otherwise met.

~~e- (5)~~ (5) The amount of the established medical needs of the applicant or recipient which are not otherwise met and would not be met if the individual were eligible for the medical assistance program.

~~f- Rescinded, effective 7/1/84.~~

~~177.4(8) g. Income for children.~~ Income for children.

~~a- (1)~~ (1) All income received by the parents in the home shall be deemed to the child with the following disregards:

~~(1) 1.~~ (1) 1. The amount of the basic supplemental security income standard for an individual when there is one parent in the home or for a couple when there are two parents in the home.

~~(2) 2.~~ (2) 2. The amount of the basic supplemental security income standard for a dependent for each ineligible child in the home.

~~(3) 3.~~ (3) 3. The amount of the unmet medical needs of the parents and ineligible dependents.

~~(4) 4.~~ (4) 4. When all income is earned, an additional basic supplemental security income standard for an individual in a one-parent home or for a couple in a two-parent home.

~~(5) 5.~~ (5) 5. When the income is both earned and unearned, \$65.00 plus one-half of the remainder of the earned income.

~~b- (2)~~ (2) The countable income of the child shall be limited to \$480.55 per month after the following disregards from gross income:

~~(1) 1.~~ (1) 1. The amount of the basic supplemental security income standard for an individual.

~~(2) 2.~~ (2) 2. The amount of the established medical needs of the child which are not otherwise met and would not be met if the child were eligible for the medical assistance program.

~~(3) 3.~~ (3) 3. One-third of the child support payments received from an absent parent.

~~e- Rescinded, effective 7/1/84.~~

~~177.4(2) Relationship to other programs. In home health related care shall be provided only when other programs cannot meet the client's need. There shall be no duplication of services.~~

~~177.4(3) Maximum costs. The maximum cost of service shall be \$480.55. The provider shall accept the payment made and shall make no additional charges to the recipient or others.~~



~~177.4(4) Service plan. A complete service plan shall be prepared which includes the services needed, the plan for providing these services, and the health care plan defined in rule 441—177.6(249). The service plan shall be developed following consultation between the client's service worker and case manager to avoid all duplication of services. Consultation shall include current services provided to the client, payer sources, level of service needs, and service history.~~

~~177.4(5) Certification procedure. The approval of the case plan by the service area manager or designee shall constitute certification and approval for payment.~~

~~177.4(6) Temporary absence from home. The client will remain eligible and payment will be made for services for a period not to exceed 15 days in any calendar month when the client is absent from the home for a temporary period. Payment will not be authorized for over 15 days for any continuous absence whether or not the absence extends into a succeeding month or months.~~

~~177.4(9) Payment. The client or the person legally designated to handle the client's finances shall be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.~~

~~a. The department shall have the authority to issue one payment to a provider on behalf of a client payee who becomes incapacitated or dies while receiving service.~~

~~b. When continuation of an incapacitated client payee in the program is appropriate, the department shall assist the client and the client's family to legally designate a person to handle the client's finances. Guardians, conservators, protective or representative payees, or persons holding power of attorney are considered to be legally designated.~~

~~c. Payment for the program shall be approved effective as of the date of application or the date all eligibility requirements are met and qualified health care services are provided, whichever is later, notwithstanding 42 U.S.C. 1382(c)(7).~~

~~177.4(10) 177.4(2) Application. Application for in-home health-related care shall be made on a form prescribed by Form 470-5170 or 470-5170(S) and submitted to the department. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:~~

~~a. to d. No change.~~

ITEM 5. Amend rule 441—177.5(249) as follows:

**441—177.5(249) Providers Qualifications of providers of health care services.**

**177.5(1) Age.** The provider shall be at least 18 years of age.

**177.5(2) Health assessment.** The provider shall obtain certification on Form 470-0672 that the provider is physically and emotionally capable of providing assistance to another person who may have physical and emotional limitations whose physical, developmental or mental health prevents independent self-care.

a. The certification shall be based on an examination performed by:

(1) a A physician; or

(2) An advanced registered nurse practitioner or by a physician assistant who if the nurse practitioner or physician assistant is working under the direction of a physician.

b. If the provider works for an agency, the practitioner performing the examination may not be employed by the same agency.

~~b— c.~~ The practitioner conducting the examination shall indicate sign the certification by signing the provider health assessment.

~~e— d.~~ The certification shall be submitted to the department service worker:

(1) Before the provider agreement is signed, and

(2) Annually thereafter.

**177.5(3) Qualifications.** The provider shall be qualified by training and experience to carry out the health care plan as specified in ~~rule 177.4(4)~~ subrule 177.7(1).

**177.5(4)** No change.

ITEM 6. Rescind rule 441—177.6(249) and adopt the following new rule in lieu thereof:

**441—177.6(249) Physician’s certification.**

**177.6(1) Certification requirements.** A physician must certify on Form 470-0673:

- a. That the skilled services or personal care services are required by the person’s physical, developmental or mental health;
- b. The specific skilled services or personal care services required, the method of providing those services, and the expected duration of services; and
- c. That the required skilled services and personal care services can be delivered in the individual’s own home.

**177.6(2) Certification review.** After certification and any subsequent recertification, a physician must review the certification and withdraw, renew, or amend the existing certification:

- a. No later than the 180th day after the existing certification;
- b. More frequently than the 180th day after the existing certification if required by the physician, the service worker, or a supervising practitioner; or
- c. Upon notification of initiation of Medicaid waiver services.

ITEM 7. Rescind rule 441—177.7(249) and adopt the following **new** rule in lieu thereof:

**441—177.7(249A) Service worker duties.**

**177.7(1) Service plan.**

a. In consultation with the client’s case manager and any supervising health practitioner, the service worker shall create a complete service plan for the client. The plan must avoid duplication of services and include all of the following:

- (1) All of the services certified by a physician under rule 441—177.6(249).
- (2) Payer sources. In-home health-related care shall be provided only when other programs cannot meet the client’s need.
- (3) Level of service needs.
- (4) Service history. If the client is being transferred from a medical hospital or long-term care facility, the service worker shall also obtain a transfer document describing the client’s current care plan.

b. In consultation with the client’s case manager and any supervising health practitioner, the service worker shall review and update the service plan on or before the ninetieth day following the creation of or previous review of the service plan. The updated service plan must comply with paragraph 177.7(1) “a.”

**177.7(2) Change in condition.** If the service worker becomes aware of any changes in the individual’s condition, including discharge from a facility, that could require a change in the services provided, the service worker shall ensure that a physician reviews the existing certification and that the existing certification is either withdrawn, renewed, or amended.

ITEM 8. Rescind rule 441—177.8(249) and adopt the following **new** rule in lieu thereof:

**441—177.8(249) Supervising practitioner duties.**

**177.8(1) Instruction.** The supervising practitioner shall provide instruction specific to each patient and the services each patient is receiving, including but not limited to instruction on documentation the worker should be creating and instruction on warning signs of which the worker should be aware.

**177.8(2) Schedule for reviewing documentation.** The supervising practitioner shall set up a schedule for reviewing documentation that is specific to the services being provided to that particular patient and shall review the documentation according to the schedule.

**177.8(3) Medical records.**

a. The supervising practitioner shall keep appropriate medical records, a copy of the service plan, and the physician’s certification in the supervising practitioner’s case file. In addition, the medical records shall include, whenever appropriate, transfer forms, physician’s orders, progress notes, drug administration records, treatment records, and incident reports.

b. The supervising practitioner shall make all medical records available to the service worker,

the client, and the client's legal representative.

c. The supervising practitioner shall ensure that, upon termination of the in-home care plan, the medical records are transferred to the county office of the department of human services or the office of the public health nurse.

d. The department of human services or the office of the public health nurse shall retain medical records transferred to it under paragraph 177.8(3) "c" for five years or, if an audit is commenced within the five years, until completion of that audit. During the period of retention, the department of human services or the office of the public health nurse shall make the medical records available to the service worker.

ITEM 9. Amend rule 441—177.9(249) as follows:

**441—177.9(249) Written agreements.**

**177.9(1) Independent contractor.** The provider shall be an independent contractor and shall ~~in no sense~~ not be an agent, employee or servant of the state of Iowa, the Iowa department of human services, or any of its employees; or ~~of its~~ clients.

**177.9(2) Liability coverage.** All professional health care providers shall have adequate liability coverage consistent with their responsibilities, ~~as~~ since the department of human services assumes no responsibility for, or liability for, individuals providing care.

**177.9(3) Provider agreement.**

a. The client and the provider shall enter into an agreement ~~, using the provider agreement form,~~ using Form 470-0636 prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the provider agreement by using the separate amendment to provider agreement form.

b. Written instructions for dealing with emergency situations shall be completed by the service worker and included in the provider agreement, which shall be maintained in the client's home and in the county department of human services office. The instructions shall include:

(1) The name and telephone number of the client's physician, the nurse, responsible family members or other significant persons, and the service worker;

(2) Information as to which hospital to utilize; and

(3) Information as to which ambulance service or other emergency transportation to utilize.

ITEM 10. Rescind rule 441—177.10(249) and adopt the following new rule in lieu thereof:

**441—177.10(249) Payment.**

**177.10(1) Payment approved.** Notwithstanding 42 U.S.C. 1382(c)(7), after the service manager or designee approves the service plan, payment is effective as of the later of (1) the date of the application, or (2) the date all eligibility requirements are met and qualified health care services are provided.

**177.10(2) Client participation.**

a. Except as provided in paragraph 177.10(2) "b," all income remaining after excluding the amounts identified in paragraphs 177.4(1) "f" and "g" will be considered income available for services ("client participation") and the in-home health-related care (IHHRC) program shall pay only the cost of eligible services that exceeds client participation up to the maximum benefit payable.

b. When the first month of service is less than a full month, there is no client participation for that month. Payment will be made for the actual days of service provided according to the agreed-upon rate up to the maximum benefit payable.

**177.10(3) Maximum benefit payable.** The maximum benefit payable for in-home health-related care services inclusive of all services for all providers is the reasonable charges for such services up to and including \$480.55. The provider shall accept the maximum benefit payable and shall not charge the client or others in excess of that benefit.

**177.10(4) Payment.** The client or the person legally designated to handle the client's finances shall

be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.

a. The department shall have the authority to issue one payment to a provider on behalf of a client payee who becomes incapacitated or dies while receiving service.

b. When continuation of an incapacitated client payee in the program is appropriate, the department shall assist the client and the client's family to legally designate a person to handle the client's finances. Guardians, conservators, protective or representative payees, or persons holding power of attorney are considered to be legally designated.

c. Temporary absence from home. Payment will not be authorized for over 15 days for any continuous absence whether or not the absence extends into a succeeding month or months.

**177.10(5) Reasonable charges.** Payment will be made only for reasonable charges for in-home health care services as determined by the service worker, who will determine reasonableness by:

a. The prevailing community standards for cost of care for similar services.

b. The availability of services at no cost to the IHHRC program.

ITEM 11. Amend rule 441—177.11(249) as follows:

**441—177.11(249) Termination.** Termination of in-home health-related care shall occur under the following conditions:

**177.11(1) Request.** Upon the request of the client or legal representative.

**177.11(2) Care unnecessary.** When the client becomes sufficiently ~~self-sustaining~~ able to remain in the client's own home with services that can be provided by ~~existing community agencies~~ other sources as determined by the service worker.

**177.11(3) Additional care necessary.** When the physical or mental condition of the client requires more care than can be provided in the client's own home as determined by the service worker in consultation with the certifying physician.

**177.11(4) Excessive costs.** When the cost of care exceeds the maximum established in ~~177.4(3)~~ subrule 177.10(3).

**177.11(5) and 177.11(6)** No change.

**177.11(7) ~~Qualified health care services absent.~~** Failing to comply with program requirements. Qualified health care services are health care services supervised by a registered nurse and approved by a physician. When a registered nurse is not available to supervise the in-home service and health care plan, or when a physician or nurse practitioner is not available to review or approve the health care plan, the state supplementary assistance payment shall be terminated. When the recipient is not following the program requirements or cooperating with the program objectives including, but not limited to, a failure to provide information to program representatives.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Gloriana Fisher	Telephone Number 515-281-5392	Email Address gfisher@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

Currently, In-Home Health-Related Cares requires a registered nurse to provide supervision of a client's care plan in order to receive services from the program. Over the past several years we have experienced more nursing agencies opting out of providing supervision services for this program. Several counties have no nursing services willing to provide the supervision necessary for services. As such, people are either enrolled in the program with physician's providing supervision, which is an unreasonable expectation, or enrolled in the program without a supervising practitioner and violating administrative rule.

Medicaid programs providing similar services (CDAC) do not require a supervising practitioner when the service being provided is "unskilled" or "personal care services." The changes related to these proposed rules removes nursing supervision for "unskilled personal care services" and maintain nursing supervision for "skilled services." Changes also provide a continuous flow of how the program is implemented from application to termination.

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

Iowa Code chapter 249 State Supplemental Assistance

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

The proposed changes will positively impact program participants and the medical community by providing consistency for services statewide. It is not anticipated that program size will increase as there are currently individuals served with physicians providing program supervision or client participating without supervision and violating current administrative rule.

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

No. Not applicable.

5. What are the likely areas of public comment?

No public comments are anticipated.

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 such impact is anticipated.



## Administrative Rule Fiscal Impact Statement

Date: July 28, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC 111  
**Agency contact:** Gloriana Fisher, Social Worker 6

**Summary of the rule:**

The rule defines the In-Home Health Related Care administered by DHS through state supplementary services. The changes are technical, removing nursing supervision for “unskilled personal care services” and maintaining nursing supervision for “skilled services.” Changes also provide a continuous flow of how the program is implemented from application to termination.

*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.](#)

It is not anticipated that program size will increase as there are currently individuals served with physicians providing program supervision or clients participating without supervision and violating current administrative rule. Therefore, no fiscal impact is anticipated.

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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 is anticipated.

***Fiscal impact to persons affected by the rule:***

No fiscal impact is anticipated.

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

No fiscal impact is anticipated.

Agency representative preparing estimate: Jason Buls JH 07/29/2022  
 Telephone number: 515-281-5764

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to disaster assistance and providing an opportunity for public comment. The Human Services Department hereby proposes to Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 29C.20“A” and 217.6.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 29C.20A and 217.6.

### Purpose and Summary

Chapter 58 was reviewed as part of the Department's five-year rules review. This proposed rule making adds a new definition for the term “mitigation” and updates other definitions to match the definitions in Iowa Code Chapter 321. The names of forms are proposed to be removed to eliminate unnecessary future changes as form names change. This proposed rule making clarifies that reimbursement for replacement of food or personal property through the Iowa Individual Assistance Grant Program (IIAGP) may be given in the form of checks or gift cards and the applicant must sign a promise to purchase replacement food or personal property.

Requirements relating to submission of receipts for claimed expenses and a request to participate in a voucher system are being removed within the proposed rule making, however, the applicant must provide proof of the household's annual income and an itemized list of items that were damaged by the disaster. Applications are to be submitted within 45 days of the disaster declaration, however, the proposed rule making allows the application period to be extended beyond 45 days if the Governor extends the disaster proclamation.

The proposed rule making allows insurance deductibles to be reimbursed up to the \$5,000 limit per household as long as the household provides a denial letter from the insurance company. This proposed rule making clarifies home repair assistance will be denied if preexisting conditions are the cause of the damage. Repairs to rental dwellings, dwelling units or landlord-owned equipment are excluded under this program. This proposed rule making clarifies grant funding is limited to personal property, food assistance, home repair and temporary housing and cannot exceed \$5,000. The list of items that may be considered personal property is revised to recategorize items in a more logical manner and remove maximum limits for each personal property type. The list of authorized home repair assistance is also revised to remove maximum limits for each repair type. This proposed rule making increases the total temporary housing assistance from \$2,500 to \$5,000 and is included as part of disaster assistance.

Requirements for notices of adverse action were moved from Chapter 7 to Chapter 16, effective April 15, 2020. This chapter is being updated to reflect that change. The proposed rule making increases the amount of time a household may request reconsideration or file an appeal regarding an eligibility determination or disagreement with the amount of assistance awarded from 15 days to 30 days.

This proposed rule making proposes to clarify the program shall commence on the day following the Governor's disaster proclamation and shall be provided for a period of up to 180 days. The



program may be extended in 90-day intervals when adequate justification is presented, but it cannot exceed 730 days from the date of the proclamation. If the disaster becomes a Presidentially-declared disaster and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the proclamation.

#### **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 December 20, 2022. 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](mailto: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 NOTICED RULES

ITEM 1. Adopt the following new definition of “Mitigation” in rule **441—58.1(29C)**:

“Mitigation” is the effort to reduce the loss of life and property by lessening the impact of disasters to reduce human and financial consequences later.

ITEM 2. Amend rule **441—58.1(29C)**, definitions of “Bona fide residence or bona fide address,” “Fifth-wheel travel trailer,” “Manufactured home or modular home,” “Manufactured or mobile home,” “Motor home,” and “Travel trailer,” as follows:

“*Bona fide residence*” or “*bona fide address*,” as set forth in Iowa Code section 321.1(6C), means the pre-disaster street or highway address of an individual’s dwelling or dwelling unit. The bona fide residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under Iowa Code chapter 425, if applicable. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in Iowa Code section ~~48A.2(2)~~ 48A.2(3).

“*Fifth-wheel travel trailer*,” as set forth in Iowa Code section ~~321.1(36C)~~ “*e*,” 321.1(36D) “*c*,” means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 45 feet. ~~If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

“*Manufactured home*” or “*modular home*,” as set forth in Iowa Code section ~~321.1(36B)~~ 321.1(36C), is a factory-built structure constructed under authority of 42 U.S.C. §5403 as amended to August 25, 2022, which is required by federal law to display a seal from the United

source, or both, or a liquefied petroleum system and supply. ~~If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

“*Travel trailer*,” as set forth in Iowa Code section ~~321.1(36C)~~“*b*,” 321.1(36D)“*b*” means a vehicle without motive power used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons. The vehicle may be up to 8 feet, 6 inches in width and its overall length shall not exceed 45 feet. The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

ITEM 3. Amend subrule 58.2(2) as follows:

**58.2(2) *Voucher system.*** The IIAGP will be implemented through a reimbursement or voucher system. Reimbursement may include checks or gift cards provided to the applicant for replacement food or personal property only. The applicant must sign a promise to purchase replacement food or personal property.

ITEM 4. Amend rule 441—58.3(29C) as follows:

**441—58.3(29C) Application for assistance.** To request assistance for disaster-related expenses, the household shall complete Form 470-4448, ~~Individual Disaster Assistance Application~~, and

submit it within 45 days of the disaster declaration to the contracted administrative entity ~~along with: (1) receipts for the claimed expenses or (2) a request to participate in a voucher system.~~

**58.3(1)** No change.

**58.3(2)** The application shall include:

*a.* A declaration of the household's annual income, accompanied by:

~~(1) — A a current pay stub, W-2 form, or income tax return, or~~

~~(2) — Documentation of current enrollment in an assistance program administered by the department, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.~~

*b. to e.* No change.

*f.* A short, handwritten narrative of how the disaster event caused the claimed loss, including an itemized list of items damaged by the disaster.

*g.* A copy of a picture identification document for ~~each~~ the adult applicant.

*h.* No change.

**58.3(3)** The application period may be extended beyond 45 days through an extension of the governor's disaster proclamation. If the 45<sup>th</sup> day falls on a Saturday, Sunday, or holiday, the deadline is moved to the following business day.

ITEM 5. Amend subrules 58.4(4) to 58.4(6) as follows:

**58.4(4)** The household has unmet disaster-related expenses or serious needs that are not covered by insurance ~~or that are less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.~~  
The applicant must provide a denial letter from the insurance company.

**58.4(5)** The household has not previously received assistance from this program or another program for the same loss in the same disaster.

**58.4(6)** Household eligibility for home repair assistance for a dwelling or dwelling unit damaged due to a proclaimed disaster is only available for a household that owns and occupies the dwelling or dwelling unit being repaired.

*a.* Assistance will be denied if preexisting conditions are the cause of the damage.

*b.* Repairs to rental dwellings, dwelling units or landlord-owned equipment are excluded under this program.

ITEM 6. Amend rule 441—58.5(29C) as follows:

**441—58.5(29C) Eligible categories of assistance.** ~~The maximum assistance available~~ Expenses eligible for grant funding shall be limited to a household in a single disaster is personal property, food assistance, home repair and temporary housing and shall not exceed a total of \$5,000.

Assistance is available under the program for the following disaster-related expenses:

**58.5(1)** Personal property and food assistance may be issued for damage to personal property or ~~loss of food, including replacement.~~ Eligible items for personal property assistance may include, but are not limited to the following items, based on the item's condition:

*a.* ~~Kitchen items, excluding large appliances~~ Appliances up to a maximum of \$560, including or Equipment:

(1) Small household appliances, e.g., toaster, blender, microwave, and including, but not limited to:

(a). Toaster,

(b) Blender,

(c) Microwave,

(d) Vacuum,

(e) Dehumidifiers, and

(f) Replacement of window air conditioners.

(2) Furnishings (e.g., tables, chairs). Large household appliances, if the appliance is owned by the household and not a landlord.

(3) Outdoor equipment, including:

(a) Lawn mower and

(b) Snow blower.

~~b. Large kitchen appliances or laundry appliances, up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,800, if the appliances are owned by the household and not a landlord. Reserved.~~

~~c. Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.~~

~~d. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.~~

~~e. Bedroom furnishings, up to \$500 per person Basic household items, including, but not limited to:~~

~~(1) Furnishings (e.g., tables, chairs, dressers, couch, end tables),~~

~~(2) Beds (e.g., mattresses, bedding),~~

~~(3) Curtains or window treatments,~~

~~(4) Car or booster seat,~~

~~(5) Stroller,~~

(6) Storage totes,

(7) Television,

(8) Laptop or desktop computers, and

(9) Area rugs.

f. Clothing, up to a maximum of \$145 per person.

g. Living area furnishings, such as: couch, chair, end tables, and television, up to a maximum of \$1,000. Short-term transportation, such as bus passes.

h. Other items, including: Debris removal.

(1) Dehumidifier, up to a maximum of \$250.

(2) One window air conditioner, up to a maximum of \$250.

i. Vehicle repair, up to a maximum of \$500 or replacement, if total loss

j. Assistance for other personal property items may be issued as determined by the department in order to assist the household in making the dwelling or dwelling unit safe, sanitary, and secure.

**58.5(2)** Home repair assistance may be issued for home repair for an owner-occupied dwelling or dwelling unit as needed to make the dwelling or dwelling unit safe, sanitary, and secure, up to a maximum of \$5,000.

a. No change.

b. Assistance may be authorized for: Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

~~(3) Debris removal, including trees, up to a maximum of \$1,000.~~

~~c. Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.~~ Assistance may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

~~(3) Debris removal, including trees, up to a maximum of \$1,000~~ Mitigation measures.

~~(4) Debris removal, including trees.~~

~~d. (5) Bathroom, up to a maximum of \$1,500, including toilet, sink, and tub/shower.~~

~~e. (6) Sump pump installation (in a flood event only), up to a maximum of \$200 installed.~~

~~f. (7) Electrical or mechanical repairs, up to a maximum of \$2,000.~~

~~g. (8) Water heater, up to a maximum of \$1,500 installed.~~

~~h. (9) Heating systems, up to a maximum of \$2,100 installed.~~

~~i. (10) Air-conditioning systems, up to a maximum of \$2,100 installed.~~

~~j. (11) Water well repair for dwellings or dwelling units with no other source of water available, up to a maximum of \$2,000.~~

~~k. (12) Water softener repair, up to a maximum of \$500.~~

**58.5(3)** Temporary housing assistance may be issued to a household, ~~up to a limit of \$65 per day,~~ for lodging at a licensed establishment, such as a hotel or motel. The household's home must be considered to be destroyed, uninhabitable, inaccessible, or unavailable to the household. ~~Temporary housing assistance may also be granted for deposits for a new dwelling.~~ Total



temporary housing assistance may not exceed ~~\$2,500~~ \$5,000 and is included as part of disaster assistance.

Temporary housing assistance may also be granted for rental unit application fees, deposits, and first month's rent for a new dwelling.

**58.5(4)** No change.

ITEM 7. Amend paragraph **58.6(3)“b”** as follows:

*b.* Notify the applicant household of the eligibility decision in accordance with notice requirements in 441-Chapter 16.

ITEM 8. Amend paragraphs **58.7(1)“b”** and **“c”** as follows:

*b.* To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the letter notifying the household of the department's decision.

*c.* The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~45~~ 30 days of receipt of the request.

ITEM 9. Amend paragraph **58.7(2)“a”** as follows:

*a.* Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S); ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.

ITEM 10. Amend subrule 58.8(1) as follows:

**58.8(1) *Deferral to federal assistance.*** Upon declaration of a disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121 to ~~5206~~ 5207, the Iowa individual assistance grant program administered under this chapter shall be discontinued in the geographic area ~~included in the presidential declaration~~ designated by the federal individual assistance program. Upon issuance of the presidential declaration:

*a. to c.* No change.

ITEM 11. Amend paragraphs **58.23(1)“a”** to **“e”** as follows:

*a.* The program shall be in effect only in those counties named in the proclamation. ~~Assistance for a state only proclamation shall be provided for a period of up to 180 days from the date of proclamation.~~

*b.* ~~A request for an additional 90 day extension to the period of performance will be considered when adequate justification is presented to the department. The program shall~~ commence on the day following the governor’s disaster proclamation and shall be provided for a period of up to 180 days from the date of proclamation.

*c.* ~~The program shall commence on the day following proclamation of a disaster by the governor and remain~~ may be extended in effect through 180 intervals up to 90 days even if the disaster becomes a presidentially proclaimed disaster that authorizes individual assistance when adequate justification is presented to the department, but not to exceed 730 days from the date of the proclamation.

*d.* ~~The period of performance for~~ If the disaster transforms to become a presidentially proclaimed declared disaster is and a FEMA DCM grant is approved, then assistance may be provided for a period of up to 24 months from the date of the presidential proclamation.

*e.* The reporting of the numbers of contacts, cases opened, cases pending, cases closed, and other required reports requested by the department shall be submitted ~~weekly on~~ with a day frequency determined by the department.

ITEM 12. Amend paragraphs **58.31(1)“b”** to **“c”** as follows:

*b.* To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the letter notifying the household of the contracted entity’s decision.

*c.* The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~45~~ 30 days of receipt of the request.

ITEM 13. Amend paragraph **58.31(2)“a”** as follows:

*a.* Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S); ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.

ITEM 14. Adopt the following new paragraph(s) **7.3(2)“c”**:

c. A final decision from a previous hearing with a presiding officer has been implemented.

ITEM 15. Amend paragraphs 7.4(3)“d” and “e” as follows:

*d. Iowa individual disaster assistance program.* For appeals pertaining to the Iowa individual disaster assistance program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).

*e. Iowa disaster case management program.* For appeals pertaining to the Iowa disaster case management program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Christie Templeton), Telephone Number (515-281-8746), Email Address (ctemple@dhs.state.ia.us)

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

This chapter was reviewed as part of the Department’s five-year rules review. The proposed rule making adds a new definition for the term “mitigation” and updates other definitions to match the definitions in Iowa Code Chapter 321. The names of forms are proposed to be removed to eliminate unnecessary future changes as form names change. This proposed rule making clarifies that reimbursement for replacement of food or personal property through the Iowa Individual Assistance Grant Program (IIAGP) may be given in the form of checks or gift cards and the applicant must sign a promise to purchase replacement food or personal property.

Requirements relating to submission of receipts for claimed expenses and a request to participate in a voucher system are removed within the proposed rule making, however, the applicant must provide proof of the household’s annual income and an itemized list of items that were damaged by the disaster. Applications are to be submitted within 45 days of the disaster declaration, however, the proposed rule making allows the application period to be extended beyond 45 days if the Governor extends the disaster proclamation.

The proposed rule making allows insurance deductibles to be reimbursed up to the \$5,000 limit per household as long as the household provides a denial letter from the insurance company. This proposed rule making clarifies home repair assistance will be denied if preexisting conditions are the cause of the damage. Repairs to rental dwellings, dwelling units or landlord-owned equipment are excluded under this program. This proposed rule making clarifies grant funding is limited to personal property, food assistance, home repair and temporary housing and cannot exceed \$5,000. The list of items that may be considered personal property is revised to recategorize items in a more logical manner and remove maximum limits for each personal property type. The list of authorized home repair assistance is also revised to remove maximum limits for each repair type. This proposed rule making increases the total temporary housing assistance from \$2,500 to \$5,000 and is included as part of disaster assistance.

Requirements for notices of adverse action were moved from Chapter 7 to Chapter 16, effective April 15, 2020. This chapter is updated to reflect that change. The proposed rule making increases the amount of time a household may request reconsideration or file an appeal regarding an eligibility determination or disagreement with the amount of assistance awarded from 15 days to 30 days.

This proposed rule making clarifies the program shall commence on the day following the Governor’s disaster proclamation and shall be provided for a period of up to 180 days. The program may be extended in 90-day intervals when adequate justification is presented, but it cannot exceed 730 days from the date of the proclamation. If the disaster becomes a Presidentially-declared disaster and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the proclamation.

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

Iowa Code 29C.20(A) and 217.6

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

This rulemaking will positively impact any future applicants who apply for the Iowa Individual Assistance Grant Program. This rulemaking provides clarifications to existing policies and removes limits from personal property and home repair assistance. The proposed rule making increases the total temporary

housing assistance from \$2,500 to \$5,000 and is included as part of disaster assistance. The timeframes to file a reconsideration or appeal regarding an eligibility determination disagreement with the amount of assistance awarded are increased to allow applicants more time for due process.

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

The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department's general rule on exceptions at Iowa Admin. Code 441—1.8.

5. What are the likely areas of public comment?

As the proposed amendments are believed to be positive changes for individuals applying for Emergency Assistance, there is no likely area of public comment.

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.)

The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



# Administrative Rule Fiscal Impact Statement

Date: August 30, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC Chapter 7 and 58  
**Agency contact:** Denise Dutton/Christie Templeton

**Summary of the rule:**

Chapter 7 allows for contested case proceedings regarding the Iowa Individual Disaster Assistance and Iowa Disaster Care Management Program. Chapter 58 provides financial assistance to meet disaster-related expenses, food-related costs, or serious needs of individuals or families who are adversely affected by a state-declared disaster emergency. The program is intended to meet needs that cannot be met by other means of financial assistance.

This chapter is being reviewed as part of the Department's five-year rules review. The proposed rule making updates definitions, removes form names, and clarifies policies for the Iowa Individual Assistance Grant Program (IIAGP), and clarifies timeframes for reconsideration, appeals, and the administration of the program. Applications are to be submitted within 45 days of the disaster declaration, however, the proposed rule making allows the application period to be extended beyond 45 days if the Governor extends the disaster proclamation.

The proposed rule making allows insurance deductibles to be reimbursed up to the \$5,000 limit per household as long as the household provides a denial letter from the insurance company. This proposed rule making clarifies grant funding is limited to personal property, food assistance, home repair and temporary housing and cannot exceed \$5,000. The list of items that may be considered personal property is revised to recategorize items in a more logical manner and remove maximum limits for each personal property type. The list of authorized home repair assistance is also revised to remove maximum limits for each repair type. This proposed rule making increases the total temporary housing assistance from \$2,500 to \$5,000 and is included as part of disaster assistance.

*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.](#)

There is no fiscal impact to the state. No additional costs to the regulated community or State of Iowa as a whole are anticipated.

*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:**

There is no fiscal impact to the state. While the total temporary housing assistance is changing from \$2,500 to \$5,000 for disaster assistance, individuals have always been eligible for up to \$5,000 total in funds for disaster assistance. An individual previously could have only used half of those \$5,000 in funds for housing assistance. The rule change removes that restriction but still keeps the \$5,000 total limit for funds. As the total limit has not changed, we do not believe there to be a fiscal impact.

**Describe how estimates were derived:**

There are no potential costs estimated for this rule as the total limit of disaster assistance has not changed.

**Estimated Impact to the State by Fiscal Year**

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

***Fiscal impact to persons affected by the rule:***

There is no fiscal impact. There is no fiscal impact to the state. No additional costs to the regulated community or State of Iowa as a whole are anticipated.

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

These rule changes have no impact on private-sector jobs and employment opportunities in Iowa.

Agency representative preparing estimate: Rob Beran

JH 10/14/2022, JB 10/17/22

Telephone number: 281-6188



## Administrative Rule Transmittal

Subject of Rule Making <b>Appeals and Hearings and Emergency Assistance</b>		
Administrative Code Chapters Affected <b>Chapter 7 and 58</b>	Iowa Code <u>Section</u> or Bill Giving Rule Making Authority <b>Iowa Code 217.6 and Iowa Code 29C.20A</b>	
Program Specialist <b>Denise Dutton/Christie Templeton</b>	Date Initiated <b>August 11, 2022</b>	Desired Effective Date <b>March 1, 2023</b>

Are you requesting emergency rule making?     No     Yes

Are there grounds for emergency rule making?     No

Yes, because:

- The period for notice and public comment may be waived because obtaining public comment is:
  - Unnecessary. Reason:
  - Impracticable. Reason:
  - Contrary to the public interest. Reason:
- The implementation period can be waived since:
  - Legislation permits emergency rule making. Citation:
  - The rule confers a benefit on the public or removes a restriction on the public. Reason:
  - The effective date is necessary because of imminent peril to public health, safety, or welfare. Reason:

Are public hearings needed?     No     Yes

Are changes to a data system needed?     No     Yes

Will this affect appeal volume?     No     Yes:     Increase     Decrease

Is training required?     No     Yes, scheduled for:

Are form changes required?     No     Yes, to:

Are manual changes required?     No     Yes, to:

**Division Sign-Off:**

Bureau Chief Signature (Process initiation)	Date
Division Administrator Signature (Form Content Approval) <i>Vern Armstrong</i>	Date <b>9/6/2022</b>
Attorney General Signature (Review)	Date
Fiscal Administrative Rules Coordinator <i>Julie Shaw</i>	Date <b>10/17/22</b>
Deputy Director Signature	Date

Please plan for one week turnaround and final approval before submitting.

[Instructions: Submit completed packet to Policy Coordination both electronically and in hard copy.](#)

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to \_procure and method of payment and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 80, "Procedure And Method Of Payment," Iowa Administrative Code.

## Legal Authority for Rule Making

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

## State or Federal Law Implemented

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

## Purpose and Summary

Chapter 80 is being reviewed as part of the Department's five-year rules review process. Chapter 80 provides information for providers of medical care participating in Medicaid on submitting claims to receive payment.

This rules review resulted in technical changes. Form names and numbers are being updated. Cross references to other chapters are being reviewed for accuracy. Enterprise is being removed from the word Iowa Medicaid to be consistent across all Medicaid chapters. References to federal regulations are also being proposed to being updated to provide accurate listings. Rules that are outdated are being removed.

## 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).

## 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 December 6, 2022. 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](mailto: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.

CHAPTER 80  
PROCEDURE AND METHOD OF PAYMENT

The following rule making actions are proposed:

ITEM 1. Amend rule **441-80.2(249A)** as follows:

**80.2(249A) Submission of claims.** Providers of medical and remedial care participating in the program shall submit claims for services rendered to ~~the Iowa Medicaid enterprise~~ on at least a monthly basis. All nursing facilities and providers of home- and community-based services shall submit claims for services after the end of the calendar month in which the services are provided. Following audit of the claim, ~~the Iowa Medicaid enterprise~~ will make payment to the provider of care.

ITEM 2. Amend subrule **80.2(1)** as follows:

**80.2(1) Electronic submission.** Providers are required ~~encouraged~~ to submit claims electronically whenever possible.

*a* . Rescind and reserve.

*b* . When filing electronic claims, pharmacies shall use the format prescribed by the National Council for Prescription Drug Programs.

*c* . Claims submitted electronically ~~after implementation of the Health Insurance Portability and Accountability Act of 1996~~ shall be filed on the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12N 837 transaction, Health Care Claim.  
~~The department shall send all providers written notice when the Act is implemented.~~

(1) Providers listed as filing claims on Form CMS-1500 or on the Claim for Targeted Medical Care shall file claims on the professional version of the 837 Health Care Claim.

(2) Providers listed as filing claims on Form CMS-1450 or UB04 ~~or on the Iowa Medicaid Long Term Care Claim~~ shall file the institutional version of the 837 Health Care Claim.

(3) Dentists shall file the dental version of the 837 Health Care Claim.

(4) Pharmacists providing drugs and injections shall use the format prescribed by the National Council for Prescription Drug Programs.

*d.* If a claim submitted electronically requires attachments or supporting clinical documentation and a national electronic attachment has not been adopted, the provider shall:

(1) Use ~~Form 470-3969, Claim Attachment Control,~~ the Iowa Medicaid Portal Access (IMPA) system to submit supporting documents when billing Medicaid fee for service claims ~~as the cover sheet for the paper attachments or supporting clinical documentation;~~ and

(2) Reference ~~on Form 470-3969~~ the attachment control number submitted on the ASC X12N 837 electronic transaction.

ITEM 3. Amend subrule **80.2(2)** as follows:

**80.2(2)** Claim forms. Claims for payment for services provided recipients shall be submitted on Form CMS-1500, Health Insurance Claim Form, except as noted below.

*a.* The following providers shall submit claims on Form UB-04, CMS-1450:

(1) Home health agencies providing services other than home- and community-based services.

(2) Hospitals providing inpatient care or outpatient services, including inpatient psychiatric hospitals.

(3) Psychiatric medical institutions for children.

- (4) Rehabilitation agencies.
- (5) Hospice providers.
- (6) Medicare-certified nursing facilities.
- (7) Nursing facilities for the mentally ill.
- (8) Special population nursing facilities as defined in ~~rule 441—81.6(249A)~~ Chapter

81.

- (9) Out-of-state nursing facilities.
- (10) Health insurance premium payment (HIP) providers.

*b.* All other nursing facilities and intermediate care facilities for persons with an intellectual disability shall file claims using an electronic version of Form UB-04 CMS-1450.

*c.* Pharmacies shall submit claims on the Universal Pharmacy Claim Form when filing paper claims.

*d.* Dentists shall submit claims on the dental claim form approved by the American Dental Association.

*e.* Rescinded IAB 8/1/07, effective 9/5/07.

*f.* Providers of home- and community-based waiver services, including home health agencies, shall submit claims on Form 470-2486, ~~Claim for Targeted Medical Care~~. In the event of the death of the member, the case manager or service worker shall sign and date the claim form if the services were delivered.

*g.* Case management providers billing services provided pursuant to 441—Chapter 90 to fee-for-service members shall submit claims using a HIPAA-compliant electronic claim.

*h.* For fee-for-service members, providers billing claims for Medicare beneficiaries

that do not cross over electronically to ~~the Iowa Medicaid enterprise~~ must submit the following electronically, in accordance with the All Providers, IV. Billing Iowa Medicaid manual, located at [dhs.iowa.gov/sites/default/files/All-IV.pdf](https://dhs.iowa.gov/sites/default/files/All-IV.pdf):

(1) Form UB-04.

(2) Form CMS-1500. The Explanation of Medicare Benefits (EOMB) is only required when requested by ~~the Iowa Medicaid enterprise~~.

*i.* For managed care members, providers billing claims for Medicare beneficiaries that do not cross over electronically must submit the following electronically:

(1) Form UB-04 and the Explanation of Medicare Benefits (EOMB); and

(2) Form CMS-1500 and the Explanation of Medicare Benefits (EOMB).

*j.* Health insurance premium payment (HIPP) providers shall submit ~~Form 470-5475~~, Health Insurance Premium Payment (HIPP) Provider Invoice, along with an explanation of benefits (EOB).

ITEM 4. Amend rule **441-80.3(249)** as follows:

**80.3(249A) Payment from other sources.** Including claims for the department, managed care organizations, and Public Health Associate Program (PHAP).

ITEM 5. Amend subrule **80.3(2)** as follows:

**80.3(2) Third-party liability.** When a third-party liability for medical expenses exists, this resource shall be utilized for payment of a claim before the Medicaid program makes payment unless:

*a.* The department pays the total amount allowed under the Medicaid payment schedule and



then seeks reimbursement from the liable third party. This “pay and chase” provision applies to claims for:

- (1) Preventive pediatric services, and
  - (2) All services provided to a person for whom there is court-ordered medical support.
- b.* Otherwise authorized by the department.

All claims must be clean claims. A clean claim is defined as one that has no defect or impropriety (including any lack of required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment of the claim.

ITEM 6. Amend **subparagraph 80.3(3) “a”** as follows:

*a.* ~~Respond to~~ No later than 60 days after receiving any inquiry by the state regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of the item or service, respond to such inquiry, pursuant to §42 U.S.C. 1396a(25)(I)(iii), effective March 13, 2022.

*b.* Agree not to deny any claim submitted by the state solely because of the date of submission of the claim, the type or format of the claim form, ~~or~~ a failure to present proper documentation at the point of sale that is the basis of the claim, or in the case of a responsible third party (other than the original Medicare fee-for-service program under parts A and B of 42 U.S.C. Chapter 7, Subchapter XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of 42 U.S.C. Chapter 7, Subchapter XVIII, a reasonable cost of reimbursement plan under 42 U.S.C. § 1395mm, a health care prepayment plan under 42 U.S.C. § 1395l, or a prescription drug plan offered by a PDP sponsor under part D of 42 U.S.C.

Chapter 7, Subchapter XVIII) a failure to obtain a prior authorization for the item or service for which the claim is being submitted, if both of the following conditions are met:

- (1) The claim is submitted to the entity by the state within the three-year period beginning on the date on which the item or service was furnished.
  - (2) Any action by the state to enforce its rights with respect to the claim is commenced within six years of the date that the claim was submitted by the state.
- c. Reimburse the Medicaid program within 90 days of the request for repayment. ~~This rule is intended to implement Iowa Code chapter 249A.~~
- d. Agree not to deny any claim submitted by the state solely because of lack of prior authorization.

This rule is intended to implement Iowa code chapter 249A.

ITEM 7. Amend subrule **80.4(1)** as follows:

**80.4(1) *Submission of claims.*** Payment will not be made on any claim when the amount of time that has elapsed between the date the service was rendered and the date the initial claim is received by ~~the~~ Iowa Medicaid ~~enterprise~~ exceeds 365 days. The department shall consider claims submitted beyond the 365-day limit for payment only if retroactive eligibility on newly approved cases is made that exceeds 365 days or if attempts to collect from a third-party payer delay the submission of a claim. In the case of retroactive eligibility, the claim must be received within 365 days of the first notice of eligibility by the department.

ITEM 8. Amend subrule **80.4(2)** as follows:

**80.4(2) *Claim adjustments and resubmissions.*** A provider's request for an adjustment to a paid

claim or resubmission of a denied claim must be received by the Iowa Medicaid enterprise within 365 days from the date the claim was last adjudicated in order to have the adjustment or resubmission considered. In no case will a claim be paid if the claim is received beyond two years from the date of service.

ITEM 9. Amend subrule **80.5(1)** as follows:

**80.5(1) *Identification cards.*** The department shall issue ~~Form 470-1911~~, Medical Assistance Eligibility Card, to members for use in securing medical and health services available under the program except as provided in ~~441—76.6(249A)~~. Chapter 76.

*a.* The department shall issue the Medical Assistance Eligibility Card:

- (1) When the member's eligibility is initially determined.
- (2) Rescind and reserve.
- (3) Upon the member's request for replacement of a lost, stolen, or damaged card.

*b.* The Medical Assistance Eligibility Card is valid only for months in which the member has established eligibility, as indicated on the department's eligibility verification system (ELVS). Payment will be made for services provided to an ineligible person when ELVS indicates that the person was eligible for the period in which the service was provided.

ITEM 10. Amend **subrule 80.6(1)** as follows:

**80.6(1) *Medical assistance corrective payments.*** Payment may be made to the client or county relief agency in accordance with ~~rule 441—75.8(249A)~~. Chapter 75.

ITEM 11. Amend **subrule 80.7(1)** as follows:

**80.7(1) Agreement required.** The parties shall sign a data use agreement for the purposes of this rule. ~~The A~~ data use agreement shall prescribe the specific detail elements required, in addition to any privacy protections, in the manner for which information shall be provided to the department of human services, or it's designee, and the acceptable uses of the information provided.

a. The initial provision of data shall include the data necessary to enable the department or it's designee to match covered persons and identify third-party payers for the two-year period before the initial provision of the data. The data shall include the name, address, and identifying number of the plan.

b. No change.

ITEM 12. Rescind **80.7(2)** and **renumber 80.7(3)** as the new **80.70(2)**:

~~**80.7(2) Agreement form.**~~

~~a. An agreement with the department shall be in substantially the same form as Form 470-4415, Agreement for Use of Data.~~

~~b. An agreement with the department's designee shall be in a form approved by the designee, which shall include privacy protections equivalent to those provided in Form 470-4415, Agreement for Use of Data.~~

**80.7(3)(2) Confidentiality of data.** The exchange of information carried out under this rule shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to:

- a. The federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191;  
and  
b. Regulations promulgated in accordance with that Act and published in 45 CFR Parts 160 through 164 as amended to April 11, 2022.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Lisa Cook	Telephone Number 515-321-7899	Email Address lcook1@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
  - Identify and eliminate any rules that are outdated, redundant , inconsistent or incompatible with statute
  - Look for policy that is not accurate or is outdated
  - Check all rule references and cross-references to ensure they are accurate
  - Check division names and bureau names
  - Check chapter titles
  - Update form names and numbers
  - Look for obsolete references
  - Look for spelling or grammatical errors
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):  
Iowa Code 17A.7
3. Describe who this rulemaking will positively or adversely impact.  
Neutral, technical in nature
4. Does this rule contain a waiver provision? If not, why?  
No. Revisions were made in accordance with Iowa Code 17A.7.
5. What are the likely areas of public comment?  
None.
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 18, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC Ch 80

**Agency contact:** Lisa Cook

**Summary of the rule:**

The rule provides Medicaid claim payment information.

*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 clarify rule references, correct grammatical errors, and make technical corrections as part of the five year rule review process. There is no fiscal impact expected with the technical corrections.

*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:**

All revisions are technical in nature in accordance with Iowa Code 17A.7.

**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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	<u>0.00</u>	<u>0.00</u>
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>
<b>NET IMPACT</b>	<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 07/25/2022

Telephone number: 515-281-6017

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to ICF ID rates and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 82, "Intermediate Care Facilities for Persons With An Intellectual Disability," Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 249A.12 and 249A.16.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 249A.12 and 249A.16.

## Purpose and Summary

During the 2022 Legislative Session, HF 2578 appropriated funds to increase reimbursement rates for Intermediate Care Facilities for Persons with an Intellectual Disability (ICF ID) over the rates in effect on June 30, 2022. The entire rate increase is to be used for the wages and associated costs specific to wages, benefits and required withholding of direct support professionals and frontline management.

These proposed amendments adopt a new wage add-on factor for community-based ICF-ID facilities to be included in the rates effective July 1, 2022 and after. The wage add-on factor is proposed to be added to the maximum allowable base rate..

## Fiscal Impact

For the fiscal year beginning July 1, 2022, reimbursement rates for ICF/ID shall be increased over the rates in effect on June 30, 2022, within the \$1,339,971 appropriated for this purpose. The entire rate increase shall be used for the wages and associated costs specific to wages, benefits and required withholding of direct support professionals and frontline management.

## Jobs Impact

There is a potential to impact wages as providers will be able to increase wages for direct support staff in ICF/ID settings statewide. This may not increase the number of new jobs but instead increase wages for current positions.

## 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 December 20, 2022. 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](mailto: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 NOTICED RULES

ITEM 1. Adopt new subrule rule: **441\_ 82.5(17)** Wage Add-on Factor as follows:

**82.5(17) Wage Add-on Factor.** A wage add-on factor of \$8.86 per day for community based ICF/ID shall be included in rates effective July 1, 2022, and after, not subject to the maximum allowable cost ceiling in 82.5(14)e, until rates are established using the cost reports for the period ended June 30, 2023.

- a.* In accordance with 2022 Iowa Acts, House File 2578, Section 31, the entire wage add-on factor shall be used for wages and associated costs specific to wages, benefits, and required withholding of direct support professionals and frontline management.
- b.* The wage add-on factor of \$8.86 per day shall be added to the maximum allowable base rate in 82.5(14)d.(1) until the next rebase using cost reports for the period ended June 30, 2024.
- c.* The wage add-on factor of \$8.86 per day shall be added to the maximum allowable cost ceiling, eightieth percentile of costs of all participating facilities in 82.5(14)e, until the eightieth percentile maximum is established using the December 31, 2023, compilation for rates effective beginning July 1, 2024.



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:

For the fiscal year beginning July 1, 2022 reimbursement rates for ICF/ID shall be increased over the rates in effect on June 30, 2022 within the \$1,339,971.00 appropriated for this purpose. The entire rate increase shall be used for the wages and associated costs specific to wages, benefits, and required withholding of direct support professionals and frontline management.

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

HHS Appropriation Bill 2578

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

ICF/ID providers and staff

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

N/A

5. What are the likely areas of public comment?

Comments may be received regarding the appropriated amount for wage increases.

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, it allows providers to increase wages for direct support staff in an ICF/ID setting statewide.



## Administrative Rule Fiscal Impact Statement

Date: October 24, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC Ch. 81

**Agency contact:** Jessica McBride

**Summary of the rule:**

For the fiscal year beginning July 1, 2022 reimbursement rates for ICF/ID shall be increased over the rates in effect on June 30, 2022 within the \$1,339,971 appropriated for this purpose. The entire rate increase shall be used for the wages and associated costs specific to wages, benefits, and required withholding of direct support professionals and frontline management.

*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:**

Annual Medicaid ICF/ID days are estimated at 407,216  
FMAP calculations exclude the COVID increase so as not to create an unfunded need when the COVID increased FMAP ends.

**Describe how estimates were derived:**

Target increase is \$3,609,836 (total); \$1,339,971 (state share)

$\$3,609,836 \text{ total increase} / 407,216 \text{ paid Medicaid days} = \$8.86 \text{ wage add-on.}$

**Estimated Impact to the State by Fiscal Year**

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
<b>Revenue by each source:</b>		
General fund	1,339,971.00	1,339,971.00
Federal funds	2,269,865.00	2,269,865.00
Other (specify):		
<b>TOTAL REVENUE</b>	<u>3,609,836.00</u>	<u>3,609,836.00</u>
<b>Expenditures:</b>		
General fund	1,339,971.00	1,339,971.00
Federal funds	2,269,865.00	2,269,865.00
Other (specify):		
<b>TOTAL EXPENDITURES</b>	<u>3,609,836.00</u>	<u>3,609,836.00</u>
<b>NET IMPACT</b>	<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:

2022 HHS Appropriation Bill (HF 2578)

Funding has been provided for the rule change.

*Please identify the amount provided and the funding source:*

State appropriations were increased by \$1,339,971 to cover the cost of this increase.

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:***

ICF/ID providers will see increased Medicaid reimbursement.

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

None anticipated.

Agency representative preparing estimate: Joe Havig 10/25/22, Jess Benson, 10/25/22

Telephone number: 515-281-6022

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to family planning program and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 87, "Family Planning Program," Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.41B.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.41B.

## Purpose and Summary

Chapter 87 is being reviewed as part of the Department's five-year rules review process. Chapter 87 defines the state family planning program which is a state funded program with an allocated portion within the Medical Assistance program. These proposed rules add language to allow eligibility for Afghan parolees and the Compacts of Free Association (COFA) with three Pacific Island nations populations to clarify their eligibility for this program. Minor updates and clarifications to eligibility criteria are proposed as part of the review process.

This rules review resulted in proposed technical changes. Definitions are being updated to provide clarity and correct references to other chapters. Enterprise is being removed from the word Iowa Medicaid to be consistent across all Medicaid chapters. References to federal regulations are also being proposed to being updated to provide accurate listings.

## 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).

## 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 December 6, 2022. 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](mailto: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.

CHAPTER 87  
FAMILY PLANNING PROGRAM

The following rule making actions are proposed:

ITEM 1. Amend Chapter 87, *Preamble*, as follows:

This chapter defines and structures the family planning program administered by the department pursuant to ~~2017 Iowa Acts, House File 653, section 90~~ Iowa Code 217.41B. The purpose of this program is to provide family planning services to individuals who are not enrolled in medical assistance under 441—Chapter 74 or 441—Chapter 75. The department is not receiving federal financial participation for expenditures under the family planning program. Therefore, this chapter shall remain in effect only as long as state funding is available.

The family planning program shall replicate the eligibility requirements and other provisions included in the Medicaid family planning network waiver, as approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services in effect on June 30, 2017, but shall provide for distribution of the family planning services program funds in accordance with this chapter.

Distribution of family planning program funds under this chapter shall be made in a manner that continues access to family planning services.

ITEM 2. Amend rule **87.1**, Definitions as follows:

**87.1(217.41B) Definitions.**

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



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

*“Citizen” and “Citizenship”* includes both citizens of the United States and nationals of the United States (U.S.), as defined in 8 U.S.C. § 1101(a)(22).

~~*“Creditable qualifying quarters”*~~ means ~~all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under the age of 18, and qualifying quarters worked by a spouse of an alien during their marriage if the alien remains married to the spouse or was married to the spouse at the spouse’s death, except for quarters beginning after December 31, 1996, if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is credited.~~

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

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

*“Federal poverty level”* means the levels published and updated periodically in the Federal Register by the United States Department of Health and Human Services (DHHS) under the authority of 42 U.S.C. 9902(2) and revised annually on April 1.

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

*“Non-citizen”* has the same meaning as the term “alien,” as defined at 8 U.S.C. § 1101(a)(3).

*“Qualified non-citizen”* has the same meaning as the term “*qualified alien*” as defined at 8 U.S.C. § 1641(b) and (c), who is:

1. Lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA);

2. Granted asylum in the United States under Section 208 of the INA;
3. A refugee-admitted to the United States under Section 207 of the INA;
4. Paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
5. An individual whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA;
6. Granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;
7. An Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V);
8. A Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7);
9. A battered non-citizen as described in 8 U.S.C. Section 1641(c);
10. Certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386;
11. An American Indian born in Canada to whom Section 289 of the INA applies or is a member of a federally recognized Indian Tribe as defined in 25 U.S.C. Section 450b(e); or
12. Under the age of 21 and is lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).
13. Lawfully residing in the United States in accordance with a Compact of Free Association with the Government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260.

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

ITEM 3. Amend rule **87.2** as follows:

**87.2(217.41B) Eligibility.** Eligibility for the family planning program shall be determined according to the provisions of this rule.

ITEM 4. Amend subrule **87.2(2)** as follows:

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

a. The requirement of furnishing a social security number does not apply to an individual who:

(1) Is not eligible to receive a social security number;

(2) Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104 as amended to March 15, 2022;

or

(3) Refuses to obtain a social security number because of a well-established religious objection.

For this purpose, a well-established religious objection means that the individual:

1. Is a member of a recognized religious sect or division of a sect; and
  2. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.
- b.* If a required social security number has not been issued or is not known, the individual seeking coverage under the family planning program must cooperate with the department or authorized Title X agency, as applicable, in applying ~~apply~~ for a social security number with the Social Security Administration or in requesting ~~request~~ the Social Security Administration to furnish the number.

ITEM 5. Amend paragraph **87.2(4)** “a” as follows:

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

- (1) A citizen or national of the United States.
- (2) A qualified non-citizen alien residing continuously present (as described in Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) at 62 FR 61415 dated November 11, 1997) in the United States since before August 22, 1996.
- (3) A qualified non-citizen alien under the age of 21.
- (4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).
- (5) ~~An alien~~ A non-citizen who has been granted asylum under Section 208 of the INA.
- (6) ~~An alien~~ A non-citizen whose deportation is withheld under Section 243(h) or Section 241(b)(3) of the INA.

(7) A qualified non-citizen alien veteran who has an honorable discharge that is not due to alienage.

(8) A qualified non-citizen alien who is on active duty in the Armed Forces of the United States other than active duty for training.

(9) A qualified non-citizen alien who is the spouse or unmarried dependent child of a qualified non-citizen alien described in subparagraph (7) or (8), including a surviving spouse who has not remarried.

(10) A qualified non-citizen alien who has resided in the United States for a period of at least five years beginning on the date of the qualified non-citizen's entry into the United States with a status within the meaning of subparagraph 1, 4, or 9 under the definition of "qualified non-citizen" at 441—87.1(217.41B).

(11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).

(12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).

(13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 ~~as amended to December 20, 2010.~~

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

(15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 ~~as amended to December 20, 2010,~~ or to Section 602(b)(8) of Public Law 111-8 ~~as amended to December 20, 2010.~~

(16) An Afghan paroled into the United States treated as a refugee pursuant to Section 2502 of Public Law 117-43.

(17) A qualified non-citizen lawfully residing in the United States in accordance with a Compact of Free Association with the Government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260.

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

ITEM 6. Amend paragraph **87.2(4) “b”** as follows:

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

ITEM 7. Amend paragraph **87.2(4) “c”** as follows:

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

(1) For the purposes of this requirement, the “reasonable period” begins on the date a written request for documentation ~~or a notice pursuant to subparagraph 87.2(4) “*i*”(2)~~ is issued to an applicant or member, ~~whichever is later,~~ and continues for 90 days.

(2) Family planning services shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. ~~However, the receipt of family planning services pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period.~~

ITEM 8. Amend paragraph **87.2(4) “d”** as follows:

*d.* Any one of the following documents ~~shall~~must be accepted as satisfactory documentation of citizenship ~~or nationality~~ and identity:

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

(2) ~~Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.~~

(3) ~~Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.~~

(4) A valid U.S. state-issued driver’s license ~~or other identity document described in Section 274A(b)(1)(D) of the INA~~, but only if the sState issuing the license ~~or document~~ does either of the following prior to issuance of the license:

1. Requires proof of United States citizenship ~~before issuance of the license or document~~; or
2. Obtains a social security number from the applicant and verifies before certification that

the number is valid and is assigned to the applicant who is a citizen.

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

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

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

ITEM 9. Amend paragraph **87.2(4) "e"** as follows:

- e.* Satisfactory documentation of citizenship ~~or nationality~~ and identity may also be demonstrated by the combination of:(1) ~~Any~~ any identity document described in paragraph 87.2(4)"f" Section 274A(b)(1)(D) of the INA or any other documentation of personal identity that provides a reliable means of identification, as the Secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii); and (2) Any any one of the following:
- ~~1. A certificate of birth in the United States.~~



~~— 2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.~~

~~— 3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.~~

~~— 4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.~~

~~— 5. Another document that provides proof of United States citizenship or nationality, as the Secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).~~

(1) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the U.S. Virgin Islands, American Samoa, Swain’s Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (if born after November 4, 1986 (CNMI local time)). The birth record document may be issued by a State, Commonwealth, Territory, or local jurisdiction. If the document shows the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in this paragraph, the individual may be a collectively naturalized citizen. The following establishes U.S. citizenship for collectively naturalized individuals:

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

2. *Northern Mariana Islands (NMI)(formerly part of the Trust Territory of the Pacific Islands (TTPI))*:

- Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986, (NMI local time) and the

- applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time);
- Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975, and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time);
  - Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time). Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.
- (2) Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.
- (3) Report of Birth Abroad of a U.S. citizen.
- (4) Certification of birth in the U.S.
- (5) U.S. Citizen I.D. card
- (6) Northern Marianas Identification Card issued by the U.S. Department of Homeland Security (or predecessor agency).
- (7) A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.
- (8) Evidence of U.S. Civil Service employment before June 1, 1976.
- (9) U.S. Military Record showing a U.S. place of birth.

(10) Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. § 1431).

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

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

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

(14) School records, including pre-school, Head Start and daycare, showing the child's name and U.S. place of birth

(15) Federal or state census records showing U.S. citizenship or a U.S. place of birth.

(16) If the applicant does not have one of the documents listed in paragraphs "d" or "e"(1) through (15), he or she may submit an affidavit using Form 470-4373 or 470-4373(S), signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship. Such affidavit must contain the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

ITEM 10. Rescind paragraph **87.2(4) "f"** and adopt new paragraph **87.2(4) "f"** as follows:

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

- (1) Identity documents listed at 8 CFR § 274a.2(b)(1)(v)(B)(1) as amended to March 15, 2022, except a driver's license issued by a Canadian government authority.
- (2) Driver's license issued by a state or territory.
- (3) School identification card.
- (4) U.S. military card or draft record.
- (5) Identification card issued by the federal, state, or local government.
- (6) Military dependent's identification card.
- (7) U.S. coast Guard Merchant Mariner card.
- (8) For children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.
- (9) Two other documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards; high school, high school equivalency, and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.
- (10) A finding of identity from a federal agency or another state agency, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.
- (11) If the applicant does not have any document specified in subparagraphs 87.2(4)“f”(1) through (10), he or she may submit an affidavit using Form 470-4386 or 470-4386(S), signed by another individual under penalty of perjury who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in paragraph 87.2(4)“f”. The affidavit does not have to be notarized.

ITEM 11. Rescind paragraph **87.2(4) “g”** and adopt new paragraph **87.2(4) “g”** as follows:

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

ITEM 12. Rescind paragraph **87.2(4) “h”** and adopt new paragraph **87.2(4) “h”** as follows:

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

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

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

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.

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

87.2(4)"c" when services under Part B of Title IV were terminated due to failure to meet citizenship requirements.

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

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

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

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

ITEM 13. Rescind paragraph **87.2(4) "i"** and adopt new paragraph **87.2(4) "i"** as follows:

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

ITEM 14. Amend subrule **87.2(5)** as follows:

**87.2(5) Deeming of ~~alien~~ sponsor's income.**

a. When ~~an alien~~ a qualified non-citizen admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the ~~alien~~ qualified non-citizen, the ~~income of the alien shall be deemed to include the income of the sponsor (and of the sponsor's spouse if living with the sponsor)~~ shall be deemed to determine eligibility for the sponsored qualified non-citizen. The amount deemed to the sponsored ~~alien~~ qualified non-citizen shall be the total countable income of the sponsor ~~and the sponsor's spouse~~, determined pursuant to paragraphs 87.2(3) "b" through "d."

b. An indigent ~~alien~~ qualified non-citizen is exempt from the deeming of a sponsor's income for 12 months after indigence is determined. An ~~alien~~ qualified non-citizen shall be considered indigent if:

(1) The ~~alien~~ qualified non-citizen does not live with the sponsor; and

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

c. A battered ~~alien~~ qualified non-citizen as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income for 12 months.

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

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

(2) The sponsored ~~alien~~ qualified non-citizen has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 creditable qualifying quarters as defined in rule 441—87.1(217.41B).

(3) The sponsored ~~alien~~ qualified non-citizen or the sponsor dies.

(4) The sponsored ~~alien~~ qualified non-citizen is a child under the age of 21 as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).

ITEM 15. Amend subrule **87.2(6)** as follows:

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

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

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

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. ~~Under this definition, the child is a resident of the state in which the parent or caretaker is a resident.~~

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

ITEM 16. Amend subrule **87.2(7)** as follows:



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

ITEM 17. Amend rule **87.3(217)** as follows:

**87.3(217.41B) Enrollment.**

ITEM 18. Amend subrule **87.3(1)** as follows:

**87.3(1)** *Application.* An individual who requests assistance for family planning services shall file an application Form 470-5485, ~~Family Planning Program Application~~. A woman eligible under paragraph 87.2(1) "a" is not required to file an application for assistance under this program. The department will automatically redetermine eligibility upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

ITEM 19. Amend subrule **87.3(3)** as follows:

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

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

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

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

ITEM 20. Amend subrule **87.3(4)** as follows:

**87.3(4)** *Annual review.* An individual who requests that assistance continue for family planning services shall complete Form 470-4071, ~~Family Planning Program Review~~. The member must submit the completed review form before the end of the eligibility period to any location specified in subrule 87.3(2).

ITEM 21. Amend subrule **87.3(5)** as follows:

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

ITEM 22. Amend rule **87.4(217)** as follows:

**87.4(217.41B) Effective date of eligibility.** Subject to the availability of funding appropriated for this purpose, assistance for family planning services under this program shall be effective on the first day of the month of application or the first day of the month in which all eligibility requirements are met, whichever is later. Assistance shall not be available under this program for any months prior to the month of application.

ITEM 23. Amend rule **87.5(217)** as follows:

**87.5(217.41B) Period of eligibility.** Eligibility for family planning services under this program shall be limited to a period of 12 months from the effective date of eligibility, or the duration of appropriated funding, whichever is less. A new application or annual redetermination of eligibility shall be required for benefits to continue beyond 12 months.

ITEM 24. Amend rule **87.6(217)** as follows:

**87.6(217.41B) Reporting changes.**

ITEM 25. Amend subrule **87.6(1)** as follows:

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

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

ITEM 26. Amend rule **87.7(217)** as follows:

**87.7(217.41B) Funding of family planning services program.**

ITEM 27. Amend subrule **87.7(1)** as follows:

**87.7(1)** *Distribution of funds.* Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—87.11(217.41B). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. Effective July 1, 2018, eligible family planning providers shall be interpreted to include a distinct location of a nonprofit health care delivery system, if the distinct location provides family

planning services but does not perform abortions or maintain or operate as a facility where abortions are performed. For the purposes of this subrule, “nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services. For the purposes of this subrule, “abortion” does not include any of the following:

ITEM 28. Amend rule **87.8(217)** as follows:

**87.8(217.41B) Availability of services.** Family planning services are payable for an individual enrolled in this program only when care is received at or authorized by a participating family planning provider.

**87.8(1)** Sterilization is a covered service subject to the limitation in 441—~~paragraphs 78.1(16) “a” through “i.”~~ Chapter 78.

**87.8(2)** Covered services shall not include abortion services.

ITEM 29. Amend rule **87.9(217)** as follows:

**87.9(217.41B) Payment of covered services.** Payment for family planning services covered under this chapter, including services authorized but not provided by a participating family planning provider, shall be made only to participating family planning providers on a fee schedule determined by the department. Family planning services program funds distributed in accordance with this rule shall not be used for direct or indirect costs, including but not limited to administrative costs or expenses, overhead, employee salaries, rent, and telephone and other utility

costs, related to providing abortions as specified in subrule 87.7(1).

ITEM 30. Amend rule **87.10(217)** as follows:

**87.10(217.41B) Submission of claims.**

ITEM 31. Amend subrule **87.10(1)** as follows:

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

ITEM 32. Amend rule **87.11(217)** as follows:

**87.11(217.41B) Providers eligible to participate.**

**87.11(1)** Providers must be enrolled with the Iowa Medicaid program, subject to ~~rule 441—79.14(249A)~~ Chapter 79; and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1). Effective July 1, 2018, as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system shall enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation that abortions are not performed at the distinct location. For the purposes of this subrule, “nonprofit health care delivery system” shall have the same meaning as provided under subrule 87.7(1).

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

- a.* Must complete enrollment with Iowa Medicaid ~~enterprise~~.
- b.* Must complete Form 470-5484, ~~Family Planning Program Provider Attestation~~, regarding nonprovision of abortions, pursuant to requirements referenced above under subrule 87.7(1).
- c.* Forms referenced in this subrule must be sent to Iowa Medicaid ~~Enterprise~~, Provider Enrollment Unit, P.O. Box 36450, Des Moines, Iowa 50315.

ITEM 33. Amend implementation statement as follows:

These rules are intended to implement Iowa Code section 217.41B ~~as amended by 2018 Iowa Acts, Senate File 2418, section 83.~~



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:  
Added language to allow for FPP eligibility for Afghan parolees and COFA populations  
Minor updates and clarifications 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.  
Allows for FPP coverage for COFA population
4. Does this rule contain a waiver provision? If not, why?  
No. FPP is a state-funded program.
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 12, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 87

**Agency contact:** Kelly Lindsay

**Summary of the rule:**

Added language to allow for FPP eligibility for Afghan parolees and COFA populations  
Minor updates and clarifications to eligibility criteria as required by the five-year rule review process.

*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 rule adds language to allow for FPP eligibility for Aghan parolees and COFA populations and makes clarifications to eligibility criteria as part of the five year rule process. Including these populations in the FPP should not have an impact on the current amounts appropriated. The state family planning program is a state funded program with an allocated portion within the Medical Assistance appropriation. Minimal fiscal impact is expected and will be absorbed within the Medical Assistance appropriation.

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	<u>0.00</u>	<u>0.00</u>
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>
<b>NET IMPACT</b>	<u>0.00</u>	<u>0</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:*

Expenditures will be absorbed within the Medical Assistance appropriation

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:***

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 07/15/2022

Telephone number:

515-281-6017

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to case management and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 90, "Case Management Services," 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, Iowa Code section 249A.4.

## Purpose and Summary

Chapter 90 is being reviewed as part of the Department's five-year rules review process. Chapter 90 provides information on case management services and when those services are available to members.

This rules review resulted in proposed technical changes. Definitions are being updated to provide correct references to other chapters. Enterprise is being removed from the word Iowa Medicaid to be consistent across all Medicaid chapters. References to federal regulations are also being proposed to be updated to provide accurate listings.

## 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)

## 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 December 6, 2022. 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](mailto: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.**

CHAPTER 90  
CASE MANAGEMENT SERVICES

The following rule making actions are proposed:

ITEM 1. Amend rule ~~441—90.1(249A)~~ definitions of “Care coordination”, “Chronic mental illness”, “Integrated health home”, “Intellectual disability”, “Managed care organization,” and “Major incident” as follows:

“*Care coordination*” means the case management services provided by an integrated health home to members who are also receiving home- and community-based habilitation services pursuant to ~~rule 441—78.27(249A)~~ Chapter 78 or HCBS children’s mental health waiver services pursuant to ~~rules 441—83.121 through 441—83.129(249A)~~ Chapter 83.

“*Chronic mental illness*” means a condition present in adults who have a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment. The definition of chronic mental illness and qualifying criteria are found at ~~rule 441—24.1(225C)~~ Chapter 24. For purposes of this chapter, people with mental disorders resulting from Alzheimer’s disease or substance abuse shall not be considered chronically mentally ill.

“*Integrated health home*” or “*IHH*” means a provider of health home services that is a Medicaid-enrolled provider and that is determined through the provider enrollment process to have the qualifications, systems and infrastructure in place to provide IHH services pursuant to ~~rule 441—77.47(249A)~~ Chapter 77. IHH covered services and member eligibility for IHH enrollment are also governed by ~~rule 441—78.53(249A)~~ Chapter 78 and the health home state plan amendment. The IHH provides care coordination services for enrolled habilitation and children’s mental health waiver members.

“*Intellectual disability*” means a diagnosis of intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder). Diagnosis criteria are outlined in ~~rule 441—83.61(249A)~~ Chapter 83.

“*Managed care organization*” or “*MCO*” means the same as defined in ~~rule 441—73.1(249A)~~ Chapter 73.

“*Medical institution*” means an institution that is organized, staffed, and authorized to provide medical care as set forth in the most recent amendment to 42 Code of Federal Regulations Section 435.1009 as amended to October 20, 2022. A residential care facility is not a medical institution.

“*Major incident*” means an occurrence that involves a member who is enrolled in an HCBS waiver, targeted case management, or habilitation services and that:

1-5. No Change

6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph “1,” “2,” or “3”; or

6 7. Involves a member’s location being unknown by provider staff who are responsible for protective oversight.

ITEM 2. Amend rule ~~441—90.2(249A)~~ **Targeted case management** as follows: Rule 441—90.2(249A) applies only to the case management category of targeted case management and the defined targeted population.

**90.2(1) Eligibility for targeted case management.** A person who meets all of the following criteria shall be eligible for targeted case management:

a. The person is eligible for Medicaid or is conditionally eligible under ~~441—subrule 75.1(35)~~ 441—Chapter 75;

b. through e. No change.

ITEM 3. Amend subparagraph **90.2(3)(b)** as follows:

b. *Application decision for targeted case management.* The case manager shall inform the applicant, or the applicant's guardian or representative, of any decision to approve, deny, or delay the service in accordance with the notification requirements at ~~rule 441—16.3(17A)~~ Chapter 16.

ITEM 4. Amend **subrule 90.3(2)** as follows:

**90.3(2)** The provider shall notify the member or the member's guardian or representative in writing of the termination of targeted case management, in accordance with ~~rule 441—16.3(17A)~~ Chapter 16.

ITEM 5. Amend **subrule 90.6(249A) Documentation and billing** as follows:

**90.6(1) Documentation of contacts.** Subrule 90.6(1) applies to all categories of case management and all populations covered by case management.

a. Documentation of case management services contacts shall include:

- (1) The name of the individual case manager;
- (2) The need for and occurrences of coordination with other case managers within the same agency or referral or transition to another case management agency; and
- (3) Other requirements as outlined in ~~rule 441—79.3(249A)~~ Chapter 79 to support payment of services.

b. Targeted case management providers serving FFS members must also adhere to ~~441—subrule 24.4(4)~~ Chapter 24.

ITEM 6. Amend **subrule 90.7(3)** as follows:

Quality assurance. Case management services providers shall cooperate with quality assurance activities conducted by the Iowa Medicaid enterprise or a Medicaid managed care organization, as well as any other state or federal entity with oversight authority to ensure the health, safety, and welfare of Medicaid members. These activities may include, but are not limited to:



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist LeAnn Moskowitz	Telephone Number 515-321-8922	Email Address lmoskow@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:  
The purpose for this rulemaking is to make technical corrections including:
  - Correcting the definition of Major Incident
  - Changing Iowa Medicaid Enterprise to Iowa Medicaid
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):  
Section 249A.4
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 on private sector jobs.



# Administrative Rule Fiscal Impact Statement

Date: June 30, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 90

**Agency contact:** LeAnn Moskowitz

**Summary of the rule:**

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

- Correcting the definition of Major Incident
- Changing Iowa Medicaid Enterprise to Iowa Medicaid

*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 part of the five year rule review process including correcting the definition of Major Incident and changing Iowa Medicaid Enterprise to Iowa Medicaid. There is no fiscal impact expected with the technical corrections.

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	<u>0.00</u>	<u>0.00</u>
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>
<b>NET IMPACT</b>	<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 07/15/2022

Telephone number:

515-281-6017

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to support enforcement services and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 98, "Support Enforcement Services," Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is proposed 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 98 is being reviewed as part of the Department's five-year rules review process. Chapter 98 outlines the enforcement services provided by the Child Support Recovery Unit. These proposed rules update legal references for the Iowa Rules of Civil Procedure. Form names and numbers are also being updated. References to the Iowa Code and to federal regulations are also being proposed to be updated to provide accurate listings. The name of the food assistance program is being updated to replace it with the federal name of the Supplemental Nutrition and Assistance Program to be consistent across all programs.

## 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).

## 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 December 6, 2022. 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](mailto: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.**

## CHAPTER 98

### SUPPORT ENFORCEMENT SERVICES

The following rule making actions are proposed:

ITEM 1. Amend rule **98.5(252E)** as follows:

The unit shall gather information concerning a health benefit plan.

**98.5(1) Information from an employer.** The unit shall gather information concerning a health benefit plan an employer may offer an obligor as follows:

*a.* The unit may send Form 470-0177M, ~~Employment and Health Insurance Questionnaire~~, whenever a potential employer is identified.

*b.* The unit shall secure information about health care coverage from a known employer on Form 470-2743, ~~Employer Medical Support Information~~, when Form 470-3818, ~~National Medical Support Notice~~, or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

**98.5(2) Information from an obligor.** The unit may secure medical support information from an obligor on Form 470-0413, ~~Obligor Insurance Questionnaire~~.

**98.5(3) Disposition of information.** The unit shall provide the information:

*a.* To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

*b.* To the obligee, when requested, when the dependent is not a recipient of Medicaid.

ITEM 2. Amend subparagraph **98.7(2) “a”** as follows:

*a.* If an obligor was ordered to provide health care coverage under an order but did not comply with the order, the child support recovery unit may implement the order by forwarding to

the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or Form 470-3818, ~~National Medical Support Notice~~.

ITEM 3. Amend subrule **98.7(3)** as follows:

**98.7(3) Termination of employment.** When the child support recovery unit receives information indicating the obligor's employment has terminated, the unit shall secure the status of the health benefit plan by sending Form 470-3218, ~~Employer Insurance Notification~~, to the employer.

If no response is received within 30 days of sending Form 470-3218, the unit shall send a second request on Form 470-3219, ~~Employer Insurance Second Notification~~, to the employer.

ITEM 4. Amend subparagraph **98.8(2) "a"** as follows:

**98.8(2) Informal conference.**

*a.* The obligor shall be entitled to only one informal conference for each new employer to which the unit has forwarded Form 470-3818 or order under Iowa Code section 252E.4 to enforce medical support.

ITEM 5. Amend subrule **98.42(1)** as follows:

**98.42(1) Notice to employer.** The unit may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If the unit is sending notice by regular mail, it shall send Form 470-3272, ~~Income Withholding for Support~~, or a notice in the standard format prescribed by 42 U.S.C. §666(b)(6)(A). If the unit is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions which are applicable to all obligors, such as the information in paragraphs 98.42(1) "*d*," "*f*," "*g*," and "*i*." The statement of provisions applicable to all

obligors may be sent by regular mail or electronic means. The notice of income withholding shall contain information such as the following:

ITEM 6. Amend subrule **98.42(2)** as follows:

**98.42(2)** *Notice to obligor.* Form 470-2624, ~~Initiation of Income Withholding/Medical Support Enforcement~~, shall be sent to the last-known address of the obligor by regular mail. The notice shall contain the following information:

ITEM 7. Amend subrule **98.42(3)** as follows:

**98.42(3)** *Standard format.* As provided in Iowa Code section 252D.17, an order or notice of an order for income withholding shall be in a standard format prescribed by the child support recovery unit. Form 470-3272, ~~Income Withholding for Support~~, is the standard format prescribed by the child support recovery unit, and the unit shall make a copy of the form available to the state court administrator and the Iowa state bar association.

ITEM 8. Amend implementation statement as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapters 252D and 252E.

ITEM 9. Amend **subrule 98.61(5)** as follows:

**98.61(5)** *Good cause.* The name of the obligor shall not be included when there has been a finding of good cause for noncooperation with the child support recovery unit in a public assistance case pursuant to ~~441—subrule 41.2(8)~~ or ~~441—subrule 75.14(1)~~ Chapter 41 or Chapter 75 and a determination has been made that enforcement may not proceed without risk of harm to the child or caretaker.

ITEM 10. Amend subrule **98.62(2)** as follows:

**98.62(2) Availability of list.** Once released, the list shall be provided to other persons upon payment of an amount to cover the cost of producing a copy as specified in 441—~~subrule 9.3(7)~~.

Chapter 9. Requests shall be directed to the Bureau of Collections, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114.

ITEM 11. Amend subrule **98.73(252B)** as follows :

**98.73(252B) Method and requirements of reporting.** The obligor shall complete Form 470-3155, ~~Report of Seek Employment Activity~~, which shall be submitted to the unit on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor shall document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor shall include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

ITEM 12. Amend subrule **98.74(2)** as follows:

**98.74(2) Temporary illness or disability.** Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of completed Form 470-3158, ~~Physician's Statement~~, verifying the obligor's inability to seek or accept employment.

ITEM 13. Amend subrule **98.74(6)** as follows:

**98.74(6) Job training.** Participation in a job training or job seeking program through the department of employment services as a result of receiving ~~food stamps~~ benefits from the Supplemental Nutrition Assistance Program is considered a valid reason upon receipt of verification from the department of employment services.

ITEM 14. Amend rule **441—98.75(252B)** as follows:

**98.75 (252B) Method of service.** The seek employment order shall be served on the obligor by regular mail. Proof of service shall be completed ~~in accordance with the Iowa Rules~~ according to Rule of Civil Procedure, ~~Number 82~~ 1.442.

ITEM 15. Amend rule **441—98.81(252B) Definitions** as follows:

*“Delinquent support”* means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support shall also include payments for parental liabilities not received as specified pursuant to rule ~~441—156.2(234)~~. Chapter 156.

ITEM 16. Amend subrule **441—98.84(8)** as follows:



**98.84(8)** *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When the unit receives information from the federal Office of Child Support Enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department shall issue to that individual Form 470-3684, ~~Appeal Rights for Federal Offsets~~.

ITEM 17. Amend rule ~~441—98.94~~**(Notice to financial institution)** as follows:

**98.94 (252I) Notice to financial institution.** The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward to the collection services center all or a portion of the moneys in the obligor's account or accounts on the date the notice is received. The notice shall be sent by first-class mail, with proof of service completed according to ~~rule of civil procedure 82~~ Rule of Civil Procedure 1.442. The notice to the financial institution shall contain all of the information specified in Iowa Code chapter 252I.

ITEM 18. Amend rule ~~441—98.95~~**(Notice to support obligor)** as follows:

**98.95 (252I) Notice to support obligor.** The unit shall notify an obligor, and any other party known to have an interest in the account, of the action. The notice shall contain all of the information specified in Iowa Code chapter 252I. The unit shall forward the notice by first-class mail within two working days of sending the notice to the financial institution. Proof of service

shall be completed according to ~~Iowa Rules~~ Rule of Civil Procedure ~~821.442~~.

ITEM 19. Amend subrule **98.101(2)** as follows:

**98.101(2)** *Subpoena or warrant.* An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with either Form 470-3413, ~~Child Support Recovery Unit Subpoena~~, or an Interstate Subpoena as provided in paragraph ~~96.2(1)“a”~~ 96.2(1) within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure ~~821.442~~.

ITEM 20. Amend subrule **98.102(2)** as follows:

**98.102(2)** *Temporary illness or disability.* Temporary illness or disability of the individual or illness or disability of another household member which requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed Form 470-3158, ~~Physician’s Statement~~, verifying the individual’s or household member’s inability to work.

ITEM 21. Amend subrule **98.102(4)** as follows:

**98.102(4)** *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving ~~food stamps~~ benefits from the Supplemental Nutrition Assistance Program is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through online

information available to CSRU or upon receipt of a written statement from an income maintenance worker.

ITEM 23. Amend subrule **98.103(3)** as follows:

**98.103(3) *Certificate of noncompliance.*** If an individual fails to respond in writing to the notice within 20 days, or if the individual requests a conference and fails to appear, the unit shall issue a Certificate of Noncompliance, ~~Form 470-3274~~, to applicable licensing authorities in accordance with Iowa Code section 252J.3.

ITEM 24. Amend rule **98.104(252J) Conference.** as follows:

**98.104(1) *Scheduling of conference.*** Upon receipt from an individual of a written request for a conference, CSRU shall schedule a conference not more than 30 days in the future. At the request of either CSRU or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under subrule 98.103(1), CSRU shall request the completion of Form 470-0204, ~~Financial Statement~~, and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

**98.104(2) *Payment calculation.*** If notice was sent to an obligor under subrule 98.103(1) during the conference held in compliance with the provisions of Iowa Code section 252J.4, CSRU shall determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, Division I, with the exception of subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation, CSRU may schedule an additional conference no less than ten days in the future

in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, CSRU shall issue a Certificate of Noncompliance, ~~Form 470-3274~~, to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, CSRU shall use whatever information is available. If no income information is available for the obligee, CSRU shall determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only, and does not modify the amount of support obligation contained in the underlying court order.

**98.104(3) Referral for review and adjustment.** If the amount calculated in subrule 98.104(2) meets the criteria for review and adjustment as specified in rule 441—99.62(252B,252H), or administrative modification as specified in rule 441—99.82(252H) and subrules 441—99.83(1), 99.83(2) and 99.83(6) at the time CSRU provides the payment agreement to the obligor, CSRU shall also provide the obligor with any necessary forms to request a review and adjustment or administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

ITEM 25. Amend rule **98.105(252J) Payment Agreement.** as follows:

**98.105(252J) Payment agreement.** The License Sanction Payment Agreement, ~~Form 470-3273~~, shall require the obligor to pay the lower of the amount calculated in subrule 98.104(2) or the maximum amount payable under an income withholding order as specified in rule 441—98.24(252D).

**98.105(1) Duration of payment agreement.** The License Sanction Payment Agreement signed under this division shall remain in effect for at least one year from the date of issuance unless CSRU

determines the obligor has a valid reason for exemption as specified in rule 98.102 (252J). Except in those cases in which review and adjustment are in process, CSRU may, at the end of the year, begin the process of reviewing the case to ensure that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.104(1).

**98.105(2) Failure to comply.** If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, CSRU shall issue a ~~Certificate of Noncompliance~~, Form 470-3274, to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

ITEM 26. Amend rule **98.106(252J)** as follows:

**98.106(252J) Staying the process due to full payment of support.** If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, CSRU shall stay the process, and any ~~Certificate of Noncompliance~~, Form 470-3274, which has been issued shall be withdrawn by CSRU.

ITEM 27. Amend rule **98.107(252J)** as follows:

**98.107(252J) Duration of license sanction.** ~~The Certificate of Noncompliance~~, Form 470-3274, shall remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with CSRU; or the obligor meets one of the criteria for exemption specified at subrules 98.102(1), 98.102(2), and 98.102(4); or the individual complies with the subpoena or warrant.

ITEM 28. Amend implementation statement as follows:

These rules are intended to implement Iowa Code chapter 252J. ~~as amended by 1997 Iowa Acts, House File 612, Division X.~~

ITEM 29. Amend the Preamble for Division X as follows:

This division implements provisions of ~~1997 Iowa Acts, House File 612, sections 35 and 244,~~ Iowa Code chapter 252B which provide for enforcement of child support arrearages by external sources. These sources are entities under contract to collect difficult-to-collect arrearages and private attorneys acting independently of the unit but with the unit's consent. The rules provide criteria and procedures for referral of delinquent support to collection contractors, assessment of the statutory surcharge, and opportunity for the delinquent parent to contest. The rules also provide a procedure to allow state payment to private attorneys enforcing child support recovery unit (CSRU) cases and provide criteria to exempt cases from the procedure.

ITEM 30. Amend rule **98.121(252B)** as follows:

**98.121(252B) Difficult-to-collect arrearages.** The child support recovery unit may refer difficult-to-collect arrearages to a collection entity under contract with the unit or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in ~~1997 Iowa Acts, House File 612, section 244.~~ Iowa Code chapter 252B.

**98.121(1) *Difficult-to-collect arrearage.*** A difficult-to-collect arrearage is one based upon a court or administrative order which meets all the following criteria:

- a. There is no order for current support and only an arrearage is owing.
- b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.

c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.102(1), 98.102(3), and 98.102(6). Upon verification of those conditions, the child support recovery unit shall bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to the child support recovery unit through online sources, the child support recovery unit shall request, and the obligor shall provide, verification of the reason for exemption.

**98.121(2) *Notice of the possibility of referral and surcharge.*** The child support recovery unit shall provide notice of the possibility of a referral and surcharge to the obligor as required by ~~1997 Iowa Acts, House File 612, section 244.~~ Iowa Code chapter 252B. The notice shall be provided at least 15 days before the unit sends the notice of referral and surcharge to the obligor, subject to the following:

a. *Notification contained in order.* When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice shall be required.

b. *Notification issued by the child support recovery unit.* When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, the child support recovery unit shall issue a notice to the obligor. The notice shall be sent by regular mail to the obligor's last-known address.

**98.121(3) *Notice of referral and surcharge.*** The child support recovery unit shall send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure ~~821.442.~~ The notice shall

contain all the information required by ~~1997 Iowa Acts, House File 612, section 244.~~ Iowa Code chapter 252B. The notice shall be sent at least 30 days before the unit refers the arrearage to the collection entity.

**98.121(4)** *Contesting the referral and surcharge.* An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.121(3), a mistake as to whether an exemption in paragraph 98.121(1) “c” applies, or a mistake in the amount of arrearages.

*a.* An obligor may contest the referral and surcharge by submitting a written request for a review to the unit within 20 days of the date on the notice of referral and surcharge specified in subrule 98.121(3). Upon receipt of a written request for review, the unit shall follow the criteria and procedures specified in ~~1997 Iowa Acts, House File 612, section 244,~~ Iowa Code chapter 252B for resolving the request.

(1)-(2) No change.

*b.* No change.

(1)-(2) No change.

*c.* Following the issuance of a notice of determination of a review under paragraph “a,” or issuance of a notice of determination of an additional review under paragraph “b,” the obligor may request a district court hearing. The obligor shall make a request by sending a written request for a hearing to the unit within ten days of the date of the unit’s written determination of the review, or within ten days of the date of the bureau chief’s written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in ~~1997 Iowa Acts, House File 612, section 244.~~ Iowa Code chapter 252B.



d. The unit shall not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

**98.121(5) No change.**

This rule is intended to implement ~~1997 Iowa Acts, House File 612, section 244.~~ Iowa Code chapter 252B.

ITEM 31. Amend rule **98.122(252B)** as follows:

**98.122(252B) Enforcement services by private attorney entitled to state compensation.** An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in ~~1997 Iowa Acts, House File 612, section 35.~~ Iowa Code chapter 252B.

**98.122(1) Eligible cases.** To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

- a. The child support recovery unit is providing services under Iowa Code chapter 252B.
- b. The current support obligation is terminated and only arrearages are due under the administrative or court order.
- c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to the unit under paragraph “f.”
- d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under ~~1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35.~~ Iowa Code chapter 252B
- e. The case does not have any of the following characteristics:
  - (1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3 ~~as amended by 1997 Iowa Acts, House File 612, section 26.~~

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified the unit of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time to receive the collection has not expired or the unit has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

(4) If the notice from the attorney under paragraph “f” specifies contempt of court as the judicial proceeding, and the unit has generated a seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by the child support recovery unit to a collection entity under Iowa Code section 252B.5, subsection 3, ~~as amended by 1997 Iowa Acts, House File 612, section 30, or 1997 Iowa Acts, House File 612, section 244,~~ less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph “f” lists a specific judicial proceeding and the unit has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney’s office and is still pending at that office.

*f.* The attorney has provided written notice to the central office of the child support recovery unit in Des Moines, as specified in subrule 98.122(2), and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

*g.* The attorney has provided documentation of insurance to the unit as required by ~~1997 Iowa Acts, House File 612, section 35.~~ Iowa Code chapter 252B.

*h.* The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph “*f*,” or within a subsequent 90-day extension period.

ITEM 32. Amend paragraph **98.122(2) “c”** as follows:

*c.* If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to child support recovery unit in paragraph “*a*.” ~~Section 35 of 1997 Iowa Acts, House File 612,~~ Iowa Code chapter 252B defines “judicial proceedings.”

ITEM 33. Amend subrule **98.122(3)** as follows:

**98.122(3)** *Collection and payment to attorney.*

*a.* Upon compliance with the requirements of ~~1997 Iowa Acts, House File 612, section 35,~~ Iowa Code chapter 252B and this rule, the attorney shall be entitled to compensation from the state as provided for in this rule.

*b.* Upon receipt of a file-stamped copy of a court order which identifies the amount of support collected as a result of the judicial proceeding and which does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) Section 35 of 1997 Iowa Acts, House File 612, specifies the formula to calculate the compensation due the attorney from the state. The child support recovery unit shall calculate the compensation due the attorney based upon the amount of support which is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, the unit shall reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state

as a result of any other judicial proceeding initiated by that attorney under ~~1997 Iowa Acts, House File 612, section 35.~~ Iowa Code chapter 252B. The child support recovery unit shall send the attorney a notice of the amount of the compensation due from the state.

- (2) The collection services center shall disburse any support due an obligee prior to payment of compensation to the attorney.
- (3) The child support recovery unit shall not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.
- (4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

This rule is intended to implement ~~1997 Iowa Acts, House File 612, section 35.~~ Iowa Code chapter 252B.



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 98 as a result of CSRU's five-year review of rules (Iowa Code § 17A.7(2)). We are requesting the following rules changes:

- Subrule 98.74(6): Striking "food stamps" and replacing with "SNAP."
• Subrule 98.101(2): Striking 96.2(1)"a" since it no longer exists and replacing with 96.2(1).
• Subrule 98.102(4): Striking "food stamps" and replacing with "SNAP."
• Rules 98.75, 98.94, and 98.95 and subrules 98.101(2) and 98.121(3): Striking references to Rule of Civil Procedure 82 and replacing with Rule of Civil Procedure 1.442. The former is an old version of the Iowa Rules of Civil Procedure.

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

Iowa Code Chapters 252B.9(f)(7)
7 U.S.C. § 2013

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 98  
**Agency contact:** Paula Burns / Diane Barrett (fiscal)

**Summary of the rule:**  
Support Enforcement Services

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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:

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

7 U.S.C. § 2013

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 Support Establishment and Adjustment Services and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 99, "Support Establishment And Adjustment Services," Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 252B, 252C and 252F.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 252B, 252C and 252F.

## Purpose and Summary

Chapter 99 is being reviewed as part of the Department's five-year rules review. Chapter 99 outlines the rules governing the provision of services provided by the child support recovery unit regarding the establishment of paternity, the establishment of support obligations; the review and adjustment of support obligations, the modification of support obligations and the suspension and reinstatement of support obligations.

These proposed amendments are being updated to align the rules with the current procedures for paternity establishment in the Iowa Code. References are being updated to the Iowa Code and federal regulations to provide accurate listings. Outdated guidance on establishment of support obligations and guidelines for setting support awards are being rescinded.

## 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 December 20, 2022. 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](mailto: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 NOTICED RULE CHANGES FOR CHAPTER 99

CHAPTER 99  
SUPPORT ESTABLISHMENT AND ADJUSTMENT SERVICES

DIVISION I  
CHILD SUPPORT GUIDELINES

No changes

DIVISION II  
PATERNITY ESTABLISHMENT  
PART A  
JUDICIAL PATERNITY ESTABLISHMENT

No changes

PART B  
ADMINISTRATIVE PATERNITY ESTABLISHMENT

ITEM 1. . Amend rule **441—99.22(252F)** as follows:

**441—99.22 (252F) Mother’s certified statement.** Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed ~~Child Support Information~~, Form 470-3877, or ~~Establishment Questionnaire~~, Form 470-3929, or a similar document from the child’s caretaker. The unit shall obtain ~~the Mother’s Written Statement Alleging Paternity~~, Form 470-3293, from the child’s mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child’s biological father. Government records, including but not limited to an application for public assistance, which substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293, the mother acknowledges that the unit may initiate a paternity action against the alleged father, ~~and she agrees to accept service of all notices and other documents related to that action by first-class mail.~~ The mother shall sign and return

Form 470-3293 to the unit within ten days of the date of the unit's request.

ITEM 2. . Amend rule **441—99.23(252F)** as follows:

**Notice of alleged paternity and support debt.** Following receipt of ~~the Mother's Written Statement Alleging Paternity~~, Form 470-3293, or government records, including but not limited to an application for public assistance, which substantially meet the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

ITEM 3. Amend rule **441—99.24(252F)** as follows:

**441—99.24 (252F) Conference to discuss paternity and support issues.** ~~The alleged father~~ A party may request a conference as provided in Iowa Code section 252F.3, subsection (1), with the office that issued the notice to discuss paternity establishment and the amount of support he may be required to pay.

ITEM 4. Amend rule **441—99.29(252F)** as follows:

**441—99.29(252F) Agreement to entry of paternity and support order.** If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father may acknowledge his consent on the ~~Child Support Declaration~~, Form 470-4084. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit may file the ~~Child Support Declaration~~, form, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

ITEM 5. Amend rule **441—99.30(252F)** as follows:

**441—99.30 (252F) Entry of order establishing paternity only.** If ~~the alleged father~~ a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, the unit shall prepare an order establishing paternity and reserving the support issues for determination by the court. The unit shall present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

ITEM 6. Amend rule **441—99.36(598, 600B)**, definition of “disestablishment,” as follows:

*“Disestablishment”* means paternity which is legally overcome under the conditions specified in Iowa Code section 600B.41A or section ~~598.21, subsection 4A~~ 598.21E.

ITEM 7. Amend subparagraph **99.39(1)“a”(2)** as follows:

(2) For actions under Iowa Code section ~~598.21~~ 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

DIVISION III  
ADMINISTRATIVE ESTABLISHMENT OF SUPPORT

ITEM 8. Amend subrule **99.41(1)** as follows:

**99.41(1)** *When order may be established.* The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not

preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed ~~Child Support Information~~, Form 470-3877, or ~~Establishment Questionnaire~~, Form 470-3929, or a similar document from the child's caretaker.

ITEM 9. Amend subrule **99.41(2)** as follows:

**99.41(2) Support debt.** When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and ~~owed~~ assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

DIVISION IV  
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS

ITEM 10. Amend subrule **99.62(2)** as follows:

**99.62(2) Review by request.** A review shall be conducted upon the request of the child support recovery agency of another state or upon the written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

ITEM 11. Amend subrule **99.62(3)** as follows:

**99.63(1) Notice of right to request review.** The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which

the request should be made. Notification shall be provided on Form 470-0188, ~~Application For Nonassistance Support Services~~, or Form 470-1981, ~~Notice of Continued Support Services~~, or through another printed or electronic format.

DIVISION V  
ADMINISTRATIVE MODIFICATION

ITEM 12. Amend rule ~~441—99.83(252H)~~ as follows:

**99.83(252H) Modification of child support obligations.** Permanent child support obligations meeting the criteria set forth in rule 441—99.82(252H) may be modified at the initiative of the unit, or upon written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. Any action shall be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order shall not be modified. The procedures used by the child support recovery unit to determine if a modification is appropriate are as follows:

ITEM 13. Amend subrule **99.85(3)** as follows:

**99.85(3)** Guidelines calculations. The unit shall determine:

~~a.~~ — ~~The unit shall determine:~~

(~~1~~ **a**) The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and

(~~2~~ **b**) Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

~~b. — If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section 598.21B(2)“e” or 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage unless the parent’s education, experience, or actual earnings justify a higher income.~~

DIVISION VI  
SUSPENSION AND REINSTATEMENT OF SUPPORT

PART A  
SUSPENSION BY MUTUAL CONSENT

ITEM 14. Amend subparagraph **99.104(1)(a)** as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-3033, ~~Request to Suspend Support~~, and Form 470-3032, ~~Affidavit Regarding Suspension of Support~~.

PART B  
SUSPENSION BY PAYOR’S REQUEST

ITEM 15. Amend subparagraph **99.110(1)(a)** as follows:

**99.110(1)** *Submitting a request.*

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-5348, ~~Request from the Payor to Suspend Support~~.

ITEM 16. Amend subrule **99.1102** as follows:

**99.110(2)** *Submitting an affidavit.* After receiving a valid request for suspension, the local unit shall provide the requestor with Form 470-5349, ~~Affidavit Requesting Suspension of Support Based on Payor's Request.~~

ITEM 17. Amend subparagraph **99.111(2)(a)** as follows:

**99.111(2)** *If the criteria are met.* If the criteria are met, the unit shall proceed as follows:

a. The unit shall serve Form 470-5351, ~~Notice of Intent to Payee to Suspend a Child Support Obligation Based on Payor's Request,~~ and Form 470-5352, ~~Payee's Affidavit Objecting to Suspension of Support,~~ and supporting documents on the obligee by any means provided in Iowa Code section 252B.26.





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 98 as a result of CSRU's five-year review of rules (Iowa Code § 17A.7(2)). We are requesting the following rules changes:

- Subrule 98.74(6): Striking "food stamps" and replacing with "SNAP."
• Subrule 98.101(2): Striking 96.2(1)"a" since it no longer exists and replacing with 96.2(1).
• Subrule 98.102(4): Striking "food stamps" and replacing with "SNAP."
• Rules 98.75, 98.94, and 98.95 and subrules 98.101(2) and 98.121(3): Striking references to Rule of Civil Procedure 82 and replacing with Rule of Civil Procedure 1.442. The former is an old version of the Iowa Rules of Civil Procedure.

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

Iowa Code Chapters 252B.9(f)(7)
7 U.S.C. § 2013

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 98  
**Agency contact:** Paula Burns / Diane Barrett (fiscal)

**Summary of the rule:**  
Support Enforcement Services

*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>
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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:

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

7 U.S.C. § 2013

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 Foster Care Contracting and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 152, "Foster Care Contracting," Iowa Administrative Code.

## Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

## State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

## Purpose and Summary

Chapter 152 is being reviewed as part of the Department's five-year rules review process. Chapter 152 outlines the contracting process used for providers of foster group care, child welfare emergency services shelter and supervised apartment living. This chapter provides the rules for rate-setting, payments and provider monitoring.

These proposed amendments update definitions. Form names and numbers are also proposed to be updated. Legal references are also being updated.

## 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,218).

## 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 December 20, 2022. 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](mailto: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.

ITEM 1. Rescind the definition(s) of “Level of care” in rule ~~441—152.1(234)~~.

ITEM 2. Amend rule ~~441—152.1(234)~~, definition of “Child,” as follows:

“*Child*” means a person under 18 years of age or a person 18, ~~or 19~~ or 20 years of age who meets the criteria in Iowa Code section 234.1.

ITEM 3. Amend subparagraph ~~152.2(4)“a”(2)~~ as follows:

(2) Form 470-3055, ~~Referral and Authorization for Child Welfare Services~~.

ITEM 4. Amend subrule 152.2(6) as follows:

~~152.2(6) Cost report~~. Providers shall complete Form 470-5421, ~~Combined Cost Report~~, as required by contract. The instructions for the cost report are found in Comm. 502 ~~(7/16)~~, ~~Instructions for the Combined Cost Report~~.

*a. Due date.* The cost report shall be submitted to the department no later than three months after the close of the provider’s established fiscal year. The provider may request a one-month extension from the ~~chief of the~~ bureau of service contract support.

*b. to c.* No change.

ITEM 5. Amend paragraph ~~152.3(5)“a”~~ as follows:

*a.* The department shall report the results of a review of provider records to concerned parties consistent with the provisions of 441—Chapter 9.

ITEM 6. Amend paragraph ~~152.4(1)“h”~~ as follows:

*h.* Failing to submit the cost report on time or failing to submit complete responses to follow-up questions from the department or its fiscal consultant within 14 days of request without written approval from the ~~chief of the~~ bureau of service contract support.

ITEM 7. Amend rule 441—152.5(234) as follows:

**441—152.5(234) Adverse actions.** Notice of adverse actions shall be given in accordance with 441—Chapter 16. ~~and the~~ The right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Kristin Konchalski	Telephone Number 515-281-9368	Email Address kkoncha@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 152 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made:

- Removed outdated definition of Level of Care
- Removed form number date for Instructions for Cost Report
- Replaced chief of bureau of service contract support with entire bureau for the entity who extensions can be requested from for Cost Reports

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

237.3 gives the administrator of ACFS the authority to write rules.

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

It is expected that clarifying our rules and providing updated information will provide a positive benefit to members of the public and potential contractors for foster care services.

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

No

5. What are the likely areas of public comment?

We do not expect any public comment on these rules.

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 is expected to private sector jobs or employment opportunities in Iowa.





## Administrative Rule Fiscal Impact Statement

Date: September 14, 2022

**Agency:** Human Services  
**IAC citation:** 441 IAC 152  
**Agency contact:** David O. Philmon, Jr.

**Summary of the rule:**

The rules in Chapter 152 were reviewed as part of the Department's five-year rules review project. As a result changes were made to the 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.](#)

The rules in Chapter 152 were reviewed as part of the Department's five-year rules review project. There is no impact to the state as the result of the review were the removal of an outdated definition of Level of Care, and the removal of a form number date for Instructions for Cost Report, and it replaced chief of bureau of service contract support with entire bureau for the entity who extensions can be requested from for Cost Reports.

*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>
<b>Revenue by each source:</b>		
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<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	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: David O. Philmon, Jr.

JH 09/16/2022

Telephone number: 404-345-1088

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Proposing rule making related to provider increases in payment rates and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 78, "Amount, Duration And Scope Of Medical And Remedial Services," Chapter 79, "Other Policies Relating To Providers Of Medical And Remedial Care," and Chapter 83, "Medicaid Waiver Services," 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, Iowa Code section 249A.4.

## Purpose and Summary

During the 2022 Legislation Session HF 2578 appropriated funds to increase specific Home and Community Based Service (HCBS) waiver providers and HCBS habilitation providers reimbursement rates over the rates in effect June 30, 2022. Those increases are:

- Increase rates for Behavioral Health Intervention (BHIS) services by 20.6 percent.
- Increase rates for Applied Behavior Analysis (ABA) by 8.9 percent.
- Increase rates for Home Health Agency providers located in rural areas. These are the providers covered under the Low Utilization Payment Adjustment (LUPA) methodology whose rates may vary depending on type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits. Currently LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817 HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. The following changes are being amended as a result of the proposed rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and Habilitation services.
- Increase the monthly cap on HCBS Support Employment and Intellectual Disabilities (ID) Waiver respite services.
- Increase the annual or lifetime limitations for Home and Vehicle Modifications and Specialized Medical Equipment.

The proposed amendments also correct the following technical errors :

Removing the Individual Placement and Support Supported Employment (IPS SE) from the HCBS Waiver Supported employment and adding it under the HCBS Habilitation Supported Employment Services. IPS SE is only provided to individuals enrolled in the 1915(i) Habilitation Program. Aligning the total monthly cap on supported employment services under the HCBS Habilitation program with the HCBS Waiver employment service monthly cap which is the current practice.

## Fiscal Impact

During the 2022 Legislative Session, HF 2578 appropriated funds to increase home health agency 11/06/2022 rates for providers operating in rural areas and to increase BHIS and ABA provider rates. As part of the American Rescue Plan Act (ARPA), Section 9817 HCBS implementation, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25%

## Jobs Impact

This amendment raises the rate of reimbursement for rural home health agencies, behavioral health intervention and applied behavior analysis. This amendment raises the rate of reimbursement for HCBS Waiver and HCBS Habilitation service providers. This rate will directly benefit HCBS members accessing Consumer Directed Attendant Care and Consumer Choices Option by enabling them to offer an increased wage to potential employees which may increase the recruitment and retention rates of CDAC workers and CCO employees. This increase could assist HCBS providers with recruitment and retention efforts which may provide improved quality of services for HCBS members. The rules may have a positive influence on private-sector jobs and employment opportunities in Iowa.

## 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)

## 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 December 22, 2022. 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](mailto: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).

## **Emergency Rule Making Adopted by Reference**

**This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see ARC 5291C, IAB 12/2/20). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.**

**The following rule-making action is proposed:**

**Please see Emergency Rule filing for rules. AE-1.**