

Council on Human Services

THURSDAY, OCTOBER 13, 2022

10 A.M. – 11 A.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 September 14, 2022, meeting minutes**
- 10:05 a.m. Rules**

The following amendments to the administrative rules are presented for adoption at the October 13, 2022, Council on Human Services meeting.

R-1. Amendments to Chapter 54, “Facility Participation for RCFs,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code).

This rule making aligns residential care facilities (RCFs) rules with existing policy. RCFs no longer use cost reporting, but instead have a set per diem that changes annually. Definitions have been updated and references to forms have been removed that are no longer in use. This review is part of the department’s five-year rules review process

R-2. Amendments to Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services- Updating HCBS Habilitation Eligibility Criteria,” Iowa Administrative Code. (Meet federal requirements for HCBS Habilitation Program)

The purpose of this rule making is to amend the needs-based and risk-based eligibility criteria for the Home and Community Based Services (HCBS) Habilitation program. As a condition of approval for the American Rescue Plan Act (ARPA), the Centers for Medicaid and Medicare (CMS) required states to meet maintenance of effort (MOE) requirements. States are also required to update their Medicaid state plan as a condition of approval due to the MOE requirements for ARPA. Under ARPA states are allowed enhanced FMAP for HCBS

services, however, states may not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

R-3. Amendments to Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code. (Updating cost reports for HCBS providers)

These amendments were drafted in collaboration with a stakeholder workgroup in response to proposed legislation regarding utilization of generally accepted accounting principles in completing Home and Community-Based Services (HCBS) waiver cost reports. These amendments clarify which programs submit cost reports; remove the 20% limitation from all salary, benefits, and payroll tax expenses, change the mileage reimbursement use for personal vehicles to match the amount allowed by the IRS. The amendments also change the cost reporting period to align with the provider’s fiscal year, set the maximum compensation allowed for top positions, and provide definitions for key terms. The rules also add language regarding rebasing for recalculation of rates every three years.

R-4. Amendments to Chapter 95, “PROMISE JOBS,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code).

Changes were made to clarify language, accurately reflect the jobs readiness, and job search activities and update case retention rules in the PROMISE JOBS program. These changes are technical in nature and do not impact caseloads or program costs. This review is part of the department’s five- year rules review process.

R-5. Amendments to Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code. (Implements new child care legislation, HF2589)

Under Iowa Code 135C persons defined as physicians may conduct well-child checks. This rulemaking expands that function to chiropractors, as well-child checks are within their scope of practice. These rules also modify rules to allow regulatory reductions to licensed child care centers to ease burdens on licensed centers. Results are based on a survey that was conducted with licensed child care center directors in response to the Governor’s Child Care Task Force. These amendments include modifications to written policies, changes in allowable points for directors and supervisors, updates in radon requirements, changes in training requirements for providers caring for school-age children, and changes in sharing information on completed record checks. (Implements HF 2589)

R-6. Amendments to Chapter 116, “Licensing and Regulation of residential Facilities for children with an Intellectual Disability or Brain Injury,” Iowa Administrative Code (Align rules with current practice and the Iowa Code).

This rule making updates a cross-reference to the Iowa Code section that contains the definition of brain injury. Updating the cross reference makes it easier for a user to find the definition. This rule making is part of the department's five-year rules review process.

R-7. Amendments to Chapter 119, "Record Check Evaluation," Iowa Administrative Code. (Align rules with current practice and the Iowa Code).

This rule making provides the form number of the document that must be submitted by a requesting party when submitting a request for a record check evaluation. The amendment identifies the way the form and documentation may be submitted to include mail, electronic mail, and facsimile. This rule making is part of the department's five-year rules review process.

R-8. Amendments to Chapter 168, "Child Care Expansion Programs," Iowa Administrative Code. (Rescind chapter).

This chapter is being rescinded as it contains outdated rules no longer used for wrap-around child care programs and expansion of school-age child care programs. Funding has not been allocated for these programs for over ten years. 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 50, "Application for Assistance -State Supplemental Assistance Program)," Iowa Administrative Code. (Align rules with current practice and Iowa Code).

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

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

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

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

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

N-4. Amendments to Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code. (Implements HF 2546 and 2578)

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

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

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

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

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

N-7. Amendments to Chapter 95, "Collections," Iowa Administrative Code. (Align rules with current practice, the Iowa Code, and federal regulations).

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

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

This rules review resulted in proposed technical changes. References to obsolete forms are being replaced with current information. Proposed amendments update mailing addresses. This review is part of the department's five-year rules review process.

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

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

- 10:30 a.m. Rent Reimbursement – Project Manager Victoria Daniels**
- 10:50 a.m. Director's Report: HHS Director Kelly Garcia**
- 11:00 a.m. Adjourn**
- 11:00 a.m. Tour of Cherokee and CCUSO Facilities for Council Members**
- 12:00 p.m. Lunch**

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 accordingly.

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five year rules review for facility participation.

The Human Services Department hereby amends Chapter 54, "Facility Participation," 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

Chapter 54 was reviewed as part of the Department's five-year rules review. As part of this review, the word "enterprise" was removed from the name of Iowa Medicaid. Form names are also removed from the rules. The amendments align residential care facilities (RCFs) rules with existing policy. RCFs no longer use cost reporting but instead have a set per diem that changes annually, and these amendments reflect those changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as ARC 6472C.

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 October 13, 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 January 1, 2023.

The following rule-making action is adopted:

Please see attached.

Adopted and Filed Rules

Adopt the following rules.

ITEM 1. Amend rule 441—54.1(249) as follows:

441—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department of human services and agree to the provisions as enumerated in Form 470-0443, ~~Application and Contract Agreement for Residential Care Facilities~~. The effective date of the contract shall be the first of the month that the ~~Application and Contract Agreement for Residential Care Facilities~~, form is signed by the administrator of the facility, and is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be in effect until the department ceases to participate in the program, until either party gives 60 days' notice of termination in writing to the other party, or until there is a change in ownership. The facility shall notify the department within 30 days of a change in ownership, a change in the number of beds or a change in administrator.

This rule is intended to implement Iowa Code section 249.12.

ITEM 2. Amend rule 441—54.2(249) as follows:

441—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in the facility which contains the following:

1. Contract between the facility and the resident on Form 470-0477, ~~RCF Admission Agreement~~.
2. and 3. No change.

This rule is intended to implement Iowa Code section 249.12.

ITEM 3. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) ~~Payment~~ Payments for residential care facilities. Payments for ~~privately operated~~ residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3). ~~Non-privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules:~~

ITEM 4. Amend subrule 54.3(1) as follows:

54.3(1) Failure to maintain records. Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks, source documents, invoices, and audit reports by or for a facility may result in the penalties specified in ~~subrule 54.8(1)~~ rule 441—79.3(249A).

ITEM 5. Rescind subrules **54.3(2)** to **54.3(11)**.

ITEM 6. Renumber subrule **54.3(12)** as **54.3(2)**.

ITEM 7. Amend renumbered subrule 54.3(2) as follows:

54.3(2) Termination or change of ~~owner~~ ownership.

~~α-~~ A participating facility contemplating termination of participation or negotiating a change of ownership

shall provide the department of human services with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. ~~The person responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:~~

~~(1) In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.~~

~~(2) When a participating nursing home is a sole proprietorship, a transfer of title and property to another party constitutes a change of ownership.~~

~~(3) When the facility is a corporation, neither a transfer of corporate stock nor a merger of one or more corporations with the participating corporation surviving is a transfer of ownership. A consolidation of two or more corporations resulting in the creation of a new corporate entity constitutes a change of ownership.~~

~~(4) When a participating facility is leased, in whole or in part, a transfer of ownership is considered to have taken place.~~

~~b. Upon change of ownership, the new owner or operator shall furnish the department with an appraisal made by a department approved appraiser. The appraisal shall be based on market values.~~

~~c. The new owner or operator shall either continue the previous owner's depreciation schedule or set up a new depreciation schedule using the amount obtained by deducting the depreciation expense incurred since July 1, 1980, from the value of depreciable real property. The value will be the sale price or appraisal value, whichever is less.~~

ITEM 8. Rescind subrules **54.3(13)** to **54.3(15)**.

ITEM 9. Amend rule **441—54.3(249)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.12 and 1992 Iowa Acts, chapter 1241, section 33, subsection 3.

ITEM 10. Amend rule 441—54.5(249), introductory paragraph, as follows:

441—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The personal needs funds shall be deposited in a single checking account, not commingled with trust funds from any other facility, nor commingled with facility operating funds except for facility funds, not to exceed \$500, deposited to cover bank charges and have in the account name the terms "Resident Trust Funds." The funds shall be deposited in a bank or other institution within the state of Iowa insured by the federal government. Expense for bank service charges for this account is ~~an allowable audit cost under rule 441—54.3(249)~~ a cost of doing business if the service cannot be obtained free of charge. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs allowance when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of human services, and shall meet the following criteria:

ITEM 11. Amend rule 441—54.6(249) as follows:

441—54.6(249) Case activity report. ~~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, or is discharged

from the facility.

This rule is intended to implement Iowa Code section 249.12.

ITEM 12. Amend rule 441—54.7(249), introductory paragraph, as follows:

441—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to ~~the Iowa Medicaid enterprise~~ following the month in which service was provided.

ITEM 13. Rescind subrules **54.7(1)** and **54.7(2)**.

ITEM 14. Rescind and reserve rule **441—54.8(249)**.



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
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
Technical changes, removing "Enterprise" from Iowa Medicaid.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Technical changes
3. Describe who this rulemaking will positively or adversely impact.
Iowa Medicaid technical changes
4. Does this rule contain a waiver provision? If not, why?
N/A
5. What are the likely areas of public comment?
N/A
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
N/A.



Administrative Rule Fiscal Impact Statement

Date: April 20, 2022

Agency: Human Services

IAC citation: 441 IAC 54

Agency contact: Jessica McBride

Summary of the rule:

These changes align Residential Care Facility (RCF) rules with existing policy. RCF's no longer use cost reporting, but have a set per diem that changes annually. The rules are being updated to reflect this.

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.](#)

Technical changes to align rules with the RCF rate setting methodology changes that took place several years ago. There is no fiscal impact. These changes clarify changes already implemented.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

- This rule is required by state law or federal mandate.
Please identify the state or federal law:
 Identify provided change fiscal persons:
- Funding has been provided for the rule change.
Please identify the amount provided and the funding source:
- Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:
 No fiscal impact.

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

Agency representative preparing estimate: Jason Buls JH 06/27/2022
 Telephone number: 515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to eligibility for the home-and community-based services habilitation program.

The Human Services Department hereby amends Chapter 78, "Amount, Duration And Scope Of Medical And Remedial Services," 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

The purpose of this rule making is to amend the needs-based and risk-based eligibility criteria for the Home-and Community-Based Services (HCBS) Habilitation program to reflect the changes to the state plan amendment that the Centers for Medicare and Medicaid Services require as a condition of approval because of the maintenance of effort requirements established by the American Rescue Plan Act of 2021, Section 9817. The enhanced Federal Medicaid Assistance Percentage for HCBS services requires states to not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

Federal rules require that individuals who were found eligible for the state plan HCBS benefit before modification of the needs-based criteria under this state plan adjustment must remain eligible for the HCBS benefit until such time as:

- 1) The individual no longer meets the needs-based criteria used for the initial determination of eligibility; or
- 2) The individual is no longer eligible for or enrolled in Medicaid, or the individual is no longer enrolled in the HCBS benefit.

This means that if a member met the initial needs-based eligibility criteria using the interRAI screening tool and would have continued to meet the eligibility criteria were it not for the change in assessment and criteria, the member must remain eligible for habilitation services until the member no longer meets the needs-based eligibility criteria that had been determined using the interRAI tool prior to the change in the assessment tool and needs-based eligibility criteria.

Iowa Medicaid is permitted to modify the needs-based criteria pursuant to 42 CFR 441.715 and will follow all applicable requirements outlined in these proposed rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as ARC 6474C.

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 October 13, 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 January 1, 2023.

The following rule-making action is adopted:

Please see attached.

Adopted and Filed Rules

Adopt the following rules

Amend subrule 78.27(2) as follows:

78.27(2) Member eligibility. To be eligible to receive home- and community-based habilitation services, a member shall meet the following criteria:

~~a. Age.~~ ~~The member is at least 16 years of age or older.~~

~~b. a.~~ LOCUS/CALOCUS actual disposition. The member has a LOCUS/CALOCUS actual disposition of level one recovery maintenance and health management or higher on the most current LOCUS/CALOCUS assessment completed within the past 30 days.

~~e. b.~~ Risk factors. The member has at least one of the following risk factors:

~~(1) The member has undergone or is currently undergoing psychiatric treatment more intensive than outpatient care (e.g., crisis response services, subacute mental health services, emergency services, alternative home care, partial hospitalization, or inpatient hospitalization) more than once in the member's life~~ The individual has a history of inpatient, partial hospitalization, or emergency psychiatric treatment more than once in the individual's life; or

~~(2) The member is currently receiving habilitation or integrated health home services~~ The individual has a history of continuous professional psychiatric supportive care other than hospitalization; or

~~(3) The member has a history of severe and persistent mental illness resulting in at least one episode of continuous, professional supportive care other than hospitalization (e.g., counseling, therapy, assertive community treatment, or medication management)~~ The individual has a history of involvement with the criminal justice system; or

~~(4) The member has a history of severe and persistent mental illness resulting in involvement in the criminal justice system (e.g., prior incarceration, parole, probation, criminal charges, jail diversion~~

~~program or mental health court)~~ Services available in the individual's community have not been able to meet the individual's needs; or

~~(5) Traditional mental health services available in the member's community have not been able to meet the member's needs.~~ The individual has a history of unemployment or employment in a sheltered setting or poor work history; or

~~(6) The individual has a history of homelessness or is at risk of homelessness.~~

~~d. c.~~ Need for assistance. The member individual has a need for assistance ~~or is likely to need assistance related to functional impairment arising out of a mental health diagnosis typically~~ demonstrated by meeting at least two of the following criteria on a continuing or intermittent basis for at least 12 months:

~~(1) The member is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history, and the member is currently receiving employment services or the member has a need for employment services to obtain or maintain employment~~ The individual needs assistance to obtain or maintain employment.

~~(2) The member individual requires financial assistance to reside independently in the community or may be homeless or at risk of homelessness if unable to procure this assistance without help.~~

~~(3) The member shows significant inability~~ individual needs significant assistance to establish or maintain a personal social support system.

~~(4) The member requires help in basic living skills such as self-care, money management, housekeeping, cooking, and medication management~~ The individual needs assistance with at least one of the activities of daily living (ADLs) or instrumental activities of daily living (IADLs) to reside independently in the community.

~~(5) The member exhibits social behavior that puts the member's safety or others' safety at risk, which results in the need for service intervention which may include crisis management or protective oversight~~ The individual

needs assistance with management and intervention of maladaptive or antisocial behaviors to ensure the safety of the individual or others.

~~e- d.~~ *Income.* The countable income used in determining the member's Medicaid eligibility does not exceed 150 percent of the federal poverty level.

~~f- e.~~ *Needs assessment.* The LOCUS or CALOCUS tool has been completed in the LOCUS online system, and using the algorithm developed by Deerfield Solutions to derive the actual disposition score based on the comprehensive assessment and social history (CASH) completed by the integrated health home (IHH) or community-based case manager (CBCM) during a face-to-face interview with the member and the member's representative as applicable, and based on information submitted on the information submission tool and other supporting documentation as relevant, the IME medical services unit has determined that the member is in need of home- and community-based habilitation services. The LOCUS/CALOCUS information submission tools are available on request from the IME medical services unit. Copies of the information submission tool for an individual are available to that individual from the individual's case manager, integrated health home care coordinator, or managed care organization. The designated case manager or integrated health home care coordinator shall:

(1) and (2) No change.

~~g- f.~~ *Plan for service.* The department or the member's managed care organization has approved the member's comprehensive service plan for home- and community-based habilitation services. Home- and community-based habilitation services included in a comprehensive service plan or treatment plan that has been validated by the IME or the member's managed care organization shall be considered approved by the department. Home- and community-based habilitation services provided before approval of a member's eligibility for the program cannot be reimbursed.

(1) to (4) No change.



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
---	----------------------------------	--

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

The purpose of the rulemaking is to amend the needs-based and risk-based eligibility criteria for the Habilitation program to reflect the changes to the state plan amendment (IA 21-0010) that CMS required as a condition of approval due to the maintenance of effort (MOE) requirements for the American Rescue Plan Act (ARPA) Section 9817 enhanced FMAP for HCBS services to not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

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

Iowa Code section 249A.4., 42 CFR 441.715

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

The amendments removes any targeting language which will positively impact applicants to the HCBS Habilitation program.

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?

The changes to the needs-based and risk-based eligibility criteria may lead providers and members to express concern that the member will no longer be eligible for Habilitation. Federal rules require that individuals who were found eligible for the State plan HCBS benefit before modification of the needs-based criteria under this adjustment authority must remain eligible for the HCBS benefit until such time as:

- i) The individual no longer meets the needs-based criteria used for the initial determination of eligibility; or
- ii) The individual is no longer eligible for or enrolled in Medicaid or the HCBS benefit.

This means that if the member met the initial needs-based eligibility criteria using the interRAI and would have continued to meet the eligibility criteria were it not for the change in assessment and criteria that they must remain eligible for Habilitation until they no longer meet the needs –based eligibility criteria which was determined using the interRAI prior to the change in assessment tool and needs-based eligibility criteria.

IME is permitted to modify the needs-based criteria per 42 CFR 441.715 and will follow all applicable requirements outlines therein.

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.)

There is no anticipated impact private sector jobs with these changes.



Administrative Rule Fiscal Impact Statement

Date: June 13, 2022

Agency: Human Services
IAC citation: 441 IAC 78.25
Agency contact: LeAnn Moskowitz

Summary of the rule:

The purpose of the rulemaking is to amend the needs-based and risk-based eligibility criteria for the Habilitation program to reflect the changes to the state plan amendment (IA 21-0010) that CMS required as a condition of approval due to the maintenance of effort (MOE) requirements for the American Rescue Plan Act (ARPA) Section 9817 enhanced FMAP for HCBS services to not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

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 these rules are to amend the needs-based and risk-based eligibility criteria for the Habilitation program to reference the state plan amendment (IA-21-0010). This rule package updates the criteria to reflect the language changes that CMS required. These changes were previously reported in the Administrative Rule Committee Number Hab Rule (ARC-5899C) package adopted on August 12, 2021 and have already been implemented. The initial cost estimate presented in the earlier rule package assumed no reductions to the number served or utilization. Therefore, the CMS requirement that all members remain eligible for Habilitation services should not have any material 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 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Iowa Code section 249A.4., 42 CFR 441.715

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 impact is anticipated.

Fiscal impact to persons affected by the rule:

This rule may affect a member who does not meet eligibility based on the new tools however federal rules require that individuals who were found eligible for the State plan HCBS benefit before modification of the needs-based criteria under this adjustment authority must remain eligible for the HCBS benefit. 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 07/26/2022

Telephone number:

515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to cost reporting

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

Legal Authority for Rule Making

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

The amendments were drafted in collaboration with a stakeholder workgroup in response to proposed legislation regarding utilization of generally accepted accounting principles (GAAP) in completion of cost report reviews. The amendments are based on provider feedback and Department analysis of the impact to providers. Changes were made that are a benefit to providers and members and do not require legislation to move forward.

The amendments to the Home-and Community-Based Services (HCBS) Waiver cost reporting requirements are as follows:

- Clarify the programs that submit cost reports.
- Correct Financial and Statistical Report form numbers.
- Remove the 20 percent limitation from all HCBS salary, benefit and payroll tax expenses.
- Retain, with no changes, the current limitation on all other HCBS expenses.
- Change the mileage reimbursement for business use of personal employee vehicles to be reimbursed according to the federal Internal Revenue Service's (IRS's) published mileage rate.
- Change the cost reporting period to align with the provider's fiscal year.
- Set the maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to subparagraph 82.5(11)"e"(4). Currently this is limited by the 20 percent limitation on wages, benefits and taxes.
- Provide definitions for the terms reasonable and necessary, related party, ownership, and control.
- Add rebasing language for recalculation of rates every three years for HCBS brain injury (BI) waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency to be consistent with intellectual disability (ID) waiver rebasing.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as ARC 6475C.

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 October 13, 2022.

Fiscal Impact

This rule change could potentially increase the amount of reportable costs for the following services:

- ID Waiver Supported Community Living (15-minute unit)
- BI Waiver Supported Community Living (15-minute unit)
- BI Waiver Supported Community Living (daily unit)
- CMH Waiver Family and Community Support Services
- Interim Medical Monitoring and Treatment for the BI, HD, and ID waivers

An increase in reportable costs could increase Medicaid provider rates. The prospective rates for established providers are capped at the upper rate limits in 441-79.1(2). Across these services, there are currently 134 of 238 providers paid below the upper rate limit. It is unclear by how much provider rates will increase because of these changes. A high end estimate assumes rates for all 134 providers will increase to the upper limit as a result of these changes. A low end assumes no providers experience an increase to current rates. The fiscal estimate is based on the midpoint of these two scenarios. Assumptions used to calculate the fiscal impact are based on the number of providers not currently paid at maximum rates relative to state fiscal year 2020 fee for service utilization. A mid-point estimate was used. It is estimated that the impact would be approximately \$300,000 total dollars; \$100,000 state only dollars. This fiscal analysis is only based on fee-for-service utilization. The MCOs and the providers must negotiate the providers reimbursement rates.

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 January 1, 2023.

The following rule-making action is adopted:

Please see attached.

Adopted and filed Rules

Adopt the following rules

ITEM 1. Amend subparagraph **79.1(1)“e”(3)** as follows:

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment ~~based on the provider’s actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 4.5 percent.~~ pursuant to paragraph 79.1(15)“f.”

ITEM 2. Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) *HCBS retrospectively limited prospective rates.* This methodology applies to reimbursement for HCBS brain injury waiver supported community living; HCBS intellectual disability waiver supported community living for 15-minute services; HCBS children’s mental health waiver family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency under an HCBS intellectual disability waiver, brain injury waiver, or health and disability waiver.

ITEM 3. Rescind paragraph **79.1(15)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Reporting requirements.

(1) Providers shall submit the complete Form 470-5477. The provider shall email the report and required supplemental information to costaudit@dhs.state.ia.us. The provider shall mail one signed copy of the certification page to the Iowa Medicaid Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, no later than the due date of the required electronic submissions.

(2) Regardless of the period for the provider’s fiscal year, the provider shall submit a financial and statistical report for the period of July 1, 2021, through June 30, 2022. For provider fiscal periods beginning on or after July 1, 2022, the provider shall submit a financial and statistical report coinciding with the provider’s fiscal year.

(3) The provider shall submit the financial and statistical report on or before the last day of the third month following the end of the cost reporting period.

(4) A certified home health agency enrolled to deliver HCBS that is required to submit a Medicare cost report may request a 60-day extension for submitting the financial and statistical cost report. All other providers may request a 30-day extension for submitting the financial and statistical report. All requests must be submitted in writing to the Iowa Medicaid provider cost audit and rate setting unit by the financial and statistical report due date. No other extensions will be granted.

(5) If a provider terminates its participation in any HCBS program or service, the provider shall submit a final financial and statistical report on or before the sixtieth day following the date of termination for retrospective adjustment in accordance with subparagraph 79.1(15)“f”(1).

(6) Providers failing to submit a financial and statistical report that meets the requirements of this paragraph within the time frames set forth in subparagraph 79.1(1)“a”(3) or 79.1(1)“a”(4), as applicable, shall reduce payment to 76 percent of the current rate. The reduced rate shall be paid for not longer than three months, after which time no further payments will be made.

(7) Providers shall submit a completed financial and statistical report in an electronic format that can be opened using the extension xls or.xlsx. The provider shall submit supplemental documentation in a generally accepted business format.

(8) Along with its financial and statistical report, the provider shall include a working trial balance that corresponds to the data contained on the financial and statistical report. Financial and statistical reports submitted without a working trial balance will be considered incomplete.

(9) The provider's financial data within the financial and statistical report shall be based on the provider's financial records. When the records are not based on the accrual basis of accounting, the provider shall make adjustments necessary to convert the information to an accrual basis for reporting.

(10) Providers of multiple programs or services shall submit a cost allocation schedule. The schedule must identify an allocation method for each expense account, including the statistics used in the calculation.

(11) Providers shall not report costs to any waiver service that are costs of any other program or public or private funding sources, including but not limited to the Medicaid state plan; Medicare; other state, local or federal funded programs; and private funding sources. Providers shall not report costs of HCBS waiver services as a cost of any other public or private funding source.

(12) Iowa Medicaid or its designee may review or audit financial and statistical reports as filed to determine the actual cost of services in accordance with generally accepted accounting principles or Medicare cost principles published in Centers for Medicare and Medicaid Services Publication §15-1, subject to the exceptions and limitations in the department's administrative rules and financial and statistical report instructions.

(13) Failure to maintain records to support the financial and statistical report and make them available to the department or its designee upon request may result in adjustment, payment reduction, or sanction including but not limited to termination of the provider's HCBS certification.

(14) When adjustments made to prior reports indicate noncompliance with reporting instructions or the provider has a history of inadequate documentation to support the financial and statistical report, the department may require that an external accountant experienced with cost report preparation prepare the financial and statistical report or that a certified public accountant complete a review or examination of the financial and statistical report or cost allocation methodology.

ITEM 4. Rescind paragraph **79.1(15)“b”** and adopt the following **new** paragraph in lieu thereof:

b. Home- and community-based general rate criteria.

(1) To receive reimbursement for services, a certified provider shall enter into an agreement with the department on Form 470-2918 and have an approved service plan for the member.

(2) The rates a provider may charge are subject to limits established in subrule 79.1(2).

(3) Twenty percent identified cost limitation.

1. The following identified costs are not subject to the 20 percent limitation; however, the following costs are used to calculate the limitation:

- Wages, benefits, and payroll taxes.
- Direct care transportation expense—with and without member present.
- Direct care development, training, and supplies.
- Member-specific assistance.
- Member-specific equipment repair or purchase.

2. For each waiver service, the sum of reported costs not identified in numbered paragraph 79.1(15)“b”(3)“1” is limited to 20 percent of the identified costs in numbered paragraph 79.1(15)“b”(3)“1.”

(4) Mileage reimbursement for business use of personal employee vehicles shall be limited to the federal Internal Revenue Service's (IRS's) published mileage rate in effect during the cost reporting period.

(5) Compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function and do not exceed the maximum allowed compensation as described in numbered paragraphs 79.1(15)“b”(5)“5” and “6.”

1. “Ownership” is defined as an interest of 5 percent or more. For this purpose, the following persons are considered immediate relatives: husband, wife, natural or adoptive parent, natural or adoptive child, natural or adoptive sibling, step-parent, step-child, step-sibling, parent-in-law, child-in-law, sibling-in-law, grandparent, or grandchild. Adequate time records shall be maintained.

2. “Compensation” means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including but not limited to salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include but

are not limited to costs of leave, employee insurance, pensions and unemployment plans. If the facility's fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to Iowa Medicaid or its designee. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. Providers shall report all compensation paid to related parties, including payroll taxes, on the financial and statistical report.

3. "Reasonableness" requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable providers, and depends upon the facts and circumstances of each case.

4. "Necessary" requires that the function be such that had the owner or immediate relative not rendered the services, the facility would have had to employ another person to perform the service, and be pertinent to the operation and sound conduct of the institution.

5. The maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, is equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to 441—subparagraph 82.5(11)"e"(4).

6. The maximum allowed compensation for any other owner or immediate relative is 60 percent of the amount allowed in numbered paragraph 79.1(15)"b"(5)"5."

7. The provider shall maintain records in the same manner for an owner or immediate relative compensated by the agency as are maintained for any employee of the agency, including but not limited to employment records, timekeeping, and payroll records.

8. The maximum allowed compensation for owners and immediate relatives shall be adjusted by the percentage of the average workweek devoted to business activity during the fiscal year of the financial and statistical report. The time devoted to the business shall be disclosed on the financial and statistical report. If an owner's or immediate relative's time is allocated to the facility from another entity (e.g., home office), the compensation limit shall be adjusted by the percentage of total costs of the entity allocated to the facility. In no case shall the amount of salary for one owner or immediate relative allocated to multiple facilities be more than the maximum allowed compensation for that employee had the salary been allocated to only one agency.

9. Costs applicable to services, facilities, and supplies furnished to the provider by a person or organization related to the provider by common ownership or control are a reimbursable cost when included at the cost to the related party or organization. The cost shall not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

- "Related" means that the agency, to a significant extent, is associated with or has control of or is controlled by the organization furnishing the services, facilities, or supplies.

- Common ownership exists when an individual or individuals possess significant ownership or equity in the facility and the institution or organization serving the provider.

- Control exists where an individual or an organization has power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

- A provider may lease a facility from a related person or organization. In such case, the rent paid to the lessor by the provider is not allowable as a cost. The provider, however, would include in its cost the costs of ownership of the facility. This includes depreciation, interest on the mortgage, real estate taxes, and other expenses attributable to the leased facility.

- An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence that the criteria in numbered paragraph 79.1(15)"b"(5)"10" have been met.

10. The agency must demonstrate the following with convincing evidence. Where all of the conditions below are met, the charges by the supplier to the provider for such services, facilities, or supplies are allowable as costs.

- The supplying organization is a bona fide separate organization;
- A substantial part of its business activity of the type carried on with the facility is transacted with others and there is an open competitive market for the type of services, facilities, or supplies furnished by the organization;

- The services, facilities, or supplies are those which commonly are obtained by similar institutions from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by the institutions; and
- The charge to the agency is in line with the charge for services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for the services, facilities, or supplies.

ITEM 5. Rescind paragraph **79.1(15)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Prospective rates for new providers.

- (1) “New providers” means providers who have not submitted an annual report including at least six months of actual, historical costs of operations for any service as listed in subrule 79.1(15).
- (2) New providers shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period.
- (3) Projected costs of any new service, as listed in subrule 79.1(15), shall be submitted on Form 470-5477.
- (4) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)“f.”
- (5) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph 79.1(15)“d.”

ITEM 6. Rescind paragraph **79.1(15)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Prospective rates for established providers.

- (1) “Established providers” means providers who have submitted an annual report including six months of actual, historical costs of operation.
- (2) The prospective rate will be adjusted annually, effective the first day of the third month after the month during which the annual financial and statistical report is submitted to the department.
- (3) The provider’s prospective rate shall be the lower of:
 1. The provider’s reasonable and proper actual cost-based rate as calculated by the provider’s most recent financial and statistical report and adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider’s fiscal year end,
 2. In the first year of reporting six months of actual, historical costs of operation, or a year in which the provider’s base rate is recalculated, the base rate is equal to the amount calculated in numbered paragraph 79.1(15)“d”(3)“1,”
 3. In a year in which the provider’s base rate is not recalculated, the prior period base rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider’s fiscal year end, or
 4. The upper rate limit pursuant to subrule 79.1(2).
- (4) Recalculation of base rates (rebasings).
 1. For providers of HCBS brain injury waiver supported community living services; HCBS children’s mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency, the base rates will be recalculated based on the reasonable and proper actual costs of operation as calculated by the fiscal year 2022 financial and statistical report.
 2. For providers of HCBS brain injury waiver supported community living services; HCBS children’s mental health waiver family and community support services; interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency; and 15-minute HCBS intellectual disability waiver supported community living services, the base rates will be recalculated based on the reasonable and proper costs of operation for the provider’s fiscal year ending on or after January 1, 2024.
 3. Subsequent to the recalculation of base rates in numbered paragraph 79.1(15)“d”(4)“2,” a provider’s base rate shall be recalculated no less than every three years.
- (5) Prospective rates shall be subject to retrospective adjustment as provided in paragraph

79.1(15)“f.”

ITEM 7. Amend paragraph 79.1(15)“f” as follows:

f. Retrospective adjustments.

(1) ~~Retrospective~~ For fee for service, retrospective adjustments shall be made based on reconciliation of provider’s reasonable and proper actual service costs with the revenues received for those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service 15-minute HCBS intellectual disability waiver supported community living services; HCBS brain injury waiver supported community living services; HCBS children’s mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency under an HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver, as reported on Form 470-5477, subject to the upper rate limit allowed in subrule 79.1(2).

~~(2) For services provided from July 1, 2015, through June 30, 2016, revenues exceeding adjusted actual costs by more than 4.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.~~

~~(3) For services provided from July 1, 2015, through June 30, 2016, providers who do not reimburse revenues exceeding 104.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 104.5 percent of the actual costs deducted from future payments.~~

(4) ~~(2)~~ For services provided on or after July 1, 2016, revenues exceeding adjusted actual costs by more than 5.5 percent for fee for service shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.

~~(5) For services provided on or after July 1, 2016, providers who do not reimburse revenues exceeding 105.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 105.5 percent of the actual costs deducted from future payments.~~

(3) If a provider does not remit the amount of the overpayment identified in subparagraph 79.1(15)“f”(2) within 30 days after notice, the department will deduct the amount owed from future payments.

ITEM 8. Rescind paragraph 79.1(15)“g.”



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (LeAnn Moskowitz), Telephone Number (515-321-8922), Email Address (lmoskow@dhs.state.ia.us)

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

The proposed amendments were drafted in collaboration with a stakeholder workgroup in response to proposed (but not passed) legislation regarding utilization of generally accepted accounting principles (GAAP) in completion of cost report reviews. The proposed amendments are based on provider feedback and department analysis of the impact to providers of the proposed changes.

The proposed amendments to the HCBS Waiver Cost Reporting requirements:

- Clarify the programs that submit cost reports.
Correct the Financial and Statistical Report form numbers.
Remove the 20% limitation from all HCBS salary, benefit and payroll tax expenses.
Retain the current limitation on all other HCBS expenses with no changes.
Change the mileage reimbursement for business use of personal employee vehicles to be reimbursed according to the federal Internal Revenue Services (IRS) published mileage rate.
Change the Cost Reporting period to align with the provider's fiscal year.
Set the maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative is equal to the Intermediate Care Facility for Persons with an Intellectual Disability maximum compensation for facilities with 60 beds or more per 441 IAC Chapter 82.5(11)e(4). Currently this is limited by the 20% limitation on wages benefits and taxes.
Provide definitions for the terms reasonable and necessary, related party, ownership, and control.
Add rebasing language for recalculation of rates every three years for HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency to be consistent with ID Waiver rebasing.

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 rule making will positively impact providers of HCBS brain injury waiver supported community living; HCBS intellectual disability waiver supported community living for 15-minute services; HCBS children's mental health waiver family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency under HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver.

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 comments may include recommendations to remove the 20% limitation in its entirety. Providers may also request to include bad debts as an offset to revenue. Providers may also view some of the

changes to implement current practice and policy as new requirements. Providers may request to end cost reporting for HCBS. Providers may also ask to remove the language related to reasonable compensation of service of owners and related parties. This was added as a compromise to removing the 20% limitation on wages, benefits and related payroll taxes. Providers may also request to increase the timelines for cost report submission.

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: 05/12/2022

Agency: Human Services
IAC citation: 441 IAC 79.1
Agency contact: LeAnn Moskowitz

Summary of the rule:

The proposed amendments to the HCBS Waiver Cost Reporting requirements

- Clarify the programs that submit cost reports.
- Corrects the Financial and Statistical Report form numbers.
- Removes the limitation from all HCBS salary, benefit and payroll tax expenses.
- Retains the current limitation on all other HCBS expenses with no changes.
- Changes the mileage reimbursement for business use of personal employee vehicles to be reimbursed according to the federal Internal Revenue Services (IRS) published mileage rate.
- Changes the Cost Reporting period to align with the provider's fiscal year.
- Sets the maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative is equal to the Intermediate Care Facility for Persons with an Intellectual Disability maximum compensation for facilities with 60 beds or more per 441 IAC Chapter 82.5(11)e(4).
- Provides definitions for the terms reasonable and necessary, related party, ownership, and control.
- Adds rebasing language for recalculation of rates every three years for HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency to be consistent with ID Waiver rebasing

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 change could potentially increase the amount of reportable costs for the below services:

- ID Waiver Supported Community Living (15-minute unit)
- BI Waiver Supported Community Living (15-minute unit)
- BI Waiver Supported Community Living (daily unit)
- CMH Waiver Family and Community Support Services
- Interim Medical Monitoring and Treatment for the BI, HD, and ID waivers

An increase in reportable costs could increase Medicaid provider rates. The prospective rates for established providers are capped at the upper rate limits in 441-79.1(2). Across these services, there are currently 134 of 238 providers paid below the upper rate limit. It is unclear by how much provider rates will increase because of these changes so a range estimate was developed. The high end assumes rates for all 134 providers will increase to the upper limit as a result of these changes. The low end assumes no providers experience an increase to current rates. The fiscal estimate presented below is based on the midpoint of these two scenarios.

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:

Assumptions used to calculate the fiscal impact are based on the number of providers not currently paid at maximum rates relative to SFY20 FFS utilization and UPL costs per finalized cost reports. It is estimated that the impact would be approximately \$0.3M (total dollars) / \$0.1M (state dollars).

The fiscal analysis is only based on fee-for-service utilization. While finalized cost report rates for HCBS providers are sent to the MCOs, they are provided as Informational Only and are not intended to set the provider's MCO rates. The MCOs and the providers must negotiate the provider's reimbursement rates. Therefore, it is assumed that MCO payments will not be impacted by these cost report changes. If the changes are applied to MCO utilization, the cost will be significantly higher.

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund		
Federal funds	\$179,763	\$173,143
Other (specify):		
TOTAL REVENUE	\$179,763	\$173,143
Expenditures:		
General fund	\$272,451	\$272,451
Federal funds		
Other (specify):		
TOTAL EXPENDITURES	\$272,451	\$272,451
NET IMPACT	(\$92,688)	(\$99,309)

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:
Expenditures will be absorbed within the Medical Assistance appropriation

Fiscal impact to persons affected by the rule:

This rule making will positively impact providers of HCBS brain injury waiver supported community living; HCBS intellectual disability waiver supported community living for 15-minute services; HCBS children's mental health waiver family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency under HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver.

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 07/01/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five- year rules review.

The Human Services Department hereby amends Chapter 93, "Promise Jobs Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 239B.4 and 239B.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 239B.4 and 239B.17.

Purpose and Summary

Chapter 93 is amended as part of the Department's five-year rules review. This rule making clarifies language, accurately reflects the job readiness and job search activities and updates case retention rules in the PROMISE JOBS program. These changes are technical in nature and will not have an impact on caseloads or program costs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as ARC 6458C.

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 October 13, 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 of Human Services 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 January 1, 2023.

The following rule-making action is adopted:

Please see attached.

Adopted and Filed Rules

The following rules are adopted

ITEM 1. Amend rule **441—93.1(239B)**, definitions of “FaDSS” and “Limited benefit plan,” as follows:

“*FaDSS*” means the family development and self-sufficiency program operated under 441—Chapter 165, which provides in-home family development services to families at risk of instability or long-term welfare FIP dependency.

“*Limited benefit plan*” or “*LBP*” means a period of time in which a participant or member of a participant’s family is either ineligible for any assistance under the family investment program or eligible for reduced assistance ~~only~~ in accordance with Iowa Code section 239B.9.

ITEM 2. Amend subrule 93.2(2) as follows:

93.2(2) *Contracts with provider agencies.* The department of human services may contract with the department of workforce development, the department of economic development, or other appropriate entity to provide PROMISE JOBS services and case management of those services.

a. No change.

b. Record keeping. All PROMISE JOBS agencies shall maintain PROMISE JOBS participant case files and records for at least ~~three~~ five years after FIP cancellation, in either paper or electronic format. Records shall be maintained for longer than ~~three~~ five years if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained for ~~three~~ five years after the litigation, audit, or claim is resolved. Case files must be disposed of in accordance with applicable federal requirements pertaining to confidentiality.

c. Confidentiality. The departments of ~~education, workforce development, economic development,~~ and human rights, ~~local education agencies,~~ and all subcontractor provider agencies shall safeguard participant information in conformance with Iowa Code section 217.30. The department of human services and the PROMISE JOBS provider agencies may disclose participant information to other state agencies or to any other entity when that agency or entity must have that information in order to provide services to PROMISE JOBS participants that have been determined to be necessary for successful participation in PROMISE JOBS, if approved by the director of the department of human services or the director’s designee, pursuant to a written request.

ITEM 3. Amend subrule 93.3(3) as follows:

93.3(3) *Initial appointment.*

a. FIP applicants. FIP applicants, including those who are in a limited benefit plan, shall be offered an appointment with the PROMISE JOBS provider agency for orientation, assessment, and FIA development at the earliest available time. The provider agency shall make sufficient appointment times available to allow the applicant to be scheduled no later than ten calendar days after the date of the notice that FIA responsibility has begun, as required by rule 441—93.4(239B) and 441—paragraphs 41.24(1) “c,” 41.24(1) “d,” and 41.24(10) “g.”

b. Exempt status change. Persons who become FIA-responsible while receiving FIP shall initiate PROMISE JOBS orientation and FIA development by contacting the appropriate PROMISE JOBS office to schedule an appointment within ten calendar days of the mailing date of the letter explaining that exempt status has been lost and FIA responsibility has begun, as required by 441—subrule 41.24(5). If the person fails to schedule an appointment or fails to appear for an appointment, PROMISE JOBS shall send one written reminder letter that informs the person that those who do not develop a family investment agreement shall enter into a limited benefit plan. If the person fails to schedule an appointment within ten calendar days of the written reminder letter or fails to appear for an appointment scheduled after the written reminder letter is sent,

the person shall enter into a limited benefit plan as described at 441—paragraph 41.24(8) “c.”

ITEM 4. Amend subrule 93.3(4) as follows:

93.3(4) Orientation. Every person referred to PROMISE JOBS shall receive orientation services. PROMISE JOBS workers shall provide FIA orientation ~~if not previously provided by the department of human services.~~

a. No change.

b. Each applicant shall ~~sign~~ receive Form 470-3104, ~~Your FIA Rights and Responsibilities~~, acknowledging confirming that information described in paragraph “a” of this subrule 93.3(4) “a” has been provided.

ITEM 5. Amend subrule 93.3(6) as follows:

93.3(6) Workforce development registration. Each applicant is required to ~~complete a current workforce development registration form as described at 877—subrule 8.2(3) when requested~~ register for work with the department of workforce development, upon request by the PROMISE JOBS worker.

ITEM 6. Amend paragraph **93.4(2)“a”** as follows:

a. *Parents.* All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA. Parents of any age are exempt only if they are receiving Supplemental Security Income (SSI) or they ~~do not meet citizenship requirements~~ are not U.S. citizens and are not qualified aliens as defined in rule 441—40.21(239B). When the FIP eligible group includes a minor parent living with one or both parents or a needy specified relative who receives FIP, as described at 441—subparagraph 41.28(2)“b”(2), and none is exempt from PROMISE JOBS participation, each parent or needy specified relative is responsible for a separate FIA.

ITEM 7. Amend subparagraph **93.4(4)“a”(2)** as follows:

(2) The program goal for all participants is to be involved in PROMISE JOBS activities on a full-time basis unless problems or barriers prohibit this level of involvement. “Full-time” is considered as an average of at least 30 hours per week. Exceptions to full-time involvement are identified in rule 441—93.14(239B) and subrule 93.4(5).

ITEM 8. Amend subparagraphs **93.4(4)“b”(3)** and **(4)** as follows:

(3) Job readiness and job search activities, including job ~~club~~ readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, workplace essentials training unplanned job opportunities, mental health treatment, substance abuse treatment, or other rehabilitative activities, as described in rule 441—93.6(239B).

(4) Work activities, including part-time or full-time employment, self-employment, on-the-job training, work experience placement, or unpaid community service as described in rule 441—93.7(239B).

ITEM 9. Renumber subparagraph **93.4(4)“b”(9)** as **93.4(4)“b”(10)**.

ITEM 10. Adopt the following **new** subparagraph **93.4(4)“b”(9)**:

(9) Family violence option as described in subparagraph 93.4(5) “b”(4).

ITEM 11. Amend subparagraph **93.4(4)“c”(4)** as follows:

(4) ~~Unmarried parents aged 17 and younger~~ Parents under the age of 18 who are not married and who do not live with a parent or legal guardian shall include FaDSS, as described at 441—Chapter 165 or other family development services, as described in subrule 93.9(2), in the FIA. The FaDSS or other family development services shall continue after the parent reaches the age of 18 only when the participant and the family

development worker believe that the services are needed for the family to reach self-sufficiency.

ITEM 12. Amend subparagraph **93.4(5)“a”(4)** as follows:

(4) ~~Sexual or~~ Victim of domestic abuse history violence or sexual abuse.

ITEM 13. Adopt the following **new** subparagraphs **93.4(5)“b”(4)** and **(5)**:

(4) Victims of domestic violence may include in their FIA the family violence option, which is a safety plan to address or attempt to prevent domestic violence. The family violence option may allow for a temporary waiver from participation in PROMISE JOBS activities when appropriate for the participant or participant’s situation.

(5) The PROMISE JOBS worker shall review the need for inclusion of a barrier to participation in the FIA at least once every six months to determine if the barrier continues to exist.

ITEM 14. Amend paragraph **93.4(8)“b”** as follows:

b. Participants who choose not to cooperate in the renegotiation process when requested by PROMISE JOBS shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 15. Amend subrules 93.5(8) and 93.5(9) as follows:

93.5(8) Supportive payments allowed. Except for assessment activities that occur on the same day as orientation, persons participating in assessment activities are eligible for child care assistance and transportation payments for transportation and child care needed to allow the scheduled participation as described at rule 441—93.11(239B). When make-up sessions are required, the participant shall not receive an additional transportation payment, but necessary child care assistance shall be paid.

93.5(9) Failure to complete assessment. Participants who do not complete assessments that are written into their FIA shall be considered to have chosen the limited benefit plan unless they have good cause. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 16. Amend rule 441—93.6(239B) as follows:

441—93.6(239B) Job readiness and job search activities. Job readiness and job search activities include job ~~club~~, readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, workplace essentials training unplanned job opportunities, substance abuse treatment, mental health treatment, and other rehabilitation activities. The participant and the PROMISE JOBS worker shall incorporate into the FIA the job readiness and job search activities that are appropriate for the goals, work history, skill level, and life circumstances of the participant.

93.6(1) Job ~~club~~ readiness. Job ~~club~~ readiness prepares participants to search for ~~work or obtain employment.~~ Job ~~club~~ readiness consists of job readiness skills training in job-seeking skills and structured job search other activities completed outside of a training session that prepare a participant to search for or obtain employment.

a. ~~Delivery of services~~ job readiness skills training. Job ~~club~~ readiness skills training is provided ~~over a consecutive three-week period. Each week consists~~ in scheduled sessions consisting of up to 30 hours of structured activity per week.

(1) ~~Generally, the first week of job club consists of job-seeking skills training and the next two weeks consist of structured group job search.~~

(2) ~~Based on local office need and resources, the 30 hours of job-seeking skills training may be completed over the first two weeks when the hours not spent in job-seeking skills training are spent in structured job search. The total time spent in each of the two weeks must meet the 30-hour requirement. The third week of job club is 30 hours of structured group job search.~~

b. ~~Job-seeking~~ Job readiness skills training. ~~Job-seeking~~ Job readiness skills training may include but is not limited to:

- (1) ~~Résumé development~~ Interests and skills assessment;
- (2) ~~Writing application and follow-up letters~~ Self-esteem building and motivational exercises;
- (3) ~~Completing job applications and interest and skills assessments~~ Identifying and eliminating employment barriers;
- (4) ~~Job retention skills~~ Résumé development;
- (5) ~~Motivational exercises~~ Completing job applications and follow-up letters;
- (6) ~~Identifying and eliminating employment barriers~~ Obtaining interviews and telephone skills;
- (7) ~~Self-marketing~~ Interviewing skills development;
- (8) ~~Finding job leads~~ Goal attainment planning;
- (9) ~~Obtaining interviews~~ Soft skills and life skills;
- (10) ~~Use of telephones for job seeking~~ Job market trends and finding job leads;
- (11) ~~Interviewing skills~~ Self-marketing and positive attitude building; and
- (12) ~~Financial education~~ Job retention skills.

c. Structured job search Other job readiness activities. A written plan shall be developed with each participant using Form 470-4481, Job Search Plan Agreement, indicating the number of job search hours required depending on family circumstances and other component activities listed on the participant's FIA. Structured job search includes daily reporting to the job search site to access resources for job leads. Job readiness may include activities that prepare the participant to search for or obtain employment and are completed outside of a training session. This includes activities such as but not limited to working individually with Iowa workforce development (IWD), bureau of refugee services (BRS), or FaDSS staff to develop a résumé, improve interview skills, or identify any of the other skills listed in paragraph 93.6(1) "b."

d. Attendance.

(1) ~~Daily attendance~~ Attendance is required ~~during both the job seeking when a participant is scheduled for job readiness skills training and structured job search or other job readiness activities unless the participant has good cause as described at rule 441—93.14(239B) or a barrier as described at subrule 93.4(5). Participants who miss any portion of the job seeking job readiness skills training or structured job search may be required to either make up the missed portion of the sessions or to retake the entire week of training based on practical worker judgment and participant need.~~

(1) (2) Participants who obtain employment are required to continue the ~~job seeking~~ job readiness skills training unless the scheduled ~~job club training~~ hours conflict with the scheduled hours of employment.

(2) Participants who obtain employment averaging 30 hours or more per week may discontinue the structured job search portion of job club.

(3) Participants who obtain employment averaging 20 hours per week or more but less than 30 hours per week may discontinue the structured job search portion of job club if part-time employment was the FIA goal or the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.

(4) Participants who obtain employment averaging less than 20 hours per week shall continue the structured job search portion of job club unless the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.

e. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in ~~job club~~ job readiness skills training or other job readiness activities. The transportation payment shall be paid ~~in full at~~ before the start first scheduled day of participation.

(1) Participants who must repeat ~~the job seeking or make up any portion of job readiness skills training or structured job search~~ because of absence due to reasons as described at rule 441—93.14(239B) shall receive an additional transportation payment as described at subrule 93.11(3) for each day that must be repeated and a child care ~~payment for needed child care~~ assistance. This rule applies only when the participant will have transportation costs that exceed the participant's original payment because of repeating or making up a portion of ~~job club~~ job readiness skills training.

(2) Participants who must repeat ~~job seeking~~ or make up any portion of job readiness skills training or

~~structured job search~~ as a result of absences due to reasons other than those described at rule 441—93.14(239B) shall not receive an additional transportation payment.

f. Documenting job ~~club~~ readiness skills training or other job readiness participation. ~~Participants shall provide documentation of job search activities~~ Hours of participation in job readiness skills training or other job readiness activities shall be documented as described at subrule 93.10(2).

g. Failure to participate in job ~~club~~ readiness skills training activities. Participants who without good cause do not appear for scheduled job ~~club~~ readiness skills training activities ~~or who fail to complete or document and submit job search contacts according to their written plan as stated in the FIA~~ shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(2) Individual job search. Individual job search shall be available to all participants, particularly those who have recent ties with the workforce, have successfully removed or reduced barriers to work, ~~or~~ have completed job ~~club~~ or readiness skills training, ~~or have completed education or training activities~~ and are now ready to work. Participants are not required to participate in individual job search full-time. Individual job search may be combined with other FIA activities to reach full-time equivalency. Hours of participation in individual job search shall be determined according to the participant's individual circumstances and be at a level that will reasonably allow the participant to successfully find full-time employment. If after three calendar months the participant still has not found employment, the worker shall review the participant's situation for possible barriers to employment or possible need for training to increase the participant's employability. Job search may continue if appropriate, but linking with other activities should be considered.

a. Job search plan. In consultation with the PROMISE JOBS worker, the participant shall design and provide a written plan of the individual job search activities on Form 470-4481, ~~Job Search Plan Agreement~~. The plan shall:

(1) to (4) No change.

(5) Be signed by the participant and the PROMISE JOBS advisor.

b. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed for participation in individual job search. The transportation payment shall be paid in full ~~at~~ prior to the start of each designated period of the individual job search. Transportation payments for any missed days of job search activity shall be subject to transportation overpayment policies as described at subrule 93.11(3).

c. No change.

d. Failure to participate in individual job search. Participants who without good cause do not ~~complete~~ participate in the steps of the ~~written plan of the individual job search plan described at paragraph 93.6(2) "a"~~ shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(3) Unplanned job opportunity. PROMISE JOBS participants who have an unplanned opportunity to interview or apply for a job shall be encouraged to take advantage of the opportunity.

a. Supportive payments allowed. Child care assistance and transportation payments needed to make an unplanned job contact shall be provided as described at rule 441—93.11(239B) when the following conditions are met:

(1) and (2) No change.

(3) The participant provides documentation as described in paragraph ~~"b" of this subrule.~~ 93.6(3) "b." Payment shall be issued after documentation is received.

b. and c. No change.

93.6(4) ~~Workplace essentials~~ Structured job search. ~~The workplace essentials component consists of soft skills and life skills training.~~ Structured job search is designed with scheduled activities and required hours of participation to reflect proven job search techniques and the employment environment of the PROMISE JOBS service area. A PROMISE JOBS advisor is available to monitor the participant's progress in the participant's job search and to provide assistance and support. Structured job search provides up to 30 hours of scheduled activity. Hours of participation in structured job search shall be determined according to the participant's individual circumstance and may be full-time or at a level that will reasonably allow the participant to

successfully find full-time employment.

a. Delivery of services Attendance. ~~Workplace essentials training is one 30-hour week in duration. Based on local office need and resources, the 30 hours may be completed over a two-week period. For the remainder of the 30 participation hours required in each week, participants must engage in other PROMISE JOBS activities. Participants are scheduled to appear daily at the PROMISE JOBS site to access resources for job leads. Participants who miss any portion of scheduled structured job search may be required to either make up the missed portion of the session or to retake the entire week of training based on practical worker judgment and participant need.~~

(1) Participants who obtain employment averaging 30 hours or more per week may discontinue structured job search.

(2) Participants who obtain employment averaging 20 hours or more per week, but less than 30 hours per week, may discontinue structured job search if part-time employment was the FIA goal or the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

(3) Participants who obtain employment averaging less than 20 hours per week shall continue structured job search unless the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

b. Content. Workplace essentials training may include but is not limited to:

- (1) Identifying and setting goals.
- (2) Self-esteem building.
- (3) Emotional awareness.
- (4) Relationship management.
- (5) Conflict resolution skills.
- (6) Problem-solving skills.
- (7) Decision-making skills.
- (8) Time-management skills.
- (9) Team-building skills.
- (10) Networking skills.
- (11) Listening skills.
- (12) Positive thinking.
- (13) Priority setting.
- (14) Appropriate workplace behaviors.
- (15) Cultural sensitivity.
- (16) Workplace expectations.
- (17) Stress management.

b. Job search plan. PROMISE JOBS and the participant shall develop a written job search plan using Form 470-4481 at the beginning of the structured job search period. The plan shall:

(1) Contain a designated period for job search and the specific methods for finding job openings.

(2) Specify the number of hours to be committed for the designated period so as to provide the most effective use of transportation funds.

(3) Specify the due date for providing documentation of job search activities.

(4) Contain information as specific as possible about areas of employment interests, employers to be contacted, and other pertinent factors.

(5) Be signed by the participant and the PROMISE JOBS advisor.

c. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in ~~workplace essentials~~ structured job search.

d. Documenting participation. The PROMISE JOBS worker shall verify and document each participant's monthly hours of actual participation in ~~workplace essentials~~ structured job search. Participant documentation shall be provided as described at subrule 93.10(2).

e. Failure to participate in ~~workplace essentials~~ structured job search. Participants who without good

cause do not complete ~~workplace essentials~~ structured job search as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(5) *Substance abuse treatment, mental health treatment, and other rehabilitative activities.*

Substance abuse or mental health treatment or other rehabilitative activities are available when needed for a participant to be successful in participating in other FIA activities.

a. No change.

b. *Supportive payments allowed.* ~~Transportation and child~~ Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) ~~are available for participating when needed to participate~~ in substance abuse treatment, mental health treatment, or other rehabilitative activities ~~when specified in the FIA.~~

c. No change.

d. *Failure to participate in treatment or other rehabilitative activities.* Participants who without good cause do not participate in substance abuse treatment, mental health treatment, or other rehabilitative activities as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 17. Amend subrule 93.7(1) as follows:

93.7(1) *Full-time or part-time employment.* FIAs may include full-time employment or part-time employment. Employment that does not lead to economic self-sufficiency may be included in the FIA only if the employment situation leads to better employment opportunities through building work skills and work history. See subrule 93.7(2) for additional policies applicable to self-employment.

a. *Full-time employment.* The goal for all participants is to participate in full-time employment. “Full-time employment” is defined as being employed an average of 30 or more hours per week.

(1) No change.

(2) Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

b. No change.

c. *Supportive payments allowed.* Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at rule 441—93.11(239B) when needed for employment.

d. No change.

e. *Failure to provide verification.* Failure to provide verification of work hours after receiving a written reminder letter will result in a limited benefit plan.

f. *Failure to maintain employment.* A participant who without good cause does not maintain employment as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

b. No change.

c. *Supportive payments allowed.* Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at rule 441—93.11(239B) when needed for employment.

d. No change.

e. *Failure to provide verification.* Failure to provide verification of work hours after receiving a written reminder letter will result in a limited benefit plan.

f. *Failure to maintain employment.* A participant who without good cause does not maintain employment as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 18. Amend paragraph **93.7(2)“d”** as follows:

d. Requiring other FIA activities. When a participant has been self-employed for more than 12 months and has not shown progress toward self-sufficiency, the FIA shall include the part-time self-employment in combination with participation in other PROMISE JOBS activities, unless barriers to participation exist as ~~described~~ defined in subrule 93.4(5) and rule 441—93.14(239B).

(1) No change.

(2) When the determination that a participant has not shown progress toward self-sufficiency is made after the initial FIA is developed, the FIA shall be renegotiated to include the other PROMISE JOBS activities. Participants who choose not to enter into the FIA renegotiation process shall enter into a limited benefit plan as described in 441—subrule 41.24(8). Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 19. Amend paragraph **93.7(2)“e”** as follows:

e. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at subrule 93.11(2) when needed for participation in self-employment.

ITEM 20. Amend paragraph **93.7(2)“g”** as follows:

g. Failure to maintain employment. Participants who without good cause do not maintain employment as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 21. Amend paragraph **93.7(3)“b”** as follows:

b. Supportive payments. Transportation for on-the-job training is treated in the same manner as transportation for employment. Expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at subrule 93.11(2) when needed for participation in on-the-job training.

ITEM 22. Amend paragraph **93.7(3)“d”** as follows:

d. Failure to participate in on-the-job training. Participants who without good cause do not participate in on-the-job training as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 23. Amend paragraph **93.7(4)“d”** as follows:

d. Hours of participation. When a participant is involved in work experience that is subject to the Fair Labor Standards Act (FLSA), the participant cannot be required to work more hours than the amount of the monthly FIP grant divided by federal or state minimum wage, whichever is higher. EXCEPTION: To determine the maximum hours that can be required of a single-parent family on FIP with a child under the age of six, add the value of the family's ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) benefits to the FIP grant amount before dividing by the minimum wage.

(1) A participant cannot be required to work more hours than those calculated under paragraph ~~“d” of this subrule.~~ 93.7(4)“d.” Only hours up to or less than that calculation can be included in the participant's FIA.

(2) If two or more members of the same household participate in work experience, the total required hours of participation of the household cannot exceed the hours calculated according to paragraph ~~“d” of this subrule.~~ 93.7(4)“d.”

(3) No change.

ITEM 24. Amend subparagraph **93.7(4)“f”(1)** as follows:

(1) Child care and transportation. ~~Participants assigned to work experience shall receive a child~~ Child care ~~payment, if required, and a transportation payment for each month or part thereof as described at~~

~~subrules 93.11(2) and 93.11(3). The portion of the transportation payment for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.11(3) assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed for participation in work experience.~~

ITEM 25. Amend paragraph **93.7(4)“i”** as follows:

- i. Failure to participate in work experience.* A participant who without good cause does not participate in work experience as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 26. Amend subparagraph **93.7(5)“c”(1)** as follows:

- (1) For a participant who is a single parent with a child under the age of six, the maximum hours that can be required are determined by adding the value of the participant’s ~~food assistance~~ SNAP to the FIP grant amount before dividing by the minimum wage.

ITEM 27. Amend paragraph **93.7(5)“e”** as follows:

- e. Supportive payments.* ~~A child~~ Child care payment assistance and a transportation payment for each month of participation or part thereof shall be paid as described at rule 441—93.11(239B) ~~if these services are required when needed for participation in unpaid community service.~~

ITEM 28. Amend paragraph **93.7(5)“g”** as follows:

- g. Failure to complete unpaid community service.* Participants who without good cause do not participate in unpaid community service as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 29. Amend subrule 93.8(1), introductory paragraph, as follows:

93.8(1) Participant requirements. The decision to include education in an FIA shall take into account the results of the educational evaluation pursuant to paragraph ~~“b” of this subrule~~ 93.8(1)“b” and the current educational level of the participant. Prior academic or vocational training is not, in itself, a reason for denial or approval of educational services. All family members who are approved for education shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same educational facility and in the same program. For education to be approved for inclusion in an FIA, the following requirements shall be met.

ITEM 30. Amend paragraph **93.8(1)“b,”** introductory paragraph, as follows:

- ~~*e. Evaluation*~~ *Educational evaluation.* An educational evaluation shall be completed according to subrule 93.5(3) before postsecondary education is included as an FIA activity. A participant under the age of 19 does not need to complete an educational evaluation in order to have high school completion included in the FIA. For every other training activity, an educational evaluation shall be completed according to this paragraph before the activity is included as part of a participant’s FIA.

ITEM 31. Amend paragraph **93.8(2)“b”** as follows:

- b. Time and attendance.* ~~The provider must verify the participant’s actual hours attending of attendance in an educational activity must be verified with Form 470-2617 pursuant to subrule 93.10(2).~~ If the educational activity is structured in such a way that verification cannot be obtained or the educational provider is unwilling to provide time and attendance verification, the educational activity cannot be included in the participant’s FIA. Exceptions apply for distance learning as described at paragraph 93.10(2)“f” and for participants under age 20 as described at subparagraph 93.10(2)“b”(3).

ITEM 32. Amend paragraph **93.8(3)“f”** as follows:

f. ~~On-line~~ Online or distance learning. Distance learning includes training such as, but not limited to, that conducted over the Iowa communications network, ~~on-line~~ online courses, virtual courses, or Web conferencing. The training:

- (1) Must include interaction between the instructor and the student, such as required chats or message boards;
- (2) Must include mechanisms for evaluation and measurement of student achievement; and
- (3) Must be offered in Iowa unless the conditions in paragraph ~~“g” of this subrule 93.8(3)“g”~~ apply. An ~~on-line~~ online training program shall be considered an out-of-state training program when any of the required training or testing occurs out-of-state.

ITEM 33. Amend subrule 93.8(4), introductory paragraph, as follows:

93.8(4) *Nonapprovable training activities.* Nonapprovable training activities shall not be included in the FIA. When an activity in which the participant is enrolled becomes nonapprovable, PROMISE JOBS shall cancel the current training plan and require the participant to renegotiate the FIA to include other activities. Form 470-0602, ~~Notice of Decision: Services~~, shall be issued to inform the participant that the request for education is canceled. Nonapprovable activities include the following:

ITEM 34. Amend paragraph **93.8(5)“a,”** introductory paragraph, as follows:

- a.* Academic enrollment hours. Participants are encouraged to maintain as full an academic workload as is possible in order to complete their education in a timely manner. However, a person may choose to participate in education along with other activities such as employment, ~~job-seeking~~ job readiness skills training, other job readiness activities, or other FIA activities.

ITEM 35. Amend paragraph **93.8(6)“a”** as follows:

a. Eligibility.

- (1) No change.
- (2) Participant eligibility for ~~payment of~~ child care assistance and transportation and child care payments begins as described in subparagraph 93.8(6)“a”(1) and shall be terminated when a training plan is canceled.
- (3) Each participant in postsecondary vocational training is limited to 24 fiscal months of PROMISE JOBS payment of expenses needed for participation. The 24 fiscal months do not have to be consecutive. See paragraph ~~“b” of this subrule 93.8(6)“b”~~ for additional limits on child care expenses.
- (4) No change.

ITEM 36. Amend paragraph **93.8(6)“b”** as follows:

b. Child care. ~~Participants assigned to educational activities shall receive a child Child care payment, if required, for each month or part thereof assistance shall be provided as described at subrule 93.11(2) and 441—Chapter 170 when needed for participation in education and training activities except as described in subparagraphs 93.8(6)“b”(1) and 93.8(6)“b”(2). EXCEPTION: Each PROMISE JOBS participant is limited to 24 fiscal months of child care assistance.~~

- (1) ~~All child Child care assistance payments issued under the PROMISE JOBS program count toward this limit needed for participation in postsecondary education activities are limited to 24 fiscal months.~~
- (2) All child care assistance payments issued for child care ~~provided on or after March 1, 2009, for participation in postsecondary education activities~~ count toward this limit, including payments issued while the person was not a PROMISE JOBS participant, pursuant to 441—subparagraph 170.2(2)“b”(1).

ITEM 37. Amend paragraph **93.8(6)“c,”** introductory paragraph, as follows:

- b. Transportation.* ~~Participants assigned to educational activities shall receive a transportation payment for each month or part thereof~~ Transportation payments shall be provided as described at subrule 93.11(3) ~~when needed for participation in educational activities~~ unless transportation payments are

available from another source. Transportation needed for participation in education activities is subject to the limits described in paragraph 93.8(6) “a.”

ITEM 38. Amend paragraph **93.8(9)“a”** as follows:

- a. *Failure to participate.* The participant fails to maintain education activities or follow training plan requirements as specified in the participant's FIA, and the participant does not have good cause. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 39. Amend paragraph **93.9(1)“a”** as follows:

- a. Parents aged 20 or older. For parents who are aged 20 or older when the FIA is signed, activities that strengthen the participant’s ability to be a better parent can be considered approvable training under PROMISE JOBS and may be included in the FIA as long as the participant is active in at least one other PROMISE JOBS component. Parents aged 20 or older who do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan, unless good cause exists or family circumstances warrant renegotiation and amendment of the FIA. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 40. Amend subparagraph **93.9(1)“c”(3)**, introductory paragraph, as follows:

(3) Area education agencies; child abuse prevention programs; child and adult food program sponsors; child care resource and referral agencies; family resource centers; maternal and child health centers; family development and self-sufficiency program grantees and other family development providers; Head Start, Head Start parent and child centers, and Early Head Start programs; Iowa State University Extension services ~~such as, but not limit to, the “Best Beginnings” program;~~ private nonprofit social service agencies; and young parent support and information organizations. Services shall be limited to:

ITEM 41. Amend paragraph **93.9(1)“e,”** introductory paragraph, as follows:

e. Supportive payments. For participants described in paragraphs 93.9(1)“a” and 93.9(1)“b,” ~~a~~ child care ~~payment~~ assistance and a transportation ~~payment for each month of participation, or part thereof,~~ payments shall be provided as described at subrule 93.11(3), shall be paid if these services are when needed for participation in parenting skills training and not available from another ~~entity and are required for participation source.~~

ITEM 42. Amend paragraph **93.9(1)“g”** as follows:

g. Failure to complete parenting skills training. Parents aged 19 or younger who do not include parenting skills training in the FIA or do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 43. Amend paragraph **93.9(2)“b”** as follows:

- b. Inclusion of family development services by participants as a family investment agreement activity is voluntary except for ~~unmarried~~ parents aged 17 and younger under the age of 18 who are not married and who do not live with a parent or legal guardian as described at subparagraph 93.4(4)“c”(4).

ITEM 44. Amend paragraph **93.9(3)“a,”** introductory paragraph, as follows:

- a. ~~The department of human services worker or the~~ PROMISE JOBS worker shall:

ITEM 45. Amend paragraph **93.10(1)“a”** as follows:

a. *Notice of meetings, assignments, and issues.* PROMISE JOBS shall notify participants in writing of all scheduled meetings, of FIA activity and work-site assignments, and of any participation issues as described at

rule 441—93.13(239B). PROMISE JOBS shall also notify the participant in writing when the participant is required to provide medical documentation, verification of hours of participation, employment verification, or any other verification.

(1) PROMISE JOBS shall allow a participant ~~five~~ ten working days from the date notice is mailed to appear for scheduled meetings unless the participant agrees to an appointment that is scheduled to take place in less than ~~five~~ ten working days.

(2) PROMISE JOBS shall allow a participant ~~five~~ ten working days from the date notice is mailed to appear for an FIA activity or work-site assignment or to provide medical documentation, employment verification, or any other verification, except as otherwise specified in subrule 93.10(2).

(3) No change.

ITEM 46. Amend subrule 93.10(2) as follows:

93.10(2) Verification of participation and progress. Hours of participation and a participant's progress in FIA activities must be documented and verified. When the participant is responsible for providing the verification, PROMISE JOBS shall notify the participant in writing as required in subrule 93.10(1).

a. FIA activities directly monitored by PROMISE JOBS. When the FIA activities are provided or directly monitored by PROMISE JOBS staff, such as job ~~club~~ readiness skills training or ~~workplace essentials~~ structured job search, the staff ~~will~~ shall document the participant's hours of attendance and progress in the case file.

b. FIA activities not directly monitored by PROMISE JOBS. When FIA activities are provided by a service provider other than PROMISE JOBS, the provider shall verify the participant's hours of attendance with Form 470-2617, ~~PROMISE JOBS Time and Attendance Report~~, unless another method is required by this rule.

(1) The provider is expected to specify the participant's hours of attendance and to sign and date the Time and Attendance ~~Report form~~.

(2) The participant is responsible for providing the signed and dated Time and Attendance form to PROMISE JOBS within ten calendar days following the end of each month, unless the provider provides the form to PROMISE JOBS within this time frame.

(3) EXCEPTION: If the participant is under age 20 and in high school or high school equivalency classes, the participant may verify the hours by completing and submitting ~~the PROMISE JOBS Form 470-2617, Time and Attendance Report~~ monthly. The training provider does not need to sign the form.

c. Documentation of job search. The participant shall complete and provide documentation of any job search activities that cannot be verified by the PROMISE JOBS worker. The participant shall provide Form 470-3099, ~~Job Search Record~~, within ten calendar days following the end of each month during which the participant has made a job search. The PROMISE JOBS worker shall consider the Job Search ~~Record~~ Activity Log complete if the form includes:

(1) to (4) No change.

d. Employment verification. Participants shall verify actual hours of employment at the time that employment begins, upon FIP approval if employed at the time of application, when changes in hours occur, and no less than once every six months thereafter. Participants may use employer statements or copies of pay stubs, ~~Employer Statement of Earnings Form 470-2844~~, or may sign Form 470-0429, ~~Consent to Obtain and Release Information~~, so that the employer may provide information directly to the PROMISE JOBS worker. Participants shall provide verification of actual hours of employment within ~~five~~ ten working days of the written request from PROMISE JOBS.

e. Documentation of self-employment. At the time of the participant's FIA review, a self-employed participant shall provide documentation of actual hours worked and gross income and business expenses from the last 30 days. Data from more than 30 days may be requested if the last month is not indicative of normal business. The participant shall provide documentation within ~~five~~ ten working days of the written request from PROMISE JOBS.

f. No change.

g. Failure to provide required documentation or verification. Participants who fail to provide documentation or verification as described in this subrule after written notification from PROMISE JOBS as described in subrule 93.10(1) shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~

subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 47. Amend subrule 93.10(3) as follows:

93.10(3) Verification of problems or barriers. Participants may be required to provide written verification or supporting documentation of reported problems or barriers to participation, such as but not limited to lack of transportation, family emergency, or existence of a mental or physical disability or limitation or substance abuse.

a. Medical documentation. A participant shall secure and provide written documentation signed by a qualified medical or mental health professional to verify a claimed illness or disability within ~~five~~ ten working days of a written request by PROMISE JOBS. This time limit may be extended due to individual circumstances, such as the need to obtain an updated evaluation. Acceptable verification includes Form 470-0447, ~~Report on Incapacity~~, or other statement signed by a qualified medical or mental health professional to verify the existence of an illness, disability, or limitation.

b. Other documentation. A participant shall secure and provide written documentation to verify a claimed problem or barrier to participation within ~~five~~ ten working days of a written request by PROMISE JOBS. Acceptable documentation may include a signed statement from a third party with knowledge of the problem or barrier.

c. Failure to verify problem or barrier or to provide medical documentation. Failure to provide verification of a problem or barrier or to provide medical documentation as described at subrule 93.10(3) does not directly result in the imposition of a limited benefit plan. Examples of actions that do not directly result in a limited benefit plan include, but are not limited to, failure to provide Form 470-0447, ~~Report on Incapacity~~, or other statement from a medical or mental health professional to verify the existence of an illness or disability, or a statement from a third party with knowledge about the problem or barrier.

(1) Participants who claim an inability to participate on a full-time basis due to a claimed problem or barrier and who fail to provide verification or medical documentation upon written request may be required to renegotiate the FIA to include full-time participation in FIA activities. Failure to renegotiate the FIA may result in a limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

(2) No change.

ITEM 48. Amend rule 441—93.11(239B), introductory paragraph, as follows:

441—93.11(239B) Supportive payments. In order to facilitate successful participation, PROMISE JOBS may provide payment for the expenses listed in this rule. Participants Upon written request from PROMISE JOBS, participants shall submit Form 470-0510, Estimate of Cost, or other acceptable estimate of costs, to initiate payments or change the amount of payment for expenses other than child care.

ITEM 49. Amend subparagraph **93.11(2)“a”(1)** as follows:

(1) Care is needed for participation in any PROMISE JOBS activity other than orientation or assessment activities that occur before the FIA is signed,

ITEM 50. Amend paragraph **93.11(3)“a”** as follows:

a. Exclusions.

(1) A transportation payment is not available for orientation or for assessment activities that occur ~~on the same day as orientation~~ before the FIA is signed.

(2) A transportation payment is not available for employment. Participants who are employed shall be entitled to the ~~work expense~~ earned income deduction described at 441—paragraph 41.27(2)“a” to cover transportation costs associated with employment.

ITEM 51. Amend paragraph **93.11(5)“d”** as follows:

d. *Workforce ~~Investment~~ Innovation and Opportunity Act.* PROMISE JOBS funds may also be used to pay expenses for PROMISE JOBS participants enrolled in federal Workforce ~~Investment~~ Innovation and Opportunity Act (WIA WIOA) funded services or activities when those expenses are allowable under these rules.

ITEM 52. Amend subrule 93.12(3), introductory paragraph, as follows:

93.12(3) A PROMISE JOBS overpayment shall be recovered through repayment in part or in full. Repayments received by the PROMISE JOBS unit shall be transmitted to the Department of Human Services, Cashier's Office, ~~Room 14,~~ 1305 E. Walnut Street, Des Moines, Iowa ~~50319-0144~~ 50319-0114.

ITEM 53. Amend subrule 93.12(5) as follows:

93.12(5) When a participant or a provider has been referred to the DIA to initiate recovery, the DIA shall use the same methods of recovery as are used for the FIP program, described at DIA administrative rules ~~481—71.1(10A)~~ 481—90.1(10A) to ~~71.9(10A)~~ 481—90.9(10A), except that the FIP grant shall not be reduced to effect recovery without the participant's written permission.

a. When the participant requests grant reduction on Form 470-0495, ~~Repayment Contract,~~ the grant will be reduced for repayment as described in ~~441—subrule 46.25(3), paragraphs “a,”~~ 441—paragraphs 46.25(3)“a,” “b,” and “c.”

b. No change.

ITEM 54. Amend subrule 93.13(1), introductory paragraph, as follows:

93.13(1) *Notification of participation issue.* When participants appear to be choosing a limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder ~~or~~ letter as specified in subrule 93.10(1). The written reminder ~~or~~ letter shall:

ITEM 55. Amend subrule 93.13(2) as follows:

93.13(2) *Participation issues.* Actions that may cause participants to be considered as having chosen the limited benefit plan when the participant does not have a problem or barrier to participation as defined at paragraph 93.4(5)“a” or rule 441—93.14(239B) are:

a. *Tardiness.* Participants who are more than 15 minutes late to a scheduled FIA activity for a third time within three months of the first tardiness, after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the time the second tardiness occurred.

b. *Failure to attend scheduled activities.* Participants who do not, for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence, appear for scheduled appointments, participate in assessment activities, including taking required vocational or aptitude tests, complete or provide required forms other than those described at subrule 93.10(3) or are absent from activities designated in the FIA.

c. *Absence from work experience.* Participants who do not, for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence, notify work experience sponsors or the PROMISE JOBS worker of an absence within one hour of the time at which they are due to appear.

d. *Disruptive behavior.* Participants who exhibit disruptive behavior for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence. “Disruptive behavior” means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

e. *Unsatisfactory performance or participation.* Participants whose performance or participation in an FIA activity continues to be unsatisfactory after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

f. *Physical threats.* Participants who make physical threats to other participants or staff and do not demonstrate that the participant is not at fault by providing written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official after PROMISE JOBS sends one written reminder

letter as described in subrule 93.13(1).

(1) and (2) No change.

g. Accepting work experience assignments. Participants who do not accept work experience assignments when the work experience is part of the FIA and do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

h. Work experience interviews. Participants who do not appear for work experience interviews for a second time after ~~receiving a~~ PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence.

i. Employment and other work activity issues. Participants who do not follow up on job referrals, who refuse offers of employment or other work activity, who reduce hours of employment or other work activity, who terminate employment or other work activity, or who are discharged from employment or other work activity due to misconduct.

(1) No change.

(2) At the time of the occurrence, PROMISE JOBS shall send a letter to the participant regarding the misconduct. The letter shall give the participant an opportunity to resolve the issue by accepting a previously refused employment offer if available, returning to previously terminated employment, if available, obtaining comparable employment, or demonstrating a problem or barrier that caused the failure.

j. No change.

k. Inappropriate use of funds. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts and who do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter.

l. No change.

m. Failure to renegotiate the FIA. When a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA because the participant has not attained self-sufficiency by the date established in the FIA, after PROMISE JOBS sends one written reminder letter, a limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the FIA.

ITEM 56. Amend paragraph **93.14(2)“m”** as follows:

m. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include ~~food stamp~~ SNAP benefits and in-kind income.

ITEM 57. Renumber subrule **93.15(5)** as **93.15(6)**.

ITEM 58. Adopt the following new subrule 93.15(5):

93.15(5) Recovery of assistance when a new limited benefit plan is established. Assistance issued pending the final decision of the appeal is not subject to recovery when a new limited benefit plan period is established. A new limited benefit plan period shall be established when the department is affirmed in a timely appeal of the establishment of the limited benefit plan. All of the following conditions shall exist:

a. The appeal is filed either:

(1) Before the effective date of the intended action on the notice of decision or notice of action establishing the beginning date of the limited benefit plan, or

(2) Within ten days from the date on which a notice establishing the beginning date of the limited benefit plan is received. The date on which notice is received is considered to be five days after the date on the notice, unless the intended recipient shows that the recipient did not receive the notice within the five-day period.

b. Assistance is continued pending the final decision of the appeal.

c. The department's action is affirmed.

ITEM 59. Amend renumbered paragraph **93.15(6)“a”** as follows:

a. When any involved party is dissatisfied with the department's final decision, the dissatisfied party shall be informed of the right to appeal the issue to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, ~~Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036~~, within 20 days of receipt of the decision. The department may assist with the appeal upon request.

ITEM 60. Amend subrule 93.17(3), introductory paragraph, as follows:

93.17(3) Any dissatisfied party shall be informed of the right to appeal the decision of the department to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, ~~Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036~~, within 20 days of the receipt of the department's final decision.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Angie Madison	Telephone Number 515-281-6082	Email Address amadiso@dhs.state.ia.us
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
Chapter 93 was reviewed as part of the Department's five-year rules review project.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Code of Iowa chapter 239B grants the Department the legal basis for making changes to this chapter of rules.
3. Describe who this rulemaking will positively or adversely impact.
This rulemaking will neither positively nor adversely impact any population.
4. Does this rule contain a waiver provision? If not, why?
No.
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: March 28, 2022

Agency: Human Services

IAC citation: 441 IAC 93

Agency contact: Angie Madison

Summary of the rule:

Chapter 93 was reviewed as part of the Department's five-year rules review project.

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.](#)

Pursuant to the Department's five-year review, changes are being made to clarify language, accurately reflect the job readiness and job search activities, and update case file retention rules. These changes are technical in nature and will have no impact on caseloads or program/administrative costs. Therefore 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 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

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

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

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

Fiscal impact to persons affected by the rule:

This rulemaking will neither positively nor adversely impact any population.

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

No impact.

Agency representative preparing estimate: Francis Thurman

JH 06/21/2022

Telephone number: 515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to child care centers, child development homes and child care homes.

The Human Services Department hereby amends Chapter 109, "Child Care Centers," Chapter 110, "Child Development Homes," and Chapter 120, "Child Care Homes," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.12.

Purpose and Summary

Pursuant to 2022 Iowa Acts, House File 2589, this rule making amends rules to allow persons defined as physicians under Iowa Code section 135C.1 to conduct well-child checks, to expand to include chiropractors, because well-child checks are within their scope of practice.

These amendments also modify other regulatory reductions to licensed child care center regulations in an effort to ease burdens on licensed child care centers. The regulatory reductions are based on a survey that was conducted with licensed child care center directors in response to the Governor's Child Care Task Force. These amendments include modifications to written policies, changes in allowable points for director and supervisor eligibility, updates in radon requirements, reducing training requirements for those in school-age-only populations, and allowing information sharing regarding completed record checks.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as ARC 6476C.

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 October 13, 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 January 1, 2023.

The following rule-making action is adopted:

Please see attached.

ADOPTED and FILED RULES

The following rules are adopted.

ITEM 1. Amend subrule 109.4(2) as follows:

109.4(2) Required written policies. The child care center owner, board or director shall:

- a. No change.
- b. Develop and implement policies for enrollment and discharge of children, field trips and non-center activities, ~~transportation~~, discipline, nutrition, ~~and~~ health and safety policies and, if transporting children, transportation policy.
- c. to f. No change.
- g. ~~Develop~~ When serving children under the age of three, develop and implement a policy for responding to incidents of biting that includes the following elements.
 - (1) to (8) No change.
- h. and i. No change.

ITEM 2. Amend paragraph **109.6(1)“e”** as follows:

e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT-RELATED TRAINING
Bachelor’s or higher degree in early childhood, child development, or elementary education	7 5	Full-time (20 hours or more per week) in a child care center or preschool setting	2 0 <u>2</u> <u>5</u>	One point per contact hour of training
Associate’s degree in child development or bachelor’s degree in a child-related field	5 0 <u>6</u> <u>0</u>	Part-time (less than 20 hours per week) in a child care center or preschool setting	1 0	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	4 0 <u>4</u> <u>5</u>	Full-time (20 hours or more per week) child development-related experience	1 0	
Bachelor’s or higher degree in a non-child-related field	4 0	Part-time (less than 20 hours per week) child development-related experience	5	
Associate’s degree in a non-child-related field or completion of at least two years of a four-year degree	2 0 <u>2</u> <u>5</u>	Registered child development home provider	1 0	
		Nonregistered family home provider	5	

(1) to (4) No change.

ITEM 3. Amend subrule 109.6(2) as follows:

109.6(2) On-site supervisor. The on-site supervisor is required to be present when the program has multiple sites or when a director is not routinely present for six hours daily. The center director must identify a person in charge during the on-site supervisor's absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of ~~eight~~ six hours of the center's hours of operation. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination shall be made by the department. Information shall be submitted sufficient to determine that the on-site supervisor meets the following minimum qualifications:

a. to c. No change.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	7 5	Full-time (20 hours or more per week) in a child care center or preschool setting	2 0 <u>2</u> <u>5</u>	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	5 0 <u>6</u> 0	Part-time (less than 20 hours per week) in a child care center or preschool setting	1 0	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	4 0 <u>4</u> <u>5</u>	Full-time (20 hours or more per week) child development-related experience	1 0	
Bachelor's or higher degree in a non-child-related field	4 0	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	2 0 <u>2</u> <u>5</u>	Registered child development home provider	1 0	
		Nonregistered family home provider	5	

(1) to (4) No change.

ITEM 4. Amend subrule 109.6(3) as follows:

109.6(3) Director and on-site supervisor functions combined. In a center where the functions of the center director and the on-site supervisor are accomplished by the same person, the educational and experience requirements for a center director shall apply. If the center director is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least ~~eight~~ six hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

ITEM 5. Amend subparagraph **109.6(6)“d”(6)** as follows:

(6) A center considering involvement of a person who has had a national criminal history check at another

center may request information from that center. That center may provide ~~the following~~ that information in writing upon a center's request, using Form 470-4896, ~~National Criminal History Check Confirmation~~. If the person being considered for employment has not had involvement with child care in the past six months, a new national criminal history check must be completed.

~~1. Date of most recent national criminal history check conducted by the center on the person in question, and~~

~~2. Whether or not the national check process resulted in clearance of the person for involvement with child care.~~

ITEM 6. Amend paragraph **109.7(1)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) to (10) No change.

Minimum health and safety training may be required if content has significant changes which warrant that the training be renewed.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(1)“e”(2) and 109.7(1)“e”(6).

ITEM 7. Amend paragraph **109.7(3)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) to (10) No change.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(3)“e”(2) and 109.7(3)“e”(6).

ITEM 8. Amend paragraph **109.10(1)“a”** as follows:

a. Preschool-age children. For each child five years of age and younger not enrolled in kindergarten, the child care center shall require an admission physical examination report, submitted within 30 days from the date of admission, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner. The date of the physical examination shall be no more than 12 months prior to the first day of attendance at the center. The written report shall include past health history, status of present health including allergies, medications, and acute or chronic conditions, and recommendations for continued care when necessary. Annually thereafter, a statement of health condition, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner, shall be submitted that includes any change in functioning, allergies, medications, or acute or chronic conditions.

ITEM 9. Amend paragraph **109.10(15)“a”** as follows:

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood); and plans for responding to ~~intruders within the center~~, intoxicated parents, and lost or abducted children. In addition, the center shall have guidelines for responding or evacuating in case of blizzards, power failures, bomb threats, chemical spills, ~~earthquakes~~, or other disasters that could create structural damage to the center or pose health hazards.

If the center is located within a ten-mile radius of a nuclear power plant or research facility, the center shall also have plans for nuclear evacuations. Emergency plans shall include written procedures including plans for the following:

(1) to (7) No change.

ITEM 10. Amend subrule 109.11(4) as follows:

109.11(4) Bathroom facilities. At least one functioning toilet and one sink for each 15 children ages two years and older shall be provided in a room with natural or artificial ventilation. Training seats or chairs may be used for children under two years of age. New construction after November 1, 1995, shall provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink shall be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

ITEM 11. Amend subrule 109.11(7) as follows:

109.11(7) Environmental hazards.

a. No change.

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing performed as ~~prescribed by the state department of public health at 641—Chapter 43. Retesting shall be accomplished at least every two years from the date of the initial measurement~~ outlined in a nationally recognized radon measurement protocol. If testing determines confirmed radon gas levels in excess of 4.0 picocurie per liter, ~~a plan using radon mitigation procedures established by the state department of public health shall be developed with and approved by the state department of public health prior to a full license being issued.~~

(1) If radon mitigation is in place, retesting shall occur at least every two years from initial measurements to confirm radon gas levels are below 4.0 picocurie per liter.

(2) If initial testing confirmed radon gas levels are below 4.0 picocurie per liter, retesting shall occur at least every five years from initial measurements.

c. No change.

d. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are exempted from testing for lead, ~~radon~~, and carbon monoxide.

e. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are required to follow radon testing requirements outlined in Iowa Code section 280.32 as enacted by 2022 Iowa Acts, House File 2412, section 1.

ITEM 12. Amend paragraphs **110.9(4)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or a designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner.

(1) to (4) No change.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~ licensed medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner and submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physician~~ statement of health.

ITEM 13. Amend paragraph **110.15(1)“c”** as follows:

c. In addition to the 14 children not in school, no more than 4 2 children who attend school may be present.

ITEM 14. Amend paragraphs **120.9(2)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or the designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~

licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physician~~ statement of health.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Ryan Page	Telephone Number 515-281-7714	Email Address rpage@dhs.state.ia.us
---	----------------------------------	--

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

These rules implement HF2589 which directs rules to be modified to allow persons defined as physicians under 135C to conduct well-child checks, expanding to chiropractors as well-child checks are within their scope of practice.

These rules also modify other regulatory reductions to licensed child care center regulations in an effort to ease burden on licensed child care centers. Results are based on survey that was conducted with licensed child care center directors in response to Governor's Child Care Task Force. This includes modifications to written policies, allowable points for Director and Supervisor eligibility, radon requirements, reducing training requirements for those in school-age only populations, and allowing information sharing regarding completed record checks.

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

237A. HF2589

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

The intent of these rules is to reduce regulatory burden on child care centers.

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

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 441 – 1.8(17A, 217)

5. What are the likely areas of public comment?

Advocates of high quality child care may not wish to see a regulatory reduction however centers may appreciate regulatory burden and impact

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.)

None known.



Administrative Rule Fiscal Impact Statement

Date: July 15, 2022

Agency: Human Services
IAC citation: 441 IAC 109, 110, 120
Agency contact: Ryan Page

Summary of the rule:

These rules implement HF2589 which directs rules to be modified to allow persons defined as physicians under 135C to conduct well-child checks, expanding to chiropractors as well-child checks are within their scope of practice.
These rules also modify other regulatory reductions to licensed child care center regulations in an effort to ease burden on licensed child care centers.

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.](#)

Little to no programmatic impact is expected as this is a modification to regulatory standards for child care facilities and does not directly impact HHS operations.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.
Please identify the state or federal law:
 Identify provided change fiscal persons:
 237A. HF2589

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

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

Fiscal impact to persons affected by the rule:
 The intent of these rules is to reduce regulatory burden on child care centers.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):
 No impact is anticipated.

Agency representative preparing estimate: Francis Thurman JH 07/18/2022
 Telephone number: 515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to licensing and regulation

The Human Services Department hereby amends Chapter 116, “Licensing and Regulation of Residential Facilities for Children With an Intellectual Disability or Brain Injury,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 217.6 and 237.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 217.6 and 237.3.

Purpose and Summary

Chapter 116 is amended as part of the Department’s five-year rules review. This rule making updates a cross-reference to the Iowa Code section that contains the definition of “brain injury.” Updating the cross-reference makes it easier for a user to find the definition. The change streamlines the rules by referring directly to the definition of “brain injury” and is consistent with the mental health and disability services redesign legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as ARC 6457C.

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 October 13, 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 January 1, 2023.

The following rules are adopted.

Amend rule 441—116.2(237), definitions of “Community residential facility for children with an intellectual disability or brain injury” and “Comprehensive residential facility for children with an intellectual disability or brain injury,” as follows:

“*Community residential facility for children with an intellectual disability or brain injury*” means a community residential facility as defined in rule 441—114.2(237) which serves children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code ~~chapter 225C~~ [section 135.22](#).

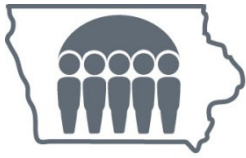
“*Comprehensive residential facility for children with an intellectual disability or brain injury*” means a comprehensive residential facility as defined in rule 441—115.2(237) which serves children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code ~~chapter 225C~~ [section 135.22](#).



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Denise Dutton	Telephone Number 515-242-6302	Email Address ddutton@dhs.state.ia.us
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
Chapter 116 was reviewed as part of the Department’s five-year rules review process. As part of the review, a cross-reference to the Iowa Code chapter that contains the definition of brain injury is updated. Updating the cross-reference makes it easier for a user to get straight to the definition, instead of having to go through one Iowa Code chapter to then be referred onto another chapter. This streamlines the process and makes it consistent with MHDS Redesign legislation bills.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 217.6 and 237.3
3. Describe who this rulemaking will positively or adversely impact.
Updating the cross-reference makes it easier for a user to get straight to the definition, instead of having to go through one Iowa Code chapter to then be referred onto another chapter. This streamlines the process and makes it consistent with MHDS Redesign legislation bills.
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 no likely area of public comment as only a cross-reference is being changed.
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 14, 2022

Agency: Human Services
IAC citation: 441 IAC Chapter 116
Agency contact: Denise Dutton

Summary of the rule:

Chapter 116 was reviewed as part of the Department's five-year rules review process. As part of the review, a cross-reference to the Iowa Code chapter that contains the definition of brain injury is updated. Updating the cross-reference makes it easier for a user to get straight to the definition, instead of having to go through one Iowa Code chapter to then be referred onto another chapter. This streamlines the process and makes it consistent with MHDS Redesign legislation bills

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

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

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

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

Fiscal impact to persons affected by the rule:

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

Agency representative preparing estimate:

Telephone number:

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to record check evaluations.

The Human Services Department hereby amends Chapter 119, "Record Check Evaluations For Certain Employers And Educational Training Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 135B.34 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135B.34 and 135C.14.

Purpose and Summary

Chapter 119 was reviewed as part of the Department's five-year rules review. This rule making provides the form number of the document that must be submitted by a requesting entity when submitting a request for a record check evaluation. The amendment identifies the ways the form and documentation may be submitted to include mail, electronic mail or facsimile.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as ARC 6473C.

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 October 13, 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 January 1, 2023.

The following rule-making action is adopted:

119.3(1) *Required documentation.* The requesting entity and the prospective employee or student shall complete and submit the record check evaluation form Form 470-2310 to the department to request an evaluation. The requesting entity shall submit the form and required documentation to the Department of Human Services, Central Abuse Registry, ~~P.O. Box 4826, Des Moines, Iowa 50305-4826~~ by regular mail, electronic mail or facsimile. The department shall not process evaluations that are not signed by the prospective employee or student. The position sought or held must be clearly written on the first page of the record check evaluation form. The form shall be accompanied by the following documents:

a. to d. No change.



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
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
As a part of the 5-year rule review, this change to administrative rules is designed to align consistent language and direction.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code chapter 135B and 135C
3. Describe who this rulemaking will positively or adversely impact.
The changes will incorporate common language decreasing unnecessary future changes and will positively impact all.
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 18, 2022

Agency: Human Services
IAC citation: 441 IAC 119
Agency contact: Gloriana Fisher, Social Worker 6

Summary of the rule:

The rule provides procedures for the performance of record check evaluations by the department of human services for personnel employed by health care facilities and other programs and for students in educational training programs for nurses and certified nurse aides

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

These changes add in the form number, remove the address, and provide direction on contact methods. 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 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

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: Francis Thurman

JH 07/25/2022

Telephone number:

515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review.

The Human Services Department hereby rescinds Chapter 168, “Child Care Expansion Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

Chapter 168 was reviewed as part of the Department’s five-year rules review process. This rule making rescinds the chapter because it contains outdated rules no longer in use for wrap-around child care programs and expansion of school-age child care programs. Funding has not been allocated for these expansion programs for over ten years.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as ARC 6456C.

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 October 13, 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 January 1, 2023.

The following rule-making action is adopted:

Rescind and reserve 441—Chapter 168.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Erin Clancy	Telephone Number 515-281-0321	Email Address eclancy@dhs.state.ia.us
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
This rulemaking was reviewed as part of the Department's five-year rules review process. This chapter is being rescinded as it contains outdated rules no longer in use.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code sections 17A.3 through 17A.7.
3. Describe who this rulemaking will positively or adversely impact.
This rulemaking will have a positive impact on the public by removing outdated rules no longer in use.
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 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: June 17, 2022

Agency: Human Services

IAC citation: 441 IAC 168

Agency contact: Erin Clancy

Summary of the rule:

This rulemaking was reviewed as part of the Department's five-year rules review process. This chapter is being rescinded as it contains outdated rules no longer in use.

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.](#)

No fiscal impact is expected as this is a formal action to eliminate rules which are outdated, and are currently no longer in use.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

This rulemaking will have a positive impact on the public by removing outdated rules no longer in use.

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

No impact is anticipated.

Agency representative preparing estimate: Francis Thurman

JH 07/01/2022

Telephone number: 515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to state supplementary assistance and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 50, “Application for Assistance,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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 October 25, 2022. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

441—50.1(249) Definitions.

“Aged” shall mean a person 65 years of age or older.

“Applicant” means a person who is requesting state supplementary assistance on the person's own behalf or a person for whom state supplementary assistance is requested.

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

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

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

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

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

“Payment for residential care” shall mean payment to a recipient living in a residential care facility who is determined to be in need of care and payment is made on a per diem basis. The payment shall be made in accordance with standards established by the department in rule 441—52.1(249).

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

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

441—50.2(249) Application procedures.

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

50.2(3) Any person applying for payment for residential care, a dependent person allowance, payment for a protective living arrangement, or in-home health-related care shall make application at a local office of ~~with the~~ department of human services ~~or at the residential care facility where the person resides.~~ Any person applying for a dependent person allowance or for payment for a protective living arrangement or in-home, health-related care shall make application at a local office of the department. An application may also be filed in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided.

The application shall be made on the ~~Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or 470-0462(S)~~ Form 470-5170 or 470-5170(S). The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person's behalf.

a. Each ~~individual person~~ wishing to do so shall have the opportunity to apply for assistance without delay.

b. An applicant may be assisted by ~~other individuals in the application process; the client may be accompanied by the individuals in contact with the department, and when so accompanied, may also be represented by them.~~ When the applicant has a guardian, the guardian shall participate in the application process an authorized representative, as defined in rule 441—76.1(249). If the applicant is unable to act on the applicant's own behalf, a responsible person may act on the applicant's behalf pursuant to rule 441—76.9(249A).

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

~~*d. c.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or refusal to authorize the department to secure the information from other sources shall serve as a basis for denial of assistance.~~

50.2(4) An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) shall be considered as an application for the supplement for Medicare and Medicaid eligibles.

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

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

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

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

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

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

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

441—50.4(249) Reviews.

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

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

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

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

This rule is intended to implement Iowa Code section 249.4.

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

441—50.5(249) Application under conditional benefits. When the applicant or client is seeking state supplementary assistance (SSA) under the conditional benefit policy of the supplemental security income (SSI) program in accordance with 20 CFR 416.1242 as amended to March 15, 2022, the applicant or client shall be required to do the following:

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

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

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

b. For real property, ~~being sold Form 470-2908 shall be completed beginning 35 days after conditional benefits are granted and no more often than every 60 days thereafter for nine months. If eligibility continues and the real property is not sold, the~~ applicant or client shall complete the form shall be completed no more often than every 90 days.

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

a. The amount by which the revised value of resources (resources counted at the beginning of the conditional period plus the net value of resources sold) minus both the resource limit and the amount that SSI recovers for conditional benefits.

b. The amount of state supplementary assistance actually paid in the conditional period, minus the amount that SSI recovers for conditional benefits.

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
---	----------------------------------	--

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



Administrative Rule Fiscal Impact Statement

Date: June 20, 2022

Agency: Human Services

IAC citation: 441 IAC 50

Agency contact: Kelly Lindsay

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 51, “Eligibility,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 51 was reviewed as part of the Department’s five-year rules review. Chapter 51 sets out requirements for eligibility to receive state supplementary assistance. This rules review resulted in proposed technical changes. References to federal regulations are proposed to be updated to provide accurate listings. Outdated references are proposed to be 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 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 October 25, 2022. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

441—51.3(249) Eligibility for residential care.

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

51.3(2) Physician's statement. Payment for residential care shall be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification shall be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

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

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

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

This rule is intended to implement Iowa Code section 249.3.

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

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

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

51.9(1) Definitions.

"Administrative overpayment" means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

"Agency error" means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

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

"Client error" means assistance incorrectly paid to or for the client because the client or client's representative failed to disclose information, or gave false or misleading statements, oral or written,

regarding the client's income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client's representative to timely report as defined changes as described in ~~rule 441—76.10(249A)~~ 441—Chapter 76.

“Department” means the department of human services.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
---	----------------------------------	--

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



Administrative Rule Fiscal Impact Statement

Date: July 29, 2022

Agency: Human Services

IAC citation: 441 IAC 51

Agency contact: Kelly Lindsay

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

No fiscal impact.

Fiscal impact to persons affected by the rule:

No fiscal impact.

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

No fiscal impact.

Agency representative preparing estimate: Jason Buls

JH 07/29/2022

Telephone number:

515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 52, “Payment,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 52 was reviewed as part of the Department’s five-year rules review. Chapter 52 sets out the guidelines for payment by the Department to recipients under the state supplementary assistance program. This rules review resulted in proposed technical changes. References to federal regulations are proposed to be updated to provide accurate listings. Outdated references are proposed to be 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 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 October 25, 2022. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

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

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

52.1(3) Residential care. For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate or on a cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in rule 441—52.1(249). ~~The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).~~

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

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

a. to f. No change.

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kelly Lindsay	Telephone Number 515-418-3773	Email Address klindsa@dhs.state.ia.us
---	----------------------------------	--

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



Administrative Rule Fiscal Impact Statement

Date: July 29, 2022

Agency: Human Services

IAC citation: 441 IAC 52

Agency contact: Kelly Lindsay

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

No fiscal impact.

Fiscal impact to persons affected by the rule:

No fiscal impact.

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

No fiscal impact.

Agency representative preparing estimate: Jason Buls

JH 07/29/2022

Telephone number: 515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to tiered rates for psychiatric intensive acute care 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,” and Chapter 79, “Other Policies Relating To Providers Of Medical And Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

This proposed rulemaking defines acute psychiatric intensive care and identifies how a patient meets the need for that level of care. The rulemaking also identifies the payment methodology for the acute psychiatric intensive care services.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 November 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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

Proposed Rule Changes

ITEM 1. Amend **subrule 441-78.3(8)** as follows:

~~Reserved.~~

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

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

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

1. have a serious mental illness as defined in 441—subrule 77.47(1);

2. have a current, severe, imminent risk of serious harm to self or others; and

3. display additional complexity of need related to:

- Complex comorbidities including intellectual or developmental disability, autism spectrum disorder, substance use disorders, or traumatic brain injuries; or
- A history of violence or current aggression that is secondary to mental illness; or
- A request for patient transfer has been rejected by inpatient level of care by one or more hospitals due to severity of symptoms; or
- Lack of responsiveness to typical interventions or is treatment refractory, or
- A highly disorganized psychotic state or highly suicidal; or
- Behavior that causes disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or
- High elopement risk; or
- Any other atypical reason that the admitting psychiatrist believes that additional resources are needed to keep the patient and others around the patient safe.

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

1. Fall risk,
2. Restraints or seclusion room required,
3. Requires assistance with activities of daily living,
4. Nursing care requirements,
5. Patient status (alertness/orientation),
6. Complexity of mental illness and co-morbidities,
7. Physical risk posed to staff, other patients, and infrastructure,
8. Elopement risk.

ITEM 2. Amend **paragraph 441-79.1(5) “i”** as follows:

- i. Payment for certified physical rehabilitation hospitals and units, ~~and psychiatric units,~~ and acute psychiatric intensive care services. Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5)“r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” is*

prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

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

~~(2) Reserved.~~

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

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

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

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

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



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Hannah Olson-Rebecca Curtiss	Telephone Number (515) 201-5543	Email Address holson1@dhs.state.ia.us
--	------------------------------------	--

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

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

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

HF 2546
HF 2578

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

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

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

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

5. What are the likely areas of public comment?

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

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

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



Administrative Rule Fiscal Impact Statement

Date: 09/01/2022

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

SFY24 Blended FMAP - 31.00%

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

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

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

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

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

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

Funding has not been provided for the rule.

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

Fiscal impact to persons affected by the rule:

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

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

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

No impact.

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

Telephone number: 515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
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 section 249A.4.

State or Federal Law Implemented

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

Purpose and Summary

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

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 October 25, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

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

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

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

1. to 8. No change.

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

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

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

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

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

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

1. to 4. No change.

5. Include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development, ~~and~~ auditory functioning, cognitive

development, social development, adaptive behaviors or independent living skills necessary for the client to be able to function in the community, and, ~~as applicable,~~ vocational skills as applicable.

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

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

1. Promote the growth, development, and independence of the client.
2. to 4. No change.

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

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

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

n. Laboratory services.

(1) No change.

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

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

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

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

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

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

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

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

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

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

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

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

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

b. No change.

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

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

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

d. No change.

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

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

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

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

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

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

(3) No change.

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

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

(5) to (7) No change.

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

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

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

b. Initial cost report. Following six months of operation as a Medicaid-certified ICF/ID, the facility shall submit a report of actual costs. The rate computed from this cost report shall be adjusted to 100 percent occupancy plus the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. city average (hereafter referred to as the Consumer Price Index). ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used to adjust costs for inflation, instead of the annual percentage increase of the Consumer Price Index.~~ Business start-up and organization costs shall be accounted for in the manner prescribed by the Medicare and Medicaid standards. Any costs that are properly identifiable as start-up costs, organization costs or capitalizable as construction costs must be appropriately classified as such.

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

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

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

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

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

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

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

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

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

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

a. to c. No change.

d. Facilities which have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index ~~or of less than 3 percent for rates effective July 1, 2009, through June 30, 2010,~~ shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference multiplied by the actual per diem costs for the annual period just completed is the incentive factor.

(1) No change.

(2) Facilities whose annual per unit cost decreased from the prior year shall receive their actual per unit cost plus one and one-half the percentage increase in the Consumer Price Index as an incentive for cost containment. ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used in lieu of the percentage increase in the Consumer Price Index.~~

e. Administrative costs shall not exceed 18 percent of total facility costs. Administrative costs are comprised of those costs incurred in the general management and administrative functions of the facility. Administrative costs include, but are not necessarily limited to, the administrative portion of the following:

~~(1) Administrator's salary.~~

~~(2) Assistant administrator's salary.~~

~~(3) Bookkeeper's salary.~~

~~(4) Other accounting and bookkeeping costs.~~

~~(5) Other clerical salaries and clerical costs.~~

~~(6) Administrative payroll taxes.~~

~~(7) Administrative unemployment taxes.~~

~~(8) Administrative group insurance.~~

~~(9) Administrative general liability and worker's compensation insurance.~~

~~(10) Directors' and officers' insurance or salaries.~~

~~(11) Management fees.~~

~~(12) Indirect business expenses and other costs related to the management of the facility including home office and other organizational costs.~~

~~(13) Legal and professional fees.~~

~~(14) Dues, conferences and publications.~~

~~(15) Postage and telephone.~~

~~(16) Administrative office supplies and equipment, including depreciation, rent, repairs, and maintenance as documented by a supplemental schedule which identifies the portion of repairs and maintenance, depreciation, and rent which applies to office supplies and equipment.~~

~~(17) Data processing and bank charges.~~

~~(18) Advertising.~~

~~(19) Travel, entertainment and vehicle expenses not directly involving residents.~~

(1) Administrator wages.

(2) Business office wages.

(3) Advertising and marketing wages.

(4) Employer's taxes (administrative).

(5) Group/life and retirement benefits (administrative staff).

(6) Workers' compensation insurance (administrative staff).

(7) Employment advertising and recruitment (administrative staff).

(8) Criminal record checks (administrative staff).

(9) Education and training (administrative staff).

(10) Office supplies (administrative staff).

(11) Telephone.

- (12) Equipment rental.
- (13) Home office costs.
- (14) Management fees.
- (15) Accounting fees.
- (16) Professional organization dues.
- (17) Licensing fees.
- (18) Information technology expenses.
- (19) Legal fees—direct patient-care-related.
- (20) Legal fees—other.
- (21) Working capital interest.
- (22) General liability insurance.
- (23) Travel, entertainment and auto expenses.
- (24) Advertising and public relations.
- (25) Other.

f. No change.

g. Total patient days for purposes of the computation shall be inpatient days as determined in subrule 82.5(7) or 80 percent of the licensed capacity of the facility, whichever is greater. The reimbursement rate shall be determined by dividing total reported patient expenses by total patient days during the reporting period. This cost per day will be limited by an inflation increase which shall not exceed the percentage change in the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the inflation increase shall be 3 percent, notwithstanding the percentage change in the Consumer Price Index.~~

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

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

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

(2) No change.

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

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

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

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

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

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

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

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

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

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

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

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

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

a. No change.

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

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Jessica McBride	Telephone Number 515-201-4157	Email Address jmcbrid@dhs.state.ia.us
---	----------------------------------	--

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



Administrative Rule Fiscal Impact Statement

Date: June 27, 2022

Agency: Human Services

IAC citation: 441 IAC 249A.4

Agency contact: Jessica McBride

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Iowa Code 249A.4

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 06/29/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 84, “Early and Periodic Screening, Diagnosis, and Treatment,” 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 84 was reviewed as part of the Department’s five-year rules review. Chapter 84 defines the early and periodic screening, diagnosis and treatment (EPSDT) services provided under the Medicaid program to eligible children under the age of 21. This rules review resulted in proposed technical changes. References to federal regulations are proposed to be updated to provide accurate listings. Outdated references are proposed to be 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 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 October 25, 2022. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

PREAMBLE

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

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

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

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

Section 249A

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

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

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

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

5. What are the likely areas of public comment?

Public comment is not anticipated for the technical corrections

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

No impact to jobs.



Administrative Rule Fiscal Impact Statement

Date: July 15, 2022

Agency: Human Services

IAC citation: 441 IAC 84

Agency contact: Tashina Hornaday

Summary of the rule:

To make technical corrections to 441-84.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

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

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

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

Agency representative preparing estimate: Soraya Miller

JH 08/01/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

The Human Services Department hereby proposes to amend Chapter 95, "Collections," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

The rules review resulted in proposed technical changes. Proposed amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are being updated to provide accurate listings and outdated references are proposed to be removed. Mailing addresses 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 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 November 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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed.

Please see attached.

PROPOSED RULE CHANGES

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

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

ITEM 2. Amend subrule **441—95.2(4)** as follows:

95.2(4) *Application for services.*

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

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

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

ITEM 3. Amend paragraph **441—95.3(1)“a”** as follows:

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

ITEM 4. Add the following implementation statement to **441—95.4(252B)** Prepayment of support:

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

ITEM 5. Amend subrule **441—95.5(1)** as follows:

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

interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

ITEM 6. Amend paragraph **441—95.13(1)“a”** as follows:

a. An obligee may contact a customer service representative ~~in person at the department’s collection services center,~~ by telephone ~~through the specialized customer services unit,~~ or by writing to the Collection Services Center, ~~727 East 2nd Street~~ P.O. Box 9243, Des Moines, Iowa 50306.

ITEM 7. Amend rule **441—95.14(252B)** as follows:

95.14(1) a (1)-(4) No Changes.

Amend **95.14(1)a(5)** as follows:

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

95.14(1)a(6) – (13) No Changes.

Amend **95.14(1)a(14)** as follows:

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

Amend **95.14(1)a(15)** as follows:

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

Amend **95.14(1)a(16)** as follows:

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

95.14(1)a(17)–(18) No changes.

95.14(1)b No changes.

95.14(1) c (1) No changes.

Amend **95.14(1) c (2)** as follows:

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

Amend **subrule 441—95.14(2)(252B)** as follows:

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

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

b-d. No change.

ITEM 8. Amend paragraph **441—95.15(2)“b”** as follows:

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

ITEM 9. Amend rule **441—95.15(252B)**, implementation sentence, as follows:

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

ITEM 10. Rescind and reserve rule **441—95.16(252B)**.

ITEM 11. Add the following implementation statement to **441—95.17(252B) Effective date of support.**

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

ITEM 12. Amend rule **441—95.18(252B)** as follows:

95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who ere

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

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

95.18(1) *Notice of services.* When a family is no longer eligible for public assistance, the department shall forward Form 470-981, ~~Notice of Continued Support Services~~, to the family's last known address within five working days of the notification of ineligibility , to inform the family.

a-b. No change.

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

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

95.18(3) No change.

ITEM 13. Amend rule ~~441—95.19 (252B)~~

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

95.19(1) Cooperation defined. The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in ~~441-subrule~~ chapter 41.22(8) or chapter 441-75-14(8) for refusal to cooperate, is established.

a.--b. No change.

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

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

95.19(3) Good cause or other exception.

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

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interest of the child as provided in 441-~~subrule~~ chapter 75.14(3).

ITEM 14. Amend **rule 441—95.20(252B)** as follows:

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

ITEM 15. Amend **subrule 95.21(2)** as follows:

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

ITEM 16. Amend subrule ~~441—~~**95.25(1)** as follows:

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

Iowa Code Chapter 252B

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

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

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

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

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

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

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



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

Agency: Human Services
IAC citation: 441 IAC 95
Agency contact: Paula Burns/Diane Barrett (fiscal)
Summary of the rule: Support Recovery Collections
<i>Fill in this box if the impact meets these criteria:</i> <input checked="" type="checkbox"/> No fiscal impact to the state. <input type="checkbox"/> Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years. <input type="checkbox"/> Fiscal impact cannot be determined.
Brief explanation: Budget Analysts must complete this section for ALL fiscal impact statements. The proposed amendments are technical changes to bring the rules in line with current program terminology and to correct outdated references. Updates to forms and manuals can be made by current staff and within current budget.
<i>Fill in the form below if the impact does not fit the criteria above:</i> <input type="checkbox"/> Fiscal impact of \$100,000 annually or \$500,000 over 5 years.
Assumptions:
Describe how estimates were derived: N/A

Estimated Impact to the State by Fiscal Year

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

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to information and records and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 96, "Information And Records," 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 96 is being reviewed as part of the Department's five-year rules review process. Title IV-D of the Social Security Act provides the state child support agencies providing services under the Act shall have access to information and records from third parties to assist in providing services. These rules provide the framework for the child support agency to request or administratively subpoena information from employers and other sources.

Technical changes are being proposed as a result of the five-year rules review. References to obsolete forms are being replaced with current information. Proposed amendments update mailing addresses.

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 November 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

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

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

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

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

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

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

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

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

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

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



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

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

Summary of the rule:
Child Support Information and Records

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

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

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

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

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

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

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

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to the collection service center and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 97, "Collection Services Center," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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 November 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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

Proposed Rule Changes

ITEM 1. Amend rule **441—97.2(252B)** as follows:

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

ITEM 2. Rescind and reserve subrule **97.5(5)**.

ITEM 3. Amend subrule **441—97.6(3)** as follows:

441—97.6(3) Electronic Transfer. Obligees who want electronic transfer of support payments to a delegated account shall complete Form 470-2612, ~~Authorization for Automatic Deposit~~, and submit it to the collection services center. Unless subrules 97.6(5) applies, any obligee not using automatic deposit to a designated account shall be issued an electronic access card for receipt of support payments.

ITEM 4. Amend paragraph **441—97.6(5) “c”** as follows:

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

Iowa Code Section 252B.16(2)

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

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

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

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

5. What are the likely areas of public comment?

CSRU does not anticipate public comment on these proposed amendments.

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

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



Administrative Rule Fiscal Impact Statement

Date: August 1, 2022

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

Summary of the rule:
Collections Services Center

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

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

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

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

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

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

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