

Council on Human Services

WEDNESDAY, SEPTEMBER 14, 2022

11 A.M. – 2 P.M.

JOINT HHS MEETING 10 A.M.-2 P.M.

[CLICK TO JOIN ZOOM MEETING](#)

Join by Phone: 1-312-626-6799

Meeting ID: 862 3539 6515 Passcode: 923054

AGENDA

- | | |
|------------|--|
| 10:00 a.m. | State Board of Health Call to Order |
| 10:05 a.m. | State Board of Health Agenda |
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| 11:00 a.m. | Council on Human Services Call to Order |
| 11:05 a.m. | Director's Report: HHS Director Kelly Garcia |
| 11:15 a.m. | HHS Governance Discussion: HHS Director Kelly Garcia |
| 12:00 p.m. | Approval of August 11, 2022, meeting minutes |
| 12:05 p.m. | Rules |

The following amendments to the administrative rules are presented for adoption at the September 14, 2022, Council on Human Services meeting.

R-1. Amendments to Chapter 36, "Facility Assessments," Iowa Administrative Code. (Align rules with current practice and the Iowa Code). This rule making enacts technical changes to remove the word "enterprise" from Iowa Medicaid. Rules are updated to remove form names and provide current unit names and addresses. This review is part of the department's five-year rules review process.

R-2. Amendments to Chapter 62, "Rent Reimbursement," Iowa Administrative Code. (Sets criteria for rent reimbursement program).

Iowa Code Chapter 425 provides for a property tax credit for low-income elderly and disabled Iowans. To provide parity for low-income elderly and disabled individuals who do not own property the law also establishes reimbursement for rent. Currently both the property tax credit and the rent reimbursement programs are administered by the Iowa Department of Revenue. Effective January 1, 2023, DHS takes over administration of the rent reimbursement portion of the program. This rulemaking provides the criteria for filing and processing those claims.

R-3. Amendments to Chapter 65, “Supplemental Nutrition Assistance Program Administration,” Administrative Code. (Align rules with current practice, Iowa Code, and federal regulations).

This rule making updates the name of Iowa’s food assistance program to the Supplemental Nutrition Assistance Program (SNAP), updates the name of the chapter and provides current definitions. Incorrect or obsolete cross references are removed, and obsolete rules are rescinded. Rules on application processing are also updated. This review is part of the department’s five-year rules review process.

R-4. Amendments to Chapter 66, “Emergency Food Assistance Program,” Iowa Administrative Code. (Align rules with current practice and federal regulations).

This proposed rulemaking updates the name of the Division to Financial, Food and Work Supports. Additional information is provided on The Emergency Food Assistance Program (TEFAP) for additional guidance to consumers on how eligibility is determined for the program and how claims are established against TEFAP entities. This review is part of the department’s five-year rules review process.

R-5. Amendments to Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code. (Implements new documentation requirements related to delivering services. Adopt Emergency after Noticed)

This rule making amends the documentation requirements for narrative service documentation for each service encounter and each shift for 24-hour services. This rule making removes the requirement for narrative service documentation for each service encounter or shift and replaces it with the requirement to provide a narrative only when the incident, illness, unusual or atypical event occurs during the service encounter. The rules clarify Medicaid providers must include records and documentation to substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. In addition, documentation requirements must meet the professional standards pertaining to the service provided. Providers have requested the proposed amendments in response to the direct care workforce shortage.

R-6. Amendments to Chapter 89, “Debts Due from Transfer of Assets,” Iowa Administrative Code. (Align rules with current practice and Iowa Code).

This rule making updates the effective date for transfers of assets that took place between July 1, 1993, and December 31, 2018. This portion of the program was suspended effective January 1, 2019, and there have not been any referrals to recover resources from anyone who received the transferred resources since then. This review is part of the department's five-year rules review process.

R-7. Amendments to Chapter 91, "Medicare Drug Subsidy," Iowa Administrative Code. (Align rules with current practice and federal law)

Chapter 91 provides the framework for the Medicare Drug Subsidy program for Medicare Part D beneficiaries. This rule making removes forms that have become obsolete, updates the rules, and provides correct rules references as part of the department's five-year rules review process.

R-8. Amendments to Chapter 109, "Child Care Centers," Iowa Administrative Code. (Implements new child care ratio legislation, HF2198; Adopt Emergency after Noticed)

These rules allow an increased number of children to be served per staff person in the 2-year-old and 3-year-old age categories in licensed child care centers. The rules modify requirements for combining age groups and allows a staff person under the age of 18 to provide care to school age children, without being under the direct supervision of an adult. The rules also clarify that persons under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children.

R-9. Amendments to Chapter 170, "Child Care Services," Iowa Administrative Code (Implements HF 2252 from the 2022 legislative session; Adopt Emergency after Noticed). Previously for a parent to be eligible for child care assistance (CCA) a medical incapacity needed to be considered "temporary". Under HF 2252 the Code of Iowa requirements are changed and removal of this temporary requirement will allow a family with one permanently disabled parent to be CCA-eligible based upon the needs of the parent who is not disabled.

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

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

This proposed rule making updated the definition of "refugee" to match the definition in the federal regulations. References to federal agencies are updated to reflect the current name of those agencies. Services that are specifically designed to assist refugees with obtaining employment and improving the employability of work skills of the individual are revised to match federal regulations and clarify services that are available. The time frame to which services may be provided to newly arriving refugees is increased to five years after arrival in

the United States to reflect the Department's current practices. Outdated processes are removed from the rules. This review is part of the department's five-year rules review process.

N-2. Amendments to Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)

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

N-3. Amendments to Chapter 117, "Foster Parent Training," Iowa Administrative Code. (Aligns rules with current practice and Iowa Code)

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

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

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

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

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

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

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

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

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

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

Currently the In-Home Health-Related Care (IHHRC) Program requires a registered nurse to provide supervision of a client’s care plan to receive services. Over the past several years the Department has experienced more nursing agencies opting out of providing supervision services for this program. Medicaid programs providing similar services under the home-and community-based programs do not require a supervising practitioner when the services being provided are considered unskilled or is for personal care services. These proposed amendments remove nursing supervision for unskilled personal care services and maintains nursing supervision for skilled services. Proposed amendments also identify how the program is implemented from the application process through termination if termination is required. This rule making is part of the department’s five-year rules review process.

12:45 p.m.

Budget Hearing Presentations:

- Opening Remarks: Director Kelly Garcia
- Executive Summary: CFO Jess Benson

1:15 p.m.

Council Discussion and Questions

1:30 p.m.

SFY 2024 Budget Decisions

- Approval of Budget for SFY 2024

1:35 p.m. Public Health Budget Overview

1:50 p.m. Council Updates

2:00 p.m. Adjourn

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

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to facility assessments.

The Human Services Department hereby amends Chapter 36, "Facility Assessments," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The rules in Chapter 36 were reviewed as part of the Department's five-year rules review. This rule making enacts technical changes to remove the word "enterprise" from Iowa Medicaid. Rules are updated to remove the form names and provide current unit names and addresses.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 29, 2022, as ARC 6377C.

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 September 14, 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 December 1, 2022.

The following rule-making action is adopted:

ITEM 1. Amend paragraph 36.2(1)“a” as follows:

- a. Use Form 470-5422, ~~Intermediate Care Facilities for Individuals with an Intellectual Disability Assessment Calculation Worksheet~~, to calculate the quarterly fee due.

ITEM 2. Amend paragraph 36.2(4)“b” as follows:

- b. Requests for a ~~good cause~~ good cause waiver must be submitted to the Iowa Medicaid ~~enterprise~~, provider cost audit and rate setting unit, within 30 days of notice to the facility that the penalty is due.

ITEM 3. Amend paragraph 36.6(2)“c” as follows:

- a. Effective July 1, 2019, nursing facilities with annual Iowa Medicaid patient days of 21,000 or more are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, 2021, the annual number of Iowa Medicaid patient days reported in the most current cost report submitted to ~~the Iowa Medicaid enterprise~~ as of June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ITEM 4. Amend paragraph 36.7(1)“a” as follows:

- a. Use Form 470-4836, ~~Nursing Facility Quality Assurance Assessment Calculation Worksheet~~, to calculate the quarterly assessment amount due.

ITEM 5. Amend paragraph 36.7(4)“b” as follows:

- b. Requests for a good cause waiver must be submitted to ~~the Iowa Medicaid Enterprise~~, Provider Cost Audit and Rate Setting Unit, ~~400 Army Post Road~~ 1305 East Walnut Street, Des Moines, Iowa ~~50315~~ 50319-0114, within 30 days of notice to the facility that the penalty is due.

ITEM 6. Amend paragraph 36.11(5)“b” as follows:

- b. Requests for a good cause waiver must be submitted to ~~the Iowa Medicaid Enterprise~~, Provider Cost Audit and Rate Setting Unit, ~~400 Army Post Road~~ 1305 East Walnut Street, Des Moines, Iowa ~~50315~~ 50319-0114, within 30 days of notice to the facility that the penalty is due.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Jessica McBride	Telephone Number 515-201-4157	Email Address jmcbrid@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Technical changes, removing "Enterprise" from Iowa Medicaid. Capitalization of Provider Cost Audit and Rate Setting unit and address updates
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: June 1, 2022

Agency: Human Services

IAC citation: 441 IAC 249A.21

Agency contact: Jessica McBride

Summary of the rule:

The rule includes technical changes, removing “Enterprise” from Iowa Medicaid, updating the address and capitalization of Provider Cost Audit and Rate Setting unit.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

The rule includes technical changes, removing “Enterprise” from Iowa Medicaid, updating the address and capitalization of Provider Cost Audit and Rate Setting unit. There is no fiscal impact 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

	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 checked="" type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons:</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> There is no fiscal impact.</p>		
<p><i>Fiscal impact to persons affected by the rule:</i> There is no fiscal impact to persons affected by the rule.</p>		
<p><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i> There is no fiscal impact expected to counties or other local governments.</p>		
Agency representative preparing estimate:	Soraya Miller	JH 06/01/2022
Telephone number:	515-281-6017	

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to the rent reimbursement program.

The Human Services Department hereby amends Chapter 62 "Rent Reimbursement"

Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 425.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 425.

Purpose and Summary

Iowa Code chapter 425 provides for a property tax credit for low-income elderly and disabled Iowans. To provide parity for low-income elderly and disabled Iowans who do not own property, the law also establishes reimbursement for rent constituting property taxes paid by the property owner. Currently, both the property tax credit and the rent reimbursement program are administered by the Iowa Department of Revenue (IDR). Effective January 1, 2023, the Department of Human Services (DHS) takes over administration of the rent reimbursement portion of Iowa Code sections 425.15 through 425.40. This rule making establishes rules for the rent reimbursement program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 29, 2022, as ARC 6382C.

No public comments were received.

After further review the Department made one change to the noticed rules at 441 IAC_62.1(425) to clarify this rule is effective for rent reimbursement claims received by the Department on or after January 1, 2023. This change is to facilitate the transition between IDR and DHS.

Adoption of Rule Making

This rule making was adopted by the Human Services Department on September 14, 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 IAC_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 RULE CHANGES

Adopt the following **new** 441—Chapter 62:

CHAPTER 62 RENT REIMBURSEMENT

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

62.1(1) The rent reimbursement program is available to claimants who:

- a.* Were at least 23 years of age or a head of household on December 31 of the base year,
- b.* Were not or will not be claimed as a dependent on another person's federal or state income tax return for the base year in the case of a claimant who is not disabled or at least 65 years of age,
- c.* Did not have household income in excess of the indexed amount determined pursuant to Iowa Code section 425.23(4) during the base year,
- d.* Are domiciled in Iowa at the time the claim is filed or were at the time of the claimant's death, and occupied and rented the property during any part of the base year.

62.1(2) If a homestead is occupied by two or more eligible claimants, each person may file a claim based upon each person's income and each person's share of the rent paid.

62.1(3) The computed reimbursement shall be determined in accordance with the applicable schedule provided in Iowa Code section 425.23(1) as adjusted by the indexed amount determined in Iowa Code section 425.23(4).

This rule is intended to implement Iowa Code sections 425.17(2) and 425.23.

441—62.2(425) Dual claims.

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

62.2(2) Separate claim forms for the property tax credit and the rental reimbursement shall be filed with the county treasurer and the Iowa department of human services (DHS), respectively.

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

EXAMPLE: \$800 property tax due

\$400 rent constituting property taxes paid

- a.* The claim form for calculating the property tax credit shall reflect the entire \$800 amount.
- b.* The claim form for calculating the rent reimbursement shall reflect only the remaining \$200 of the \$1,000 maximum allowance.
- c.* DHS will issue refund warrants for rent reimbursement claims. The county treasurer shall apply the credit.

This rule is intended to implement Iowa Code section 425.24.

441—62.3(425) Multipurpose building.

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

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

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

441—62.4(425) Income.

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

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

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

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

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

441—62.6(425) Confidential information. Information contained on a rent reimbursement claim form is confidential except that the information may be released to an employee of the department of inspections and appeals to assist in the performance of an audit or investigation. Rule 701—6.3(17A) contains guidelines that govern such audits and investigations.

This rule is intended to implement Iowa Code section 425.28.

441—62.7(425) Mobile, modular, and manufactured homes. Rent paid by an eligible claimant for occupancy of a mobile, modular, or manufactured home subject to the annual tax as provided in Iowa Code chapter 435 is subject to reimbursement regardless of how the home is taxed.

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

441—62.8(425) Totally disabled.

62.8(1) A person who is totally disabled must be unable to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment. In addition, the impairment must have lasted or must be reasonably expected to last for a continuous period of 12 months or must be expected to result in death. This disabled condition must be the determining factor in the person's inability to engage in gainful employment.

62.8(2) A claimant is considered totally disabled only if the physical or mental impairment or impairments are of such severity that the claimant is not only unable to do work previously performed but cannot, considering the claimant's age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the claimant lives, or whether a specific job vacancy exists, or whether the claimant would be hired if the claimant applied for work. 42 U.S.C. §423 contains more information about disability insurance benefit payments.

62.8(3) Examples of physical conditions which could possibly constitute total disability would include, but are not limited to:

- a.* Loss of major function of one or both legs or arms;
- b.* Progressive diseases which have resulted in the loss of one or both legs or arms or which have caused them to become useless; severe arthritis;
- c.* Diseases of the heart, lungs, or blood vessels which have resulted in serious loss of heart or lung reserve;
- d.* Diseases of the digestive system which have resulted in severe malnutrition, weakness, or anemia prohibiting gainful employment;
- e.* Damage to the brain or brain abnormality which has resulted in severe loss of judgment, intellect, orientation, or memory; or
- f.* Paralysis or diseases of the nervous system which prohibit coordination or major functioning of the body so as to prevent gainful employment.

62.8(4) For purposes of this rule, a person shall not be considered unable to engage in substantial gainful employment unless the person has attained the age of 18 on or before December 31 of the base year.

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

441—62.9(425) Nursing homes. A claimant whose homestead is a nursing home is eligible to file a reimbursement claim for rent constituting property tax paid unless the person is eligible for a property tax credit on an owned homestead.

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

441—62.10(425) Household. “Household” includes the claimant and the claimant’s spouse if living with the claimant at any time during the base year. “Living with” does not include a temporary visit. Only one claimant per household is entitled to a reimbursement.

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

441—62.11(425) Homestead. A person who owns a homestead but is confined to a care facility shall be considered as occupying the owned homestead provided the person does not lease or otherwise receive profits from others for the use of the homestead. The person shall be eligible for a property tax credit but shall not be eligible for a rent reimbursement.

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

441—62.12(425) Household income.

62.12(1) Household income includes income of the claimant and the claimant’s spouse and actual monetary payments made to the claimant by any other person living with the claimant. Household income does not include social security benefits received by the claimant’s child and given to the claimant.

62.12(2) Monetary payments do not include goods and services provided to the claimant by a person living with the claimant.

This rule is intended to implement Iowa Code sections 425.17(6) and 425.17(7).

441—62.13(425) Timely filing of claims. If a timely mailed rent reimbursement claim is not received by DHS or is received after the June 1 filing deadline, the claim will be considered to have been timely filed if the claimant complies with the provisions of Iowa Code section 622.105. The director of DHS or the director’s designee may also extend the filing deadline for rent reimbursement claims through December 31 of the following year.

This rule is intended to implement Iowa Code section 425.20.

441—62.14(425) Separate homestead—spousal rent reimbursements. If two spouses are both qualified claimants renting separate and distinct homesteads, and rent is paid by each, each is eligible to file an individual reimbursement claim for rent constituting property tax paid.

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

441—62.15(425) Gross rent/rent constituting property taxes paid. “Gross rent” means the total amount of rent paid for use of the homestead by the claimant, and “rent constituting property taxes paid” means 23 percent of the gross rent.

This rule is intended to implement Iowa Code sections 425.17(3) and 425.17(9).

441—62.16(425) Leased land. An individual who owns a dwelling located on land owned by another may claim a credit of property taxes due on the dwelling and a reimbursement of rental payments made for the use of the land if the land has been assessed for taxation.

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

441—62.17(425) Property: taxable status. In order for a claimant to be eligible to file a rent reimbursement claim, the property upon which the claimant resided during the base year must have been in a taxable status during the base year. If the property was taxable for only part of the base year, the rent reimbursement must be

prorated accordingly (OP.ST. BD. Tax Rev. 187). However, this restriction does not apply to property that became tax exempt on or after July 1, 1986, provided the claimant received a reimbursement of rent constituting property taxes paid on the property when it was in a taxable status and continues to reside in the same property.

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

441—62.18(425) Income: spouse. The income of a spouse does not have to be reported on the claimant's return unless the spouse lived with the claimant at the property upon which rent reimbursement is claimed. If the spouse lived with the claimant for only a portion of the base year, only that portion of the spouse's income which was received while living with the claimant must be reported as income on the claimant's return. If the spouse is eligible to claim reimbursement, the spouse does not have to include any income that was reported on the other claimant's (spouse's) return.

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

441—62.19(425) Common law marriage.

62.19(1) A common law marriage is a social relationship between two persons that meets all the necessary requisites of a marriage except that it was not solemnized, performed, or witnessed by an official authorized by law to perform marriages.

62.19(2) The necessary elements of a common law marriage are:

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

62.19(3) No special time limit is necessary to establish a common law marriage.

This rule is intended to implement Iowa Code section 425.17.

441—62.20(425) Deceased claimant. A claim for rent reimbursement may be filed on behalf of a deceased person by the person's spouse, attorney, guardian, or the executor or administrator of the person's estate.

This rule is intended to implement Iowa Code sections 425.17(2) and 425.18.

441—62.21(425) Audit of claim.

62.21(1) Authority. DHS may investigate the eligibility of a claimant for rent reimbursement.

62.21(2) Recomputed rent reimbursement claim. If DHS determines a computed rent reimbursement is in error, DHS shall collect any overpayment from the claimant or reimburse the claimant for any underpayment. If a claimant fails to reimburse DHS for an overpayment, the amount of overpayment shall be deducted from any future rent reimbursement to which the claimant is entitled.

This rule is intended to implement Iowa Code section 425.27.

441—62.22(425) Extension of time for filing a claim. The granting of an extension of time for filing a claim for reimbursement does not extend the time within which or the dates on or by which eligibility requirements must be satisfied.

This rule is intended to implement Iowa Code section 425.20.

441—62.23(425) Annual adjustment factor. The income levels used for determining the allowable percent rent reimbursement shall be adjusted each year to reflect the inflation factor as computed pursuant to Iowa Code section 422.4.

This rule is intended to implement Iowa Code sections 425.23 and 435.22(2).

441—62.24(425) Proration of claims. If the director of DHS or the director's designee determines that the amount of funding provided pursuant to Iowa Code section 425.39 will be insufficient to pay all rent

reimbursement claims filed, the director or the director's designee shall estimate the percentage at which the claims will be paid and shall prorate the payment of each rent reimbursement claim by the same estimated percentage.

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

441—62.25(425) Unreasonable hardship. In order to avoid any unreasonable hardship to a claimant, the director of DHS or the director's designee may review the facts and circumstances of the claim as set forth by the claimant. The director or the director's designee may investigate all factors related to the specific case as deemed appropriate by the director or the director's designee. If the director or the director's designee is satisfied that the claim qualifies as an undue hardship for the claimant, the claim will be approved by the director or the director's designee.

This rule is intended to implement Iowa Code section 425.37.

441—62.26(425) Appeal. Notice of adverse action taken by DHS shall be issued in accordance with 441—Chapter 16, and the right to appeal shall be given in accordance with 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Victoria L. Daniels	Telephone Number 515-829-6021	Email Address vdaniel@dhs.state.iowa.us
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1. Give a brief purpose and summary of the rulemaking:

Iowa Code Chapter 425 provides for a property tax credit for low-income elderly and disabled Iowans. To provide parity for low-income elderly and disabled who do not own property, the law also establishes reimbursement for rent constituting property taxes paid by the property owner. Currently, both the property tax credit and the rent reimbursement program are administered by the Iowa Department of Revenue (IDR). Effective 1/1/2023, the Department of Human Services (DHS) will take over administration of the rent reimbursement portion of Chapter 425 (§§ 15-40).

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

2021 Iowa Acts HF 368; Iowa Code Chapter 425, §§ 15-40.

<https://www.legis.iowa.gov/docs/publications/iactc/89.1/CH0041.pdf>

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

This rulemaking is neutral; the only change is that DHS will be administering the program effective 1/1/2023 rather than IDR. The rules mirror the existing program rules except that all inapplicable references to the property tax credit and IDR have been removed.

The program itself benefits low-income elderly and disabled Iowans who live in rental properties.

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

No. There has never been one in the existing IDR rules.

5. What are the likely areas of public comment?

I do not expect any public comment.

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

No.



Administrative Rule Fiscal Impact Statement

Date: May 10, 2022

Agency: Human Services
IAC citation: 441 IAC 62
Agency contact: Victoria L. Daniels

Summary of the rule:

Iowa Code Chapter 425 provides for a property tax credit for low-income elderly and disabled Iowans. To provide parity for low-income elderly and disabled who do not own property, the law also establishes reimbursement for rent constituting property taxes paid by the property owner. Currently, both the property tax credit and the rent reimbursement program are administered by the Iowa Department of Revenue (IDR). Effective 1/1/2023, the Department of Human Services (DHS) will take over administration of the rent reimbursement portion of Chapter 425 (§§ 15-40).

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 rulemaking is neutral; the only change is that DHS will be administering the program effective 1/1/2023 rather than IDR. The rules mirror the existing program rules except that all inapplicable references to the property tax credit and IDR have been removed.

There will be both implementation and ongoing costs for DHS to administer the program. Implementation costs are estimated to be approximately \$4.4M and will be funded through federal COVID funds and one-time state carry-forward. Ongoing administrative costs are not known with certainty, but the goal is for the up-front IT investment to largely automate the program, thereby limiting ongoing administration. It is expected that any ongoing costs will be funded from existing appropriations.

Because the program will be funded from already available funding sources, no additional fiscal impact is presented here.

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	_____	_____

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

2021 Iowa Acts HF 368; Iowa Code Chapter 425

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:

Implementation and ongoing administrative costs will be funded from existing sources.

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

Agency representative preparing estimate: David Philmon

JH 05/16/2022

Telephone number:

404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to food assistance program changing to supplemental nutrition assistance program.

The Human Services Department hereby amends Chapter 65, "Food Assistance Program Administration," 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, 7 CFR Part 273.

Purpose and Summary

The rules in Chapter 65 were reviewed as part of the Department's five-year rules review.

This rule making:

- Changes the name of the program from Food Assistance (FA) to the federal Supplemental Nutrition Assistance Program (SNAP).

- Removes obsolete form names and numbers.

- Updates the rules with current requirements for verifying expenses, how the expenses are calculated, and how the Department acts on reported changes.

- Removes specific dollar amounts of reporting requirements and deductions and replaces those amounts with information about how the deduction or reporting requirement is determined.

- Updates the employment and training section with current information about who is eligible to receive services and how those services are managed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 29, 2022, as ARC 6394C.

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 September 14, 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 December 1, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED AND FILED RULE CHANGES

Adopt the following rule changes:

ITEM 1. Amend **441—Chapter 65**, title, as follows:

~~FOOD~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATION

ITEM 2. Amend **441—Chapter 65**, preamble, as follows:

PREAMBLE

The basis for the ~~food assistance program~~ Supplemental Nutrition Assistance Program (SNAP) is as provided in Title 7 of the Code of Federal Regulations. The purpose of this chapter is to provide for adoption of new and amended federal regulations as they are published, to establish a legal basis for Iowa's choice of administrative options when administrative options are given to the state in federal regulations, to implement the policy changes that the United States Department of Agriculture (USDA) directs states to implement that are required by law but are not yet included in federal regulations, and to implement USDA-approved demonstration projects and waivers of federal regulations.

ITEM 3. Amend rule 441—65.1(234) as follows:

441—65.1(234) Definitions.

“Department” means the Iowa department of human services.

“Food assistance” means ~~benefits provided by the federal program administered through Title 7, Chapter II of the Code of Federal Regulations, Parts 270 through 283.~~

“Notice of expiration” means ~~either a message printed on an application for continued program participation, Review/Recertification Eligibility Document (RRED), Form 470-2881, which is automatically issued to the household, or a hand-issued Form 470-0325, Notice of Expiration.~~

“Parent” means natural, legal, or stepmother or stepfather.

“Sibling” means ~~biological, legal, step, half, or adoptive brother or sister.~~

“Supplemental Nutrition Assistance Program” or *“SNAP”* means benefits provided by the federal program administered through 7 CFR Parts 270 through 283 as amended to May 2, 2022.

ITEM 4. Amend subrule 65.2(1) as follows:

65.2(1) Application filing. Persons in need of ~~food assistance~~ SNAP benefits may file an application in person at any local department office in Iowa or ~~over the Internet~~ by mail, by fax, or online.

a. An application is filed the day a local department office receives an application for ~~food assistance~~ SNAP benefits that contains the applicant's name and address and is signed by either a responsible member of the household or the household's authorized representative. The application ~~may~~ must be filed on ~~Form 470-0462 or 470-0462(S).~~ Applying through the self-service portal constitutes submission of this application.

(1) ~~Form 470-0306 or 470-0307 (Spanish), Application for Food Assistance;~~

(2) ~~Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application; or~~

(3) ~~Form 470-4080 or 470-4080(S), Electronic Food Assistance Application.~~

b. When an application is ~~delivered~~ submitted to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. An electronic application received outside of normal business hours is considered received on the first department workday following the date the department office received the application.

~~*e.* A household shall complete a Health and Financial Support Application when any person in the household is applying for or receiving aid through the family investment program, family medical assistance~~

~~program (FMAP) related Medicaid, or the refugee resettlement assistance programs.~~

~~d. c.~~ The application is complete when a completed application form is submitted. If an incomplete application form is submitted, it cannot be processed until a completed form is received.

~~e. d.~~ Households receiving ~~food assistance~~ SNAP benefits in Iowa may apply for continued participation by submitting Form 470-2881, ~~Review/Recertification Eligibility Document~~.

ITEM 5. Amend rule 441—65.3(234) as follows:

441—65.3(234) Administration of program. ~~The food assistance program~~ SNAP shall be administered in accordance with the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and in accordance with ~~federal regulation, Title 7, Parts 270 through 283~~ 7 CFR Parts 270 through 283 as amended to ~~June 19, 2006~~ May 2, 2022. A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Financial, ~~Health~~ Food, and Work Supports, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, ~~(515)281-3133~~.

ITEM 6. Amend rule 441—65.4(234), introductory paragraph, as follows:

441—65.4(234) Issuance. The department shall issue ~~food assistance~~ SNAP benefits by electronic benefits transfer (EBT) cards.

ITEM 7. Amend rule 441—65.5(234) as follows:

441—65.5(234) Simplified reporting.

65.5(1) and 65.5(2) No change.

65.5(3) Certification periods. Households shall be certified as follows:

a. and b. No change.

c. Exceptions:

(1) A household that has unstable circumstances or that includes an able-bodied adult without dependents shall be assigned a shorter certification period consistent with the household's circumstances, but ~~generally~~ no less than ~~three~~ four months.

(2) A shorter certification period may be assigned at application or recertification to match the ~~food assistance~~ SNAP recertification date to the family investment program (FIP) or medical assistance annual review date.

65.5(4) Reporting responsibilities. Simplified reporting households are required to report changes as follows:

a. and b. No change.

c. The household shall report if a member wins substantial lottery or gambling winnings. Substantial winnings are defined as a cash prize equal to or greater than the maximum allowable financial resource limit for elderly or disabled households. The household must report this change within ten days of the end of the month in which the winning occurs.

~~65.5(5) Verification submitted with report form. Rescinded IAB 9/10/08, effective 10/1/08.~~

~~65.5(6) Additional information and verification. Rescinded IAB 9/10/08, effective 10/1/08.~~

~~65.5(7) Action on reported changes. The department shall act on all reported changes for households regardless of the household's reporting requirements.~~

~~65.5(8) Entering or leaving simplified reporting. Rescinded IAB 9/10/08, effective 10/1/08.~~

~~65.5(9) Reinstatement. Rescinded IAB 9/10/08, effective 10/1/08.~~

ITEM 8. Amend rule 441—65.8(234) as follows:

441—65.8(234) Deductions.

65.8(1) *Standard allowance for households with heating or air-conditioning expenses.* When a household is receiving heating or air-conditioning service for which it is required to pay all or part of the expense or receives assistance under the Low-Income Home Energy Assistance Act (LIHEAA) of 1981, the heating or air-conditioning standard shall be allowed.

a. No change.

b. Effective October 1, ~~2013~~ 2021, ~~five~~ four dollars will be subtracted from this amount to allow for cost neutrality necessary for the standard medical expense deduction.

65.8(2) to **65.8(4)** No change.

65.8(5) *Standard allowance for households without heating or air-conditioning expenses.* When a household is receiving some utility service other than heating or air-conditioning for which it is responsible to pay all or part of the expense, the nonheating or air-conditioning standard shall be allowed. These utility expenses cannot be solely for telephone.

a. No change.

b. Effective October 1, ~~2013~~ 2021, ~~five~~ four dollars will be subtracted from this amount to allow for cost neutrality necessary for the standard medical expense deduction.

65.8(6) No change.

65.8(7) *Excess medical expense deduction.* Notwithstanding anything to the contrary in these rules or regulations, at certification, households having a member eligible for the excess medical expense deduction shall be allowed to provide verification of expenses so that a reasonable projection of the member's medical expenses anticipated to occur during the household's certification period can be made. The household may choose to claim actual expenses or to use the standard medical expense deduction.

a. No change.

b. *Standard medical expense.*

(1) A household may choose a standard medical expense deduction of ~~\$105~~ if the household incurs more than \$35 per month in medical expenses.

(2) No change.

(3) The amount of the standard medical expense deduction must be approved by the Food and Nutrition Service of the U.S. Department of Agriculture. The amount of the standard is reviewed periodically and adjustments are requested when needed.

~~e. Rescinded IAB 8/1/07, effective 10/1/07.~~

65.8(8) *Child support payment deduction.* ~~Rescinded IAB 5/2/01, effective 6/1/01.~~ A household may receive a deduction equal to the amount paid for legally obligated child support.

65.8(9) *Standard deduction.* Each household will receive a standard deduction from income ~~equal to 8.31 percent of the net income limit for food assistance eligibility. No household will receive an amount less than \$144 or more than 8.31 percent of the net income limit for a household of six members based on a formula set forth in regulations at 7 CFR 273.9(d) as amended to May 2, 2022.~~ The amount of the standard deduction is adjusted for inflation annually as directed by the Food and Nutrition Service of the U.S. Department of Agriculture.

~~**65.8(10)** *Sharing utility standards.* Rescinded IAB 9/4/02, effective 10/1/02.~~

~~**65.8(11)** *Excess shelter cap.* Rescinded IAB 5/2/01, effective 6/1/01.~~

65.8(10) *Homeless standard deduction.* A household in which all members are homeless may choose the homeless standard deduction in place of the shelter and utility expenses deduction.

a. Households choosing this option are not required to verify shelter-related expenses.

b. Households choosing this option are not eligible to receive a shelter or utility deduction.

c. The amount of the homeless standard deduction is determined by the Food and Nutrition Service of the U.S. Department of Agriculture and adjusted annually.

This rule is intended to implement Iowa Code section 234.12.

ITEM 9. Amend rule 441—65.9(234) as follows:

441—65.9(234) Treatment centers and group living arrangements. Alcohol or drug treatment or rehabilitation centers and group living arrangements shall ~~complete Form 470-2724, Monthly Facility Report,~~ provide a list of participating residents to the department on a monthly basis ~~and return the form to the local department office where the center is assigned.~~

ITEM 10. Amend rule 441—65.13(234) as follows:

441—65.13(234) Joint processing.

65.13(1) Joint processing with SSI. The department will handle joint processing of supplemental security income and ~~food assistance~~ SNAP applications by having the social security administration complete and forward ~~food assistance~~ SNAP applications.

65.13(2) Joint processing with public assistance. The department shall jointly process public assistance and ~~food assistance~~ SNAP applications.

65.13(3) Single interview for assistance. In joint processing of public assistance and ~~food assistance~~ SNAP applications, the department shall conduct a single interview at initial application for both purposes.

ITEM 11. Amend rule 441—65.16(234) as follows:

441—65.16(234) Complaint system. Clients wishing to file a formal written complaint concerning ~~the food assistance program~~ SNAP may submit Form 470-0323, or 470-0323(S), ~~Food Assistance Complaint,~~ to the office of field support. Department staff shall encourage clients to use the form.

ITEM 12. Amend rule 441—65.20(234) as follows:

441—65.20(234) Notice of expiration issuance. Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, 470-2881(M), 470-2881(S), or 470-2881(MS).

~~**65.20(1)** Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, 470-2881(M), 470-2881(S), or 470-2881(MS), Review/Recertification Eligibility Document (RRED), or a hand-issued Form 470-0325, Notice of Expiration.~~

~~**65.20(2)** Issuance of the Notice of Expiration, Form 470-0325, will occur at the time of certification if the household is certified for one month, or for two months, and will not receive the automated Notice of Expiration.~~

ITEM 13. Amend rule 441—65.21(234) as follows:

441—65.21(234) Claims.

65.21(1) No change.

~~**65.21(2)** Suspension status. Rescinded IAB 7/1/98, effective 8/5/98.~~

~~**65.21(3)** Application of restoration of lost benefits. Rescinded IAB 3/6/02, effective 5/1/02.~~

65.21(4) 65.21(2) Demand letters. Households that have ~~food assistance~~ SNAP claims shall return the repayment agreement no later than 20 days after the date the demand letter is mailed.

a. and b. No change.

65.21(5) 65.21(3) Adjustments for claim repayment. A household or authorized representative may initiate a claim repayment by using benefits in an EBT account. The client or authorized representative shall complete Form 470-2574, ~~EBT Adjustment Request,~~ to authorize adjustments to a household's EBT account.

~~**65.21(6)** Collection of claims. Rescinded IAB 5/30/01, effective 8/1/01.~~

ITEM 14. Amend subrule 65.22(1) as follows:

65.22(1) Required verification.

a. *Income.* Households shall be required to verify income at time of application, recertification and when income is reported or when income changes with the following exceptions:

~~1. (1)~~ Households are not required to verify the public assistance grant.

~~2. (2)~~ Households are not required to verify ~~job~~ unemployment insurance benefits when the information is available to the department from the department of employment services.

~~3. (3)~~ Households are only required to verify interest income at the time of application and recertification.

(4) If the reported income does not meet federal requirements for acting on changes during the certification period, verification will not be required until the next certification.

b. *Dependent care costs.* ~~Rescinded IAB 3/10/10, effective 2/10/10.~~ Households shall be required to verify dependent care costs at the time of application and recertification.

c. No change.

d. *Shelter costs.* ~~Rescinded IAB 3/10/10, effective 2/10/10.~~ Households shall be required to verify shelter costs at the time of application, recertification, or when an address change is reported.

e. *Utilities.* ~~Rescinded IAB 3/10/10, effective 2/10/10.~~ Households shall be required to verify utility costs at the time of application, recertification, or when an address change is reported.

f. *Telephone expense.* ~~Rescinded IAB 5/2/01, effective 6/1/01.~~ Households shall be required to verify telephone costs at the time of application and recertification.

g. *Child support payment deduction.* Households shall be required to verify legally obligated child support and child medical support payments made to a person outside of the ~~food assistance~~ SNAP household only at certification and recertification and whenever the household reports a change.

ITEM 15. Amend subrule 65.22(3) as follows:

65.22(3) Special verification procedures. Persons whose applications meet the initial criteria for error-prone cases may be subject to special verification procedures, including a ~~second~~ face-to-face interview and additional documentation requirements in accordance with department of inspections and appeals' rules in 481—Chapter 72.

~~Clients are required~~ Failure to cooperate with the investigation division of the department of inspections and appeals in establishing eligibility factors, ~~including attending requested interviews.~~ Refusal to cooperate will not result in denial or cancellation of the household's food assistance SNAP benefits. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until cooperation occurs. The investigations division will gather as much information as possible without the client's cooperation. If further information is needed based on those findings, a request for information must be sent to the household.

ITEM 16. Amend rule 441—65.24(234) as follows:

441—65.24(234) Inclusion of foster children in household. Foster children living with foster parents will not be considered to be members of the ~~food assistance~~ SNAP household unless the household elects to include the foster children in the household. Foster care payments received for foster children not included in the household will be excluded from the income of the household receiving the payment.

ITEM 17. Amend rule 441—65.25(234) as follows:

441—65.25(234) Effective date of change. A ~~food assistance~~ SNAP change caused by, or related to, a public assistance grant change will have the same effective date as the public assistance change.

ITEM 18. Amend rule 441—65.27(234) as follows:

441—65.27(234) Voluntary quit or reduction in hours of work.

65.27(1) Applicant households. A member of an applicant household who without good cause voluntarily quits a job or reduces hours of work to less than 30 hours weekly within 30 days before the date the household applies for benefits shall be disqualified from participating in ~~the food assistance program~~ SNAP according to the provisions of paragraphs ~~65.28(12)“a”~~ 65.28(10)“a” and “b.”

65.27(2) Participating individuals. Participating individuals are subject to the same disqualification periods as provided under subrule ~~65.28(12)~~ 65.28(10) when the participating individuals voluntarily quit employment without good cause or voluntarily reduce hours of work to less than 30 hours per week, beginning with the month following the adverse notice period.

ITEM 19. Amend rule 441—65.28(234) as follows:

441—65.28(234) Work requirements.

65.28(1) Persons required to register. Each household member who is not exempt by subrule 65.28(2) shall be registered for employment at the time of application, and once every 12 months after initial registration, as a condition of eligibility. Registration is accomplished when the applicant signs an application form that contains a statement that all members in the household who are required to register for work are willing to register for work. This signature registers all members of that ~~food assistance~~ SNAP household ~~that who~~ are required to register.

65.28(2) to 65.28(6) No change.

65.28(7) Employment and training (E&T) program. The department shall design and operate an employment and training program with the purpose of providing SNAP participants opportunities to gain skills, training, work, or experience that will increase their ability to obtain regular employment and meet state or local workforce needs in accordance with the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq.

a. ~~The employment and training program for food assistance recipients is designed to assist~~ serve individuals who are:

(1) ~~Persons who have lost jobs or are underemployed and who need new skills in order to reenter the workplace because there are no jobs available for which the persons are trained~~ SNAP recipients or SNAP applicants.

(2) ~~Persons who have been out of the workforce for a period of time to regain licensure or certification in an area in which they are already trained~~ Not receiving FIP assistance or other cash assistance under Title IV such as Tribal Temporary Assistance for Needy Families (TANF) or Refugee Cash Assistance.

(3) ~~Persons who wish to upgrade their employment for better wages and benefits~~ Physically and mentally able to work or will be able to work within the next one year.

b. The department or its designee shall serve as the provider of employment and training services for ~~food assistance~~ SNAP recipients who wish to volunteer, except for those who are also recipients of ~~family investment program (FIP)~~ FIP benefits. Federal law prohibits FIP recipients from participating in any ~~food assistance~~ SNAP employment and training program.

c. The program offers a range of services from basic skills to advanced occupational training in order to accommodate persons with various levels of need and abilities. The department or its designee may require a ~~volunteer~~ potential E&T participant to engage in aptitude or vocational testing activities when deemed necessary to determine if a component is appropriate for improving ~~the volunteer’s opportunity for employment~~ employability.

d. The E&T program shall be designed in consultation with the state workforce development board, or with private employers or employer organizations if the department determines the latter approach is more effective and efficient.

(1) The E&T program shall be designed to include case management services and at least one or more, or a combination of employment and training components.

(2) An E&T plan shall be submitted to the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture annually in accordance with 7 CFR 273.7(c)(6) as amended to May 2, 2022, and shall be amended

as necessary within the required time frame prior to implementation.

65.28(8) *Employment and training components.* All E&T participants shall be provided case management services and at least one employment and training component in accordance with 7 CFR 237.7(e) as amended to May 2, 2022. Employment and training components include individual job search, job club, educational services, and job retention services. The department or its designee shall offer employment and training components subject to the availability of sufficient funding to cover program costs. Availability of components may vary among the areas where employment and training are offered shall be provided as approved in the most recent FNS-approved E&T state plan.

a. Individual job search. The individual job search shall be modeled after the family investment program's PROMISE JOBS individual job search component, as described at 441—subrule 93.6(2).

b. Job club. The employment and training job club shall be modeled after the family investment program's PROMISE JOBS job club, as described at 441—subrule 93.6(1).

c. Educational services. Educational services offered shall include general educational development (GED), adult basic education (ABE), English as a second language (ESL), and vocational training or educational opportunities limited to a two-year college degree. Educational services may include, but are not limited to, obtaining continuing education credit hours needed for a recipient to become recertified or to renew licensure for a profession.

d. Job retention services. Job retention services are intended to provide needed assistance with costs associated with beginning employment. Services are available only to persons who have received employment or training services under this subrule. Job retention services will be offered up to 90 days after the person secures employment. Services may include payment of:

(1) A transportation allowance of \$50 per month for round-trip travel of 50 miles or less or \$100 per month for round-trip travel of 51 miles or more.

(2) The cost of testing, certification, licensing, bonding, or legal services required for employment.

(3) The cost of equipment, tools, uniforms, or other special clothing required by the job.

(4) Other reasonable and necessary costs related to starting and retaining employment.

65.28(9) *Exemptions from employment and training programs.* Rescinded IAB 5/5/10, effective 4/15/10.

65.28(10) *Time spent in an employment and training program.* Rescinded IAB 5/5/10, effective 4/15/10.

65.28(11) 65.28(9) *Supportive services.* Program participants shall be provided with services necessary to complete an employment and training component to the extent allowable under federal regulations at 7 CFR 237.7(e)(4) as amended to January 1, 2009, and to the extent there is sufficient funding to cover the costs. The department shall provide participant reimbursements for expenses that are reasonable and necessary and directly related to participation in the E&T program. Supportive services shall be provided to the extent allowable under federal regulations at 7 CFR 237.7(d)(4) as amended to May 2, 2022, and as approved in the most recent FNS-approved E&T state plan and to the extent there is sufficient funding to cover the costs.

a. The department shall provide participants in employment and training components an allowance for costs of transportation or other costs reasonably necessary and directly related to participation in the components as follows:

(1) A transportation allowance of \$50 per month for round-trip travel of 50 miles or less or \$100 per month for round-trip travel of 51 miles or more.

(2) Reasonable and necessary costs of attending a specific course of study, such as tuition, books, fees, training manuals, tools, equipment, uniforms and special clothing, safety items, and other items that all students in the course are required to have.

b. The department may authorize the employment and training service provider to reimburse the provider of care directly for the costs of dependent care expenses that the employment and training service provider determines to be necessary for the participation of a person in the components.

(1) Reimbursement for dependent care shall be authorized only to the extent that another source is not available to provide the care at no cost to the employment and training program and shall be based on the child care assistance program reimbursement rates as described at 441—paragraph 170.4(7) “a.”

(2) The caretaker relative of a dependent in a family receiving FIP is not eligible for the dependent care reimbursement.

~~65.28(12)~~ **65.28(10)** *Failure to comply.* This subrule applies only to persons who are mandatory work registrants as required by subrule 65.28(1).

a. When a person has refused or failed without good cause to comply with the work registration requirements in this rule, that person shall be ineligible to participate in ~~the food assistance program~~ SNAP as follows:

(1) to (3) No change.

b. No change.

~~65.28(13)~~ **65.28(11)** *Noncompliance with comparable requirements.* The department shall treat a mandatory work registrant's failure to comply with an unemployment compensation requirement that is comparable to a ~~food assistance~~ SNAP work registration requirement as a failure to comply with the corresponding ~~food assistance~~ SNAP requirement. Disqualification procedures in subrule ~~65.28(12)~~ **65.28(10)** shall be followed.

~~65.28(14)~~ **65.28(12)** *Ending disqualification.* Following the end of the disqualification periods for noncompliance and as provided in rules 441—65.27(234) and 441—65.28(234), participation may resume.

a. to c. No change.

~~65.28(15)~~ **65.28(13)** *Suitable employment.* Employment shall be considered unsuitable if:

a. to e. No change.

~~65.28(16)~~ **65.28(14)** *Applicants for supplemental security income (SSI) and ~~food assistance~~ SNAP.* Household members who are jointly applying for SSI and for ~~food assistance~~ SNAP shall have the requirements for work registration waived until:

a. and b. No change.

~~65.28(17)~~ **65.28(15)** *Determining good cause.* The department or its designee shall determine whether good cause exists for failure to comply with the work registration, employment and training, and voluntary quit requirements in 441—Chapter 65. In determining whether good cause exists, the facts and circumstances shall be considered, including information submitted by the household member involved and the employer.

Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness of the registrant or of another household member requiring the presence of the registrant, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age 6 but are under age 12.

~~65.28(18)~~ **65.28(16)** *Measuring the three-year period for able-bodied nonexempt adults without dependents.* The three-year period as provided for in federal regulations at 7 CFR 273.24 as amended to ~~June 19, 2002~~ May 2, 2022, starts on December 1, 2002, and ends November 30, 2005. Subsequent three-year periods start with the month of December following the end of the previous period.

~~65.28(19)~~ **65.28(17)** *Mini-simplified ~~food assistance program~~ SNAP.*

a. *Scope.* The department operates a mini-simplified ~~food assistance program~~ SNAP for households that:

(1) Also receive benefits under ~~the family investment program~~ FIP; and

(2) Include a parent who is exempt from ~~food assistance~~ SNAP requirements for work registration due to caring for a child under the age of six.

b. *Effect.* The mini-simplified ~~food assistance program~~ SNAP allows replacement of certain ~~food assistance program~~ SNAP work rules with work rules of the ~~Temporary Assistance to Needy Families~~ TANF program. The value of the household's monthly ~~food assistance~~ SNAP benefits shall be combined with the household's monthly ~~family investment program~~ FIP benefit amount to determine the maximum number of hours the department can require a household member under ~~the family investment program~~ FIP to participate in an unpaid work activity that is subject to the federal Fair Labor Standards Act. Maximum required hours of participation for a month are determined by dividing the total amount of benefits by the state or federal minimum wage, whichever wage is higher.

ITEM 20. Amend rule 441—65.29(234) as follows:

441—65.29(234) Income.

65.29(1) *Self-employment income.* "Self-employment income" means the net profit from self-employment.

a. *Determination of net profit.* “Net profit from self-employment” means gross self-employment income less:

(1) No change.

(2) At the household’s request, actual allowable expenses as specified in federal regulations at 7 CFR 273.11 as amended to ~~January 1, 2014~~ May 2, 2022.

b. No change.

~~65.29(2) *Job Unemployment insurance benefits.* When the department of human services uses information provided by the department of workforce development to verify job insurance benefits, the benefits shall be considered received the second day after the date that the check was mailed. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. The department shall verify unemployment insurance benefits by using information supplied by the department of workforce development.~~

When the client notifies the agency that the amount of job unemployment insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A benefit adjustment shall be made when indicated. ~~The client must report the discrepancy before the benefit month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0486, or 470-0486(S), applicable to the benefit month, whichever is later, in order to receive corrected benefits.~~

~~65.29(3) *Exclusion of income from 2000 census employment.* Rescinded IAB 9/4/02, effective 10/1/02.~~

~~65.29(4) 65.29(3) *Interest income.* Prorate interest income by dividing the amount anticipated during the certification period by the number of months in the certification period.~~

~~65.29(5) 65.29(4) *Social security plans for achieving self-support (PASS).* Notwithstanding anything to the contrary in these rules or regulations, exclude income amounts necessary for fulfillment of a plan for achieving self-support (PASS) under Title XVI of the Social Security Act.~~

~~65.29(6) 65.29(5) *Student income.* In determining eligibility, the department shall exclude educational income, including any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans’ educational benefits, and the like excluded under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) - for the state’s modified adjusted gross income (MAGI)-related Medicaid program, subject to paragraph 65.29(5) “d.”~~

a. to c. No change.

d. Certain types of student income must be treated as follows, regardless of how they are considered for MAGI-related Medicaid.

(1) Wages may not be excluded.

(2) Federally funded work study is excluded.

(3) State-funded work study is excluded up to the amount earmarked for educational expenses.

~~65.29(7) *Elementary and high school student income.* Rescinded IAB 5/2/01, effective 6/1/01.~~

~~65.29(8) *Vendor payments.* Rescinded IAB 5/2/01, effective 6/1/01.~~

~~65.29(9) *HUD or FmHA utility reimbursement.* Rescinded IAB 5/2/01, effective 6/1/01.~~

~~65.29(10) 65.29(6) *Welfare reform and regular household honorarium income.* All moneys paid to a food assistance SNAP household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.~~

~~65.29(11) 65.29(7) *Income of ineligible aliens.* The department shall use all but a ~~pro-rata~~ pro rata share of ineligible aliens’ income and deductible expenses to determine eligibility and benefits of any remaining household members.~~

~~65.29(12) 65.29(8) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from nongovernment sources of unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to the household.~~

ITEM 21. Amend subrule 65.30(2) as follows:

~~65.30(2) *Resource limit.* The resource limit for a household that includes a person aged 60 or over or a~~

~~disabled person is \$3000. The resource limit for other households is \$2000. These amounts~~ limits follow federal regulations at 7 CFR 273.8(b) as amended to May 2, 2022, and are adjusted for inflation annually as directed by the Food and Nutrition Service of the U.S. Department of Agriculture.

ITEM 22. Amend subrule 65.30(3) as follows:

65.30(3) Resources of SSI and FIP household members. Notwithstanding anything to the contrary in these rules or in federal regulations, all resources of SSI or FIP recipients are excluded. For ~~food assistance~~ SNAP purposes, those members' resources, if identified, cannot be included when a household's total resources are calculated.

ITEM 23. Amend paragraph **65.30(4)“a”** as follows:

- a. The person receiving the EITC was participating in ~~the food assistance program~~ SNAP at the time the credits were received; and

ITEM 24. Amend subrule 65.30(5) as follows:

65.30(5) Student income. Exclude from resources any income excluded by subrule ~~65.29(6)~~ 65.29(5).

ITEM 25. Amend subrule 65.30(6) as follows:

65.30(6) Motor vehicles. One motor vehicle per household shall be excluded without regard to its value. The value of remaining motor vehicles shall be determined using federal regulations at 7 CFR 273.8, as amended to ~~April 29, 2003~~ May 2, 2022.

ITEM 26. Amend rule 441—65.31(234) as follows:

441—65.31(234) Homeless meal providers. When a local office of the department is notified that an establishment or shelter has applied to be able to accept ~~food assistance~~ SNAP benefits for homeless persons, staff shall obtain a written statement from the establishment or shelter. The statement must contain information on how often meals are served by the establishment or shelter, the approximate number of meals served per month, and a statement that the establishment or shelter does serve meals to homeless persons. This information must be dated and signed by a person in charge of the administration of the establishment or shelter and give the person's title or function with the establishment.

The establishment or shelter shall cooperate with agency staff in the determination of whether or not meals are served to the homeless.

ITEM 27. Amend rule 441—65.37(234) as follows:

441—65.37(234) Eligibility of noncitizens. The following groups of aliens who are lawfully residing in the United States and are otherwise eligible are eligible for ~~food assistance~~ SNAP benefits:

65.37(1) Aliens who are receiving benefits or assistance for blindness or disability as specified in 7 CFR 271.2, as amended to ~~April 6, 1994~~ May 2, 2022, regardless of their immigration date.

65.37(2) and **65.37(3)** No change.

65.37(4) Aliens aged 18 or under, regardless of their immigration date. The department shall exclude the income and resources of a sponsor when determining ~~food assistance~~ SNAP eligibility and benefits for an alien aged 18 or under.

ITEM 28. Amend rule 441—65.39(234) as follows:

441—65.39(234) Categorical eligibility.

65.39(1) Notwithstanding anything to the contrary in these rules or in federal regulations, a household in

which all members are recipients of a state or local general assistance (GA) program is subject to categorical eligibility provisions of ~~the food assistance program SNAP~~ provided that the state or local program:

- a. Has income limits at least as stringent as the ~~food assistance SNAP~~ gross income test; and
- b. No change.

65.39(2) Notwithstanding anything to the contrary in these rules or in federal regulations, a household is subject to categorical eligibility provisions of ~~the food assistance program SNAP~~ for any month in which the household is determined eligible for the Iowa promoting healthy marriage program pursuant to rule 441—47.2(234).

ITEM 29. Amend rule 441—65.46(234) as follows:

441—65.46(234) Disqualifications. Notwithstanding anything to the contrary in these rules, ~~food assistance program SNAP~~ violation disqualifications for persons who are not participating in ~~the food assistance program SNAP~~ shall be imposed in the same manner as program violation disqualifications are imposed for persons who are participating in ~~the food assistance program SNAP~~.

65.46(1) No change.

65.46(2) *Conviction on trafficking in ~~food assistance SNAP~~ benefits.* The penalty for any individual convicted of trafficking in ~~food assistance SNAP~~ benefits of \$500 or more shall be permanent disqualification.

65.46(3) *Receiving or attempting to receive multiple benefits.* An individual found to have made a fraudulent statement or representation with respect to identity or residency in order to receive multiple benefits shall be ineligible to participate in ~~the food assistance program SNAP~~ for a period of ten years.

~~**65.46(4)** *Fleeing felons and probation or parole violators.* Rescinded IAB 10/3/01, effective 10/1/01.~~

65.46(5) 65.46(4) *Conviction of trading firearms, ammunition or explosives for benefits.* The penalty for any individual convicted of trading firearms, ammunition or explosives for ~~food assistance SNAP~~ benefits shall be permanent disqualification.

ITEM 30. Amend rule 441—65.50(234) as follows:

441—65.50(234) No increase in benefits. When a household's means-tested federal, state, or local public assistance cash benefits are reduced because of a failure to perform an action required by the public assistance program, the department shall reduce the household's ~~food assistance SNAP~~ benefit allotment by 10 percent as provided for in federal regulations at 7 CFR 273.11(j), (k), and (l) as amended to ~~June 1, 2001~~ May 2, 2022, for the duration of the other program's penalty.

ITEM 31. Amend rule 441—65.51(234) as follows:

441—65.51(234) State income and eligibility verification system. The department shall maintain and use an income and eligibility verification system (IEVS) as specified in 7 CFR 272.8 as amended to ~~November 21, 2000~~ May 2, 2022.

ITEM 32. Amend rule 441—65.52(234) as follows:

441—65.52(234) Systematic alien verification for entitlements (SAVE) program. The department shall participate in the SAVE program established by the ~~U.S. Bureau of Citizenship and Immigration Service (BCIS)~~ U.S. Citizenship and Immigration Services (USCIS) as specified in 7 CFR 272.11 as amended to ~~November 21, 2000~~ May 2, 2022, in order to verify the validity of documents provided by aliens applying for ~~food assistance SNAP~~ benefits with the central data files maintained by ~~BCIS~~ USCIS.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Kari Lind and Gina Stevenson	Telephone Number 515-281-7000	Email Address klind@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 65 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 234.6 grants the Department the legal basis for making changes to this chapter of rules. Federal regulations 7CFR Part 273 governs SNAP administration.
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: May 20, 2022

Agency: Human Services
IAC citation: 441 IAC Chapter 65
Agency contact: Kari Lind and Gina Stevenson

Summary of the rule:

Chapter 65 (SNAP) was reviewed and updates were made to change the program name from Food Assistance (FA) to SNAP and to remove obsolete form names/numbers. The rules were updated with current requirements for verifying expenses, how the expenses are calculated, and how the agency acts on reported changes. We also removed specific dollar amounts of reporting requirements and deductions and replaced them with information about how the amount (deduction or reporting requirement) is determined. The E&T section was updated with current information about who is eligible to receive services and how those services are managed.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

The rules updated in this chapter have already been enacted in state policies and practice and therefore we do not anticipate a fiscal impact based on these rules updates.

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

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

Assumptions:

There is no fiscal impact to the state.

Describe how estimates were derived:

There are no potential costs estimated for this rule.

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>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact to the state.

Fiscal impact to persons affected by the rule:

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

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

There is no fiscal impact.

Agency representative preparing estimate: Minu Maviladath

JH 05/20/2022

Telephone number:

281-3720

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to the emergency food assistance program.

The Human Services Department hereby amends Chapter 66, "Emergency Food Assistance Program," 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 66 is amended as part of the Department's five-year rules review. As part of the review, the name of the Division of Financial, Health, and Work Supports has been updated throughout the rules to the Division of Financial, Food, and Work Supports. Additional information has been provided on The Emergency Food Assistance Program (TEFAP) as authorized by the Emergency Food Assistance Act of 1983 and amended through Public Law 107-249, October 23, 2002. The chapter is updated to provide additional guidance to consumers on how eligibility is determined for TEFAP and how claims are established against TEFAP entities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as ARC 6410C.

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 September 14, 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 December 1, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED AND FILED RULES

The following rules are adopted:

ITEM 1. Amend **441—Chapter 66**, preamble, as follows:

PREAMBLE

This chapter sets forth the rules governing ~~the emergency food assistance program~~ The Emergency Food Assistance Program (TEFAP) in Iowa. The Iowa department of human services has been designated by the governor as the agency responsible for administration of the emergency food assistance program. The department is responsible for receiving, storing, distributing, and accounting for foods donated through the U.S. Department of Agriculture (USDA). The department contracts with food banks that provide services in the state for TEFAP.

For information about ~~the emergency food assistance program~~ TEFAP and other food distribution programs, contact the Iowa Department of Human Services, Division of Financial, ~~Health Food~~, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114; telephone ~~(515)281-5410~~ (515)443-2736. Clarifications of federal policy may be obtained by referencing 7 CFR Part 251 and 7 CFR Part 250, when applicable.

ITEM 2. Amend rule **441—66.1(234)**, definitions of “Eligible recipient agency” and “Food distribution program,” as follows:

“*Eligible recipient agency*” means a charitable institution that has entered into a contract with the department for the receipt of commodities or administrative funds or has entered into an agreement with another eligible recipient agency that has signed such a contract with the department. Eligible recipient agencies may include food banks, food pantries, soup kitchens, hunger relief centers, hospitals, retirement homes, Nutrition Services Incentive Programs that operate congregate meals sites or provide home-delivered meals (to the extent that they serve predominately needy persons), summer camps for children or child nutrition programs providing food service, and disaster relief programs. An eligible recipient agency shall meet federal requirements as described at 7 CFR 251.3(d) and 7 CFR 251.5(a), as ~~published on January 1, 2005~~ amended to May 2, 2022.

“*Food distribution program*” means the office in the department’s division of financial, ~~health food~~, and work supports that is responsible for administering the FNS food distribution programs.

ITEM 3. Amend rule **441—66.2(234)** as follows:

441—66.2(234) Application to be a TEFAP contractor or subcontractor. An organization that seeks to be a TEFAP contractor shall submit a written request to the Iowa Department of Human Services, Division of Financial, ~~Health Food~~, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The written request shall contain sufficient information about the applicant to enable the department to determine whether the applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234). An organization that seeks to be a TEFAP subcontractor shall submit a written request to the food bank contracted with the department to administer TEFAP in the organization’s service area. The written request shall contain sufficient information about the applicant to enable the food bank to determine whether the applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234).

66.2(1) Determination of eligibility. Within ten days of receipt of an applicant’s written request to be a TEFAP contractor, the program manager shall notify the applicant in writing ~~of that the department’s decision~~ department has received the applicant’s request. The department shall approve an applicant’s request to be a TEFAP contractor only when ~~both of~~ the following are true:

- a. The applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234).
- b. Priority is given to current food banks that service contiguous counties and food banks that are a Feeding America partner.

~~b-~~ c. A contract with the applicant, in addition to those eligible recipient agencies currently under contract with the department, will allow the department to distribute commodities in Iowa to needy individuals or households in the most cost-effective and comprehensive manner possible.

66.2(2) Administrative review of denial of eligibility.

a. When an applicant's request to be a TEFAP contractor is denied by the program manager, the applicant may request an administrative review by sending a letter requesting review of the denial to the administrator of the division of financial, ~~health~~ food, and work supports. The applicant shall send the letter within five days of receipt of the letter of denial.

~~a-~~ (1) When more information is needed, the administrator shall request the information within five days of receipt of the request for review.

~~b-~~ (2) The administrator shall review the denial and shall issue a decision within ten days of the request for review or of the receipt of additional information, whichever is later.

~~e-~~ (3) When the division administrator reverses the denial, the applicant shall be given the opportunity to negotiate a TEFAP contract.

b. When an applicant's request to be a TEFAP subcontractor is denied by the food bank, the applicant may request an administrative review by sending a letter requesting review of the denial to the food distribution program manager. The applicant shall send the letter within five days of receipt of the letter of denial.

(1) When more information is needed, the program manager shall request the information within five days of receipt of the request for review.

(2) The program manager shall review the denial and shall issue a decision within ten days of the request for review or of the receipt of additional information, whichever is later.

(3) When the program manager reverses the denial, the applicant shall be given the opportunity to negotiate a TEFAP subcontract with the applicable food bank.

ITEM 4. Amend rule 441—66.4(234) as follows:

441—66.4(234) Distribution. The department is the agency responsible for food distribution in Iowa under TEFAP. TEFAP commodities and funds are allocated and delivered to Iowa by the USDA according to the USDA formula as defined at 7 CFR 251.3(h), as ~~published on January 1, 2005~~ amended to May 2, 2022.

66.4(1) No change.

66.4(2) Allocation to contractors. The department shall make commodities available for distribution to contractors in accordance with the provisions of 7 CFR Part 251, as ~~published on January 1, 2005~~ amended to May 2, 2022, and of 7 CFR Part 250, as ~~published on January 1, 2005~~ amended to May 2, 2022, when the provisions of Part 250 are not inconsistent with 7 CFR Part 251.

a. No change.

b. Basis for allocation. The allocation of commodities to each contractor is based on the percentage of the ~~Iowa residents with income at or below 185 percent of the federal poverty level~~ who live in the area that each contractor serves based on the formula identified in 7 CFR 251.3(h), as amended to May 2, 2022, for entitlement. Bonus items will be allocated using this same formula, unless agreed upon by the eligible recipient agencies with direct contracts with the department.

66.4(3) No change.

66.4(4) Special provisions for situations of disaster and distress. The department reserves the right to distribute commodities in situations of disaster, emergency, or distress to any affected area in Iowa. ~~In these situations, the department shall use commodities in the central warehouse first and shall then, if necessary, use commodities from the inventory of each contractor.~~ Federal regulations at 7 CFR 250.43 and 7 CFR 250.44, as ~~published on January 1, 2005~~ amended to May 2, 2022, shall apply in these situations.

ITEM 5. Amend paragraph **66.5(3)“c”** as follows:

c. Income exclusions. When calculating total household income for this program, all income shall be excluded that is specifically excluded for food assistance by federal statute, especially those sources listed in federal regulations at 7 CFR 273.9(c)(10) as ~~published on January 1, 2005~~ amended to May 2, 2022.

ITEM 6. Amend rule 441—66.6(234), introductory paragraph, as follows:

441—66.6(234) Reimbursement for allowable costs. To the extent that funds are available for payment, the department shall pay allowable costs to contractors as reimbursement for expenses attributable to the program. TEFAP payments by the department are subject to federal regulations at 7 CFR Part 251, as ~~published on January 1, 2005~~ amended to May 2, 2022, especially 7 CFR 251.8(e).

ITEM 7. Amend subrule 66.6(2) as follows:

66.6(2) Reimbursement request. Contractors must complete ~~Form 470-0298, Federal Emergency Assistance Food Distribution Report/Reimbursement Request~~, the form provided by the department in order to file for reimbursement.

ITEM 8. Amend subrule 66.6(3) as follows:

66.6(3) Rate of reimbursement. The department shall reimburse each contractor at ~~a per gross pound rate to be determined by the department and included in the agreement with the contractor~~ the same rate as commodity allocations are determined pursuant to 7 CFR 251.3(h) as amended to May 2, 2022. In the event the department cannot maintain this level of reimbursement throughout the term of the contract, the reimbursement shall be adjusted based on the available funds remaining from the USDA grant.

ITEM 9. Amend subrule 66.7(3) as follows:

66.7(3) Determination of fault and claim procedures. The program manager shall investigate the commodity loss and determine who is at fault as described in FNS Instruction 410-1, Claims for Losses of Donated Foods and Related Administrative Losses — Procedures for the State Distributing Agency, published on December 29, 2010.

a. ~~Losses exceeding \$100~~ Value of loss does not exceed \$500. The department shall not initiate a claim action against an entity that has been determined to be at fault if the value of the accumulated commodity loss ~~exceeds \$100~~ does not exceed \$500. EXCEPTION: If there is evidence of violation of a federal or state statute, procedures in subrule 66.7(7) shall apply.

b. ~~Losses exceeding \$2,500~~ \$500. When the department believes that a claim exists against an entity and the value of the lost commodities ~~exceeds \$2,500~~ exceeds \$500, the department shall immediately refer the claim determination to the FNS regional office. When the department receives notice from FNS that a claim exists, the department shall immediately initiate the claim procedure.

c. and d. No change.

e. Late charge. Interest shall be assessed against an entity beginning on the thirty-first day following the date of the first demand letter, unless an extension has been granted. Interest shall be assessed at the rate determined by the U.S. Treasury Department at the beginning of each fiscal quarter.

ITEM 10. Amend subrule 66.7(5) as follows:

66.7(5) Administrative review of claim. An entity may request an administrative review of a claim by sending a letter requesting review of the claim and a copy of a demand letter to the administrator of the division of financial, ~~health~~ food, and work supports within 20 days of receipt of its first demand letter.

a. and b. No change.

ITEM 11. Amend rule 441—66.8(234), introductory paragraph, as follows:

441—66.8(234) State monitoring. The department shall annually review at least 25 percent of the TEFAP contractors and 10 percent of other eligible recipient agencies receiving commodities as subcontractors or 20 agencies, whichever is fewer. The department ~~may~~ shall not contract with another entity to carry out these activities.

ITEM 12. Adopt the following new paragraph **66.8(1)“h”**:
h. Civil rights.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Leslie Van Der Molen	Telephone Number 515-242-5454	Email Address lvander3@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 66 was reviewed as part of the Department's five-year rules review.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Code of Iowa chapter 234.6 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: April 26, 2022

Agency: Human Services
IAC citation: 441 IAC 66
Agency contact: Leslie Van Der Molen

Summary of the rule:

Chapter 66 (TEFAP) has been updated to explain the process of becoming a TEFAP subcontractor, to update program names, and to remove obsolete form numbers. Also, the chapter has been updated to provide more general guidance on how clients are determined eligible for TEFAP and how claims are established against TEFAP entities.

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 includes updated to program names, remove obsolete forms and to provide general guidance for determining eligibility for TEFAP as part of the Five Year Rule Review Project.
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:

There is no fiscal impact to the state.

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 to the state.

Fiscal impact to persons affected by the rule:

There is no fiscal impact 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: Minu Maviladath

JH 06/08/2022

Telephone number: 515-281-3720

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to documentation requirements for providers.

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 Department is amending the documentation requirements for narrative service documentation for each service encounter and each shift for 24-hour services. This rule making removes this administrative burden related to delivering services.

These amendments clarify that Medicaid providers must include all records and documentation to substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. In addition, documentation requirements must meet the professional standards pertaining to the service provided.

This rule making will positively impact direct service providers by removing the requirement for narrative service documentation for each service encounter or shift and replacing it with the requirement to provide a narrative only when any incident or illness or unusual or atypical event occurs during the service encounter.

This rule making will provide immediate relief to providers struggling to recruit and retain direct care staff. Providers have requested the amendments in response to the direct care workforce crisis.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 27, 2022, as ARC 6419C.

The Department received 13 comments and questions from 12 respondents on the proposed rules. Six respondents commented that they support the proposed changes.

One respondent commented on Item 1. 79.3(2)"c" (3) Service Documentation.

Comment: Respondent has concerns in Item 1 that the proposed language, "the provider may document the services in any format so long as the documentation adequately substantiates the medical necessity and that the services were rendered" is broad and vague, and could leave too much room for interpretation.

State's Response: This language is consistent with the requirement in the Iowa Medicaid Provider Agreement and Federal Regulation 42 CFR 431.107(b)(1)(2) and ensures that Iowa Medicaid documentation requirements are no more than are required to substantiate the medical necessity of the services being provided. Providers must also meet the requirements of 79.3(2)"d" to include all records and documentation that substantiate the services provided and meet the professional standards pertaining to the service provided. The proposed rule will not be changed in this area.

Five Respondents commented on Item 1. 79.3(2)"c" (3) Service Documentation 6. Mileage Logs, which states: The name, date, purpose of the trip, and total miles for transportation provided as part of the service.

Respondents were concerned that this requirement was an additional administrative burden to include

this information in each service record, especially for providers who may provide transportation to many destinations or members in a given day. Comments were received that there would be added focus on tracking this information instead of focusing on the consumer and the reason for the trip. Commenters asked how this would be handled if more than one person served is being transported at one time. A commenter asked if this information needed to be kept in the individual case record or kept on a log separate from the member's individual records.

State's Response: This requirement is applicable to all providers who provide transportation as a service or that provide transportation as a component of the service and is not a new requirement.

Mileage Logs are currently required HCBS service delivery under 441-79.1(3)(2) "d" (35). Typically, HCBS providers that provide transportation as a component maintain a log in the vehicle used to transport members, logging the date and time of the trip, the type of trip, names of the member's transported, the origination location and destination location and total miles. When staff are using their own vehicle to transport the agency should have a policy and procedure to address how that transportation is logged. The mileage logs are utilized to substantiate the services provided and to validate that the member is being transported during the service when transportation is a component of the service. No changes will be made to this rule at this time.

Comment:

If the client administers and dispenses their meds independently but we observe and correct them, does that require completing a MAR? We see some of our individuals only once or twice per week and they are accurate most of the time.

State's Response:

IAC 441-77.37(5) requires if the provider stores, handles, prescribes, dispenses, or administers prescription or over-the-counter medications, the provider shall develop procedures for the storage, handling, prescribing, dispensing or administration of medication. If the provider does not store, handle, prescribe, dispense, or administer prescription or over-the-counter medications as a component of the service being delivered then a MAR is not required. No changes will be made to this rule at this time.

Three respondents commented on Item 1. 79.3(2)"c" (3) Service Documentation 7. Narrative Description of any incidents or illnesses or unusual or atypical occurrences that occur during service provision.

Commenters requested additional clarification on unusual or atypical occurrences.

State's Response:

The narrative description in the service note for any minor or major incidents may simply reference the incident and that a minor or major incident report was completed, no further narrative description on the service note would be required. As an example of the service entry for a major incident report might say, "Jane tripped and fell walking up the driveway and was taken to the ER. A major incident report was completed."

Unusual or atypical occurrences that require a narrative note are those events that are irregular or unusual for the member and include but are not limited to: atypical behavior, a major or minor incident, illness that is treated or untreated, vacationing with family, starting a new job or attending a new day program. No changes will be made to the rule at this time.

One respondent provided a general comment about narrative documentation.

Comment:

During a recent meeting a question was asked about the CMS narrative documentation requirement. It appeared that some version of narrative documentation may still be required to meet federal guidelines. If that is the case, we would like to recommend that all narrative documentation be included in the goals and the general supports authorized during a shift be documented as a checklist (in addition to incidents, illnesses, and atypical occurrences).

State's Response:

The proposed change to 79.3(2)'C' (3) allows for services to be documented in any format that the provider chooses, so long as the documentation substantiates the medical necessity and that the services were rendered. No changes will be made to the rule at this time.

One respondent asked a general question regarding the documentation requirements.**Comment:**

Will the MCOs follow these same Chapter 79 proposed rules for documentation, or can they still implement more stringent guidelines that providers will need to comply with?

State's Response:

The MCOs may impose additional documentation guidelines within their contracts with network providers.

No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on September 16, 2022, because the Department is waiving the effective date of these amendments as these rules confer a benefit to providers by easing the documentation requirements for narrative service encounters and each shift for 24-hour services. This will result in providing relief to providers struggling to recruit and retain direct care staff and assist with the direct care workforce shortage without affecting public safety.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 14, 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, the impact on jobs has can't be determined at this time.

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 September 16, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED AND FILED RULES

The following rules are adopted:

ITEM 1. Amend subparagraph **79.3(2)“c”(3)** as follows:

(3) Service documentation. The record for each service provided shall include information necessary to substantiate that the service was provided. ~~Service documentation shall include narrative documentation and may also include documentation in checkbox format.~~ Unless otherwise indicated below, the provider may document the services in any format so long as the documentation adequately substantiates the medical necessity and that the services were rendered. The service record shall include the following:

1. to 3. No change.

4. The location where the service was provided if otherwise required on the billing form or in 441—paragraph 77.30(5)“c” or “d,”441—paragraph 77.33(6)“d,”441—paragraph 77.34(5)“d,”441—paragraph 77.37(15)“d,”441—paragraph 77.39(13)“e,”441—paragraph 77.39(14)“d,” ~~or~~ 441—paragraph 77.46(5)“i,” or 441—subparagraph 78.9(10)“a”(1).

5. Medication administration record (MAR). The name, dosage, and route of administration of any medication dispensed or administered as part of the service.

6. Mileage log. The name, date, purpose of the trip, and total miles for transportation provided as part of the service.

7. Narrative description of any incidents or illnesses or unusual or atypical occurrences that occur during service provision.

~~6.~~ 8. Any supplies dispensed as part of the service.

~~7.~~ 9. The first and last name and professional credentials, if any, of the person providing the service.

~~8.~~ 10. The signature of the person providing the service, or the initials of the person providing the service if a signature log indicates the person’s identity.

~~9.~~ 11. For 24-hour care, documentation for every shift of the services provided, ~~the member’s response to the services provided, and the person who provided the services.~~

ITEM 2. Amend paragraph **79.3(2)“d,”** introductory paragraph, as follows:

d. Basis for service requirements for specific services. The health care provider should include all records and documentation that substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. Additionally, documentation requirements must meet the professional standards pertaining to the service provided. The medical record for the following services must include, but is not limited to, the items specified below (unless the listed item is not routinely received or created in connection with the particular service or activity and is not required to document the reason for performing the service or activity, its medical necessity, or the level of care associated with it). ~~These items will be specified on Form 470-4479, Documentation Checklist, when the Iowa Medicaid enterprise program integrity unit requests providers to submit records for review. (See paragraph 79.4(2)“b.”)~~



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 purpose of the rulemaking is to remove administrative burden related to narrative service documentation and to clarify that Medicaid providers must include all records and documentation that substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. Additionally, documentation requirements must meet the professional standards pertaining to service(s) provided.

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

Iowa Code 249A

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

This rule will positively impact direct service providers by removing the requirement for narrative service documentation for each service encounter or shift and replacing it with the requirement to provide a narrative only when an incident, illness, unusual or atypical events occurs during the service encounter. The proposed rule will provide immediate relief to providers struggling to recruit and retain direct care workers.

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?

Medicaid service providers will respond positively to the reduction in administrative burden related to service documentation.

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 removal of the requirement for narrative service documentation will positively impact service providers by enabling those providers to employ individuals for whom English is their second language and those who have poor or limited writing skills. The proposed changes will also decrease the amount of time needed to document service delivery and increase the amount of time focused on direct service delivery.



Administrative Rule Fiscal Impact Statement

Date: June 20, 2022

Agency: Human Services

IAC citation: 441 IAC 79.3

Agency contact: LeAnn Moskowitz

Summary of the rule:

The purpose of the rulemaking is to remove administrative burden related to service documentation.

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 the rulemaking is to remove administrative burden related to narrative service documentation. This rule also clarifies that Medicaid providers must include all records and documentation that substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. These rules clarify documentation standards and do not impact the cost of services, 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</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 expected fiscal impact to persons affected by the rule.

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

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

Agency representative preparing estimate: Soraya Miller

JH 06/23/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to debts due from transfers of assets.

The Human Services Department hereby amends Chapter 89, "Debts Due From Transfers Of Assets," 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 chapter 249F.

Purpose and Summary

Chapter 89 was reviewed as part of the Department's five-year rules review. The update reflects the operative effective date for transfers that took place between July 1, 1993, and December 31, 2018. This portion of the program was suspended effective January 1, 2019, and there have not been any referrals to recover resources from anyone who received the transferred resources since then. The amendment to the chapter's implementation sentence removes the Iowa Acts reference because the Act has been codified.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as ARC 6409C.

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 September 14, 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 December 1, 2022.

The following rule-making action is adopted:

ITEM 1. Amend paragraph 89.2(1)“a” as follows:

- a.* The transfer is made while the transferor is receiving medical assistance or within five years prior to application for medical assistance and ~~on or after~~ between July 1, 1993, and December 31, 2018.

ITEM 2. Amend 441—Chapter 89, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 249F ~~as amended by 2000 Iowa Acts, chapter 1060.~~



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Karen Jones	Telephone Number N/A	Email Address kjones2@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 89 was reviewed as part of the Department’s five-year rules review project. The updates reflect operative effective dates.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 249A.4 and 249F
3. Describe who this rulemaking will positively or adversely impact.
We don’t anticipate any positive or adverse impact.
4. Does this rule contain a waiver provision? If not, why?
No. Waiver can be requested under the Department’s general rule on exceptions at Iowa Admin. Code r. 441-1.8.
5. What are the likely areas of public comment?
There are no areas of public comment 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.)
There are no anticipated effects on private-sector jobs and employment opportunities in Iowa as a result of this rule.



Administrative Rule Fiscal Impact Statement

Date: April 26, 2022

Agency: Human Services

IAC citation: 441 IAC 89

Agency contact: Karen Jones

Summary of the rule:

Chapter 89 was reviewed as part of the Department's five-year rules review project. The updates reflect operative effective dates.

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 updates the transfer operative effective dates for debts due from transfer of assets. This program was suspended effective January 1, 2019 and any referrals to recover resources from the person who received the transferred resources to DIA since that date have not occurred. There is no anticipated fiscal impact to the state.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	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		
 <input checked="" type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons:		
 <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: There is no fiscal impact 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 to persons affected by the rule.		
Agency representative preparing estimate:	Soraya Miller	JH 06/08/2022
Telephone number:	515-281-6017	

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to Medicare drug subsidy.

The Human Services Department hereby amends Chapter 91, "Medicare Drug Subsidy," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 249A and Iowa Code section 17A.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249A and Iowa Code section 17A.7.

Purpose and Summary

Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, created a prescription drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources. Both the federal Social Security Administration and the state Medicaid agency are to accept and adjudicate subsidy applications. Chapter 91 implements the procedures for the Department to process subsidy applications that are received by the Department.

This rule making removes forms that have become obsolete, updates the rules, and provides correct rule references as part of the Department's five-year rule review process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as ARC 6411C.

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 September 14, 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 December 1, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED AND FILED RULES

The following rules are adopted:

ITEM 1. Amend rule **441—91.1(249A)**, definitions of “Application,” “Authorized representative” and “Responsible person,” as follows:

“*Application*” or “*Medicare drug subsidy application*” means the federal Social Security Administration’s Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, ~~accompanied by the department’s Form 470-4159, Authorization for Department to Process.~~

“*Authorized representative*” means a person representing an applicant or recipient as described in ~~441—paragraph 76.1(7)“b.”~~ 441—subrule 76.9(2).

“*Responsible person*” means a person acting on an applicant’s or recipient’s behalf as described at ~~441—paragraph 76.1(7)“a.”~~ 441—subrule 76.9(1).

ITEM 2. Amend paragraph **91.2(2)“a”** as follows:

a. An identifiable application is an application that contains:

(1) The legible name and address of the applicant; and

(2) The signature of the applicant, a responsible person, or an authorized representative on ~~both Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, and Form 470-4159, Authorization for Department to Process.~~

ITEM 3. Amend paragraph **91.3(2)“a”** as follows:

a. The applicant or recipient shall have ~~five~~ ten working days to supply the information or verification requested by the department. The local office may extend the deadline for a reasonable period when the applicant or recipient is making every effort to secure the required information or verification from a third party but has been unable to do so.

ITEM 4. Amend subrule 91.6(2) as follows:

91.6(2) *Timely report.* A report shall be considered timely when received in the local office within ten days from the date the change is known to a recipient ~~and within five days from the date the change is known to an~~ or applicant.

ITEM 5. Amend subrule 91.7(1) as follows:

91.7(1) *Application requested.* When requested to do so by the department, the recipient shall complete the Medicare drug subsidy application as part of the reinvestigation process. The application shall be completed within ~~five~~ ten working days from the date a written request is issued. Failure to complete the application shall be a basis for cancellation or reduction of the subsidy.

ITEM 6. Amend subrule 91.7(2), introductory paragraph, as follows:

91.7(2) *Additional information requested.* The recipient shall supply additional information needed to establish eligibility or level of subsidy within ~~five~~ ten working days from the date a written request is issued.



Iowa Department of Human Services
Information on Proposed Rules

Table with 3 columns: Name of Program Specialist (Karen Jones), Telephone Number (N/A), Email Address (kjones2@dhs.state.ia.us)

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

Public Law 108-173, the Medicare Modernization Act of 2003, created a prescription drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources.

These rule updates are being made to remove forms that have been obsoleted, update the rules, and provide correct rule references as part of the Five Year Rule Review Project.

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

Iowa Code 17A.7, Iowa Code 249A, and Public Law 108-173.

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

We don't anticipate any positive or adverse impact.

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

No. A prescription drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources was created by the Medicare Modernization Act of 2003.

5. What are the likely areas of public comment?

There are no areas of public comment or controversy 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.)

There are no anticipated effects on private-sector jobs and employment opportunities in Iowa as a result of this rule.



Administrative Rule Fiscal Impact Statement

Date: April 26, 2022

Agency: Human Services

IAC citation: 441 IAC 91

Agency contact: Karen Jones

Summary of the rule:

Public Law 108-173, the Medicare Modernization Act of 2003, created a prescription drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources. Both the federal Social Security Administration and the state Medicaid agency are to accept and adjudicate subsidy applications. 441 IAC 91 implements the procedures for the Department to process subsidy applications that are received by the Department.

These rule updates are being made to remove forms that are obsolete, update the rules, and provide correct rule references as part of the Five Year Rule 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.](#)

This rule includes updates to remove forms that are obsolete, updates the number of days to supply requested information, and provides correct rule references as part of the Five Year Rule Review Project. 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	_____	_____

- 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 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 06/06/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to Child Care Centers.

The Human Services Department hereby amends Chapter 109, "Child Care Centers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237A.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.5.

Purpose and Summary

This rule making allows an increased number of children to be served per staff person in the two-year-old and three-year-old age categories in licensed child care centers. The amendments modify requirements when combining age groups and also allow a staff person under the age of 18 to provide care to school-aged children without being under the direct care of an adult. Clarification is added that a person under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children. This rule making is based on 2022 Iowa Acts, House File 2198.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as ARC 6406C.

One organization provided comments. The commenter stated his organization had concerns on the noticed updates for rule 109.8(2)d that required adult supervision be present in every room with children, based on the legislation that was passed this session in House File 2198. The department agrees and removed the requirement that an adult be present in every room. One change was made to rule 109.8(2)d based on the comment received. The word adult was removed from the rule.

One update was made to the preamble to reflect this rule making was a result of HF 2198. After discussions with members of the Administrative Rules Review Committee the jobs impact statement was also revised to state that the Department was unable to determine the jobs impact of this rule change at this time. The Department will work with child care providers to review the jobs impact ongoing.

This rule making was adopted by the Council on Human Services on September 14, 2022, for an effective date of October 1, 2022.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a),(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 1, 2022, because A portion of the bill is effective upon enactment for the requirement of reduced ratios of staff to children.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 14, 2022.

Jobs Impact

After analysis and review of this rule making, we are unable to determine the impact on jobs at this time.

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 October 1, 2022.

The following rule-making action is adopted:

Please see attached.

Adopted and Filed Rules

The following rules are adopted:

ITEM 1. Amend subrule 109.8(1) as follows:

109.8(1) Staff requirements. Persons counted as part of the staff ratio shall meet the following requirements:

~~a.~~ Be at least 16 years of age. If less than 18 years of age, the staff shall be under the direct supervision of an adult. However, a staff person under the age of 18 may not be the sole provider on the premises of a child care facility.

~~b.~~ Be involved with children in programming activities.

~~c.~~ At least one staff person on duty in the center and outdoor play area when children are present and present on field trips shall be over the age of 18 and hold current certification in first aid and cardiopulmonary resuscitation (CPR) as required in rule 441—109.7(237A).

~~d.~~ Staff persons under the age of 18 shall not provide transportation to children in care.

~~e.~~ If staff persons under the age of 18 are providing child care services without an adult, they shall only provide care to school-aged children.

ITEM 2. Amend subrule 109.8(2) as follows:

109.8(2) Staff ratio. The staff-to-child ratio shall be as follows:

<u>Age of children</u>	<u>Minimum ratio of staff to children</u>
Two weeks to two years	One to every four children
Two years	One to every six <u>seven</u> children
Three years	One to every eight <u>ten</u> children
Four years	One to every twelve children
Five years to ten years	One to every fifteen children
Ten years and over	One to every twenty children

~~a.~~ Combinations of age groupings for children four years of age and older may be allowed and may have staff ratio determined on the age of the majority of the children in the group. If children three years of age and under are included in the combined age group, the staff ratio for children aged three and under shall be maintained for these children. Preschools shall have staff ratios determined on the age of the majority of the children, including children who are three years of age.

~~b.~~ Combinations of age groupings for children between three years of age and five years of age may be allowed with a ratio of one staff member to every 12 children.

~~b- c.~~ If a child between the ages of 18 and 24 months is placed outside the infant area, as defined at subrule 109.11(2), Children between 18 months and three years of age may be combined, if appropriate to the developmental needs of the child. If a child under two years is in a combined age group, the staff ratio of ~~4~~ one to 4 seven shall be maintained as would otherwise be required for the group until the child reaches the age of ~~two~~. Otherwise, staff ratio may be determined by the age of the majority of the children in the group.

~~e- d.~~ Every child-occupied program room shall have adult supervision present in the room. Brief absences of a staff member may be allowed for no more than five minutes when another staff person is present.

~~d- e.~~ During nap time, at least one staff shall be present in every room where children are resting. Staff ratio

requirements may be reduced to one staff per room where children are resting ~~for a period of time not to exceed one hour provided and~~ and staff ratio coverage can be maintained in the center. The staff ratio shall always be maintained ~~in the infant area~~ for children under two years of age.

~~e. The minimum staff ratio shall be maintained at mealtimes and for any outdoor activities at the center.~~

f. When ~~seven or more~~ than eight children ~~over the age of three~~ are present on the licensed premises or are being transported in one vehicle, at least two adult staff shall be present. Only one adult is required when a center is transporting children in a center-owned vehicle with parent authorization for the sole purpose of transporting children to and from school. When a center contracts with another entity to provide transportation other than for the purpose of transporting school-age children to or from school, at least one adult staff in addition to the driver shall be present if at least ~~seven~~ eight children provided care by the center are transported.

g. Any child care center-sponsored program activity involving five or more children conducted away from the licensed facility shall provide a minimum of one additional staff over the required staff ratio for the protection of the children.

h. For a period of two hours or less at the beginning ~~or~~ and end of the center's hours of operation, one staff may care for ~~six~~ seven or fewer children, provided no more than ~~two~~ four of the children are under the age of two years and there are no more than ~~six~~ seven children in the center.

i. For centers or preschools serving school-age children, the ratio for school-age children may be exceeded for a period of no more than four hours during a day when school classes start late or are dismissed early or canceled due to inclement weather or structural damage provided the children are already enrolled at the center and the center does not exceed the licensed capacity.

ITEM 3. Amend subrule 109.11(2) as follows:

109.11(2) *Infants' area.* An area shall be provided properly and safely equipped for the use of infants and free from the intrusion of children two years of age and older. ~~Children over 18 months of age may be grouped outside this area if appropriate to the developmental needs of the child.~~ Upon the recommendation of a child's physician or the area education agency serving the child, a child who is two years of age or older with a disability that results in significant developmental delays in physical and cognitive functioning who does not pose a threat to the safety of the infants may, if appropriate and for a limited time approved by the department, remain in the infant area.



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

These rule changes allow an increased number of children to be served per staff person in the 2 year old and 3 year old age categories in licensed child care centers. It modifies requirements of combining age groups and also allows a staff person under the age of 18 to provide care to school aged children, without being under the direct supervision of an adult

DHS does clarify that persons under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children.

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

237A. HF2198 directs DHS to make changes to ratio for 2 and 3 year old children as well as modify staffing requirements

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

These rules will allow an increased number of children to be served per staff person in licensed child care centers, positively impacting the number of people that can return to work if child care access is a barrier to their employment.

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 for modifying ratios to be more aligned with national recommendations may be opposed to rule changes as there are concerns about safety and supervision. Child care centers struggling with staffing and maintaining ratios may agree with the recommended changes.

Parents may not be comfortable with their children being supervised by a minor without an adult present. This bill has had a large number of media inquiries and reports.

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

Yes. Child Care is a known issue to workforce shortages as many parents cite a lack of access to child care as a workforce barrier. With access to child care due to increasing ratio allowances and modifying staffing, this may improve access to child care for families.



Administrative Rule Fiscal Impact Statement

Date: May 17, 2022

Agency: Human Services

IAC citation: 441 IAC 109

Agency contact: Ryan Page

Summary of the rule:

These rule changes allow an increased number of children to be served per staff person in the 2 year old and 3 year old age categories in licensed child care centers. It modifies requirements of combining age groups and also allows a staff person under the age of 18 to provide care to school aged children, without being under the direct supervision of an adult
DHS does clarify that persons under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children.

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 fiscal impact is expected with this action as it does not change overall capacity limits at CCA centers. Changes in staff ratios to allow more children to be cared for per staff member could potentially increase caseloads, but any potential increases are expected to be minor and incorporated within the caseload estimates already assumed in the budget. Furthermore, any potential impacts are difficult to quantify in the absence of specific provider data.

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	<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:

HF2198 directs DHS to make changes to ratio for 2 and 3 year old children as well as modify staffing requirements

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:

These rules will allow an increased number of children to be served per staff person in licensed child care centers, positively impacting the number of people that can return to work if child care access is a barrier to their employment.

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 05/20/2022

Telephone number: 515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to child care services

The Human Services Department hereby amends Chapter 170, "Child Care Services," 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 237A.13.

Purpose and Summary

These amendments implement changes based on 2022 Iowa Acts, House File 2252, which removes language from Iowa Code section 237A.13 that previously required a medical incapacity to be temporary in order for a parent to be eligible for child care assistance (CCA). Removal of this requirement will allow a family with one permanently disabled parent to be CCA-eligible based upon the needs of the parent who is not disabled.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 27, 2022, as ARC 6430C.

No public comments were received.

No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 1, 2022, because the statute provides a benefit by allowing a family with one permanently disabled parent to be eligible for child care assistance based upon the needs of the parent who is not disabled. This is a benefit for households with a working parent and a disabled parent and will allow the household to receive child care assistance..

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 14, 2022.

Fiscal Impact

A fiscal impact of greater than \$100,000, but less than \$500,000 is expected over the next five years with this rule change. This rule change is expected to increase overall demand for child care services as

eligibility requirements are revised based on child care assistance for disabled parents. The additional costs will be absorbed in the CCA budget with the balance of federal Child Care Development funds.

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 October 1, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED AND FILED RULE CHANGES

The following rules are adopted:

ITEM 1. Amend paragraph **170.2(2)“b,”** introductory paragraph, as follows:

b. Need for service. Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents’ coinciding hours of participation in training, employment, or job search unless one parent is permanently disabled as described in subparagraph 170.2(2)“b”(4). Each parent in the household shall meet one or more of the following requirements:

ITEM 2. Amend subparagraph **170.2(2)“b”(4)** as follows:

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician.

1. Eligibility under this paragraph is limited to parents who become temporarily medically incapacitated, or to instances of one parent in a two-parent household being permanently disabled, while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)“b”(1) or 170.2(2)“b”(2).

2. Child care assistance shall continue to be available for up to 90 consecutive days after the parent becomes medically incapacitated. Assistance beyond 90 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

- For a single-parent family ~~or for a two-parent family where both parents are incapacitated,~~ the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where ~~only~~ one parent is temporarily incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

- For a two-parent family, if one of the parents has a permanent disability and is unable to care for the child or participate in work or training, the disabled parent does not need to meet another need for service requirement. The units of service authorized shall be based only on the need of the parent who is not disabled.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Mark Adams	Telephone Number 281-5688	Email Address Madams4@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Revise 441 IAC 170.2(2)"b" to include provisions for a family with a permanently disabled parent to be eligible for CCA. This has been prohibited by Iowa Code until July 1, 2022.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 234.6
3. Describe who this rulemaking will positively or adversely impact.
More families will be eligible for child care services.
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?
None expected.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No.



Administrative Rule Fiscal Impact Statement

Date: June 24, 2022

Agency: Human Services

IAC citation: 441 IAC 170

Agency contact: Mark Adams

Summary of the rule:

Revise 441 IAC 170.2(2)"b" to include provisions for a family with a permanently disabled parent to be eligible for CCA. This has been prohibited by Iowa Code until July 1, 2022.

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.](#)

A fiscal impact of greater than \$100,000, but less than \$500,000 is expected over the next five years with this rule change. This rule change is expected to increase overall demand for child care services as eligibility requirements are loosed.

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:

Year	# families	Cost per child	Cost per Family	Annual per family	Total Cost
1	3	\$488.50	\$830.45	\$9,965.40	\$29,896.20
2	6	\$488.50	\$830.45	\$9,965.40	\$59,792.40
3	9	\$488.50	\$830.45	\$9,965.40	\$89,688.60
4	12	\$488.50	\$830.45	\$9,965.40	\$119,584.80
5	15	\$488.50	\$830.45	\$9,965.40	\$149,481.00

Describe how estimates were derived:

SFY23: 3 average number served x \$488.50 x 12 = \$29,896

SFY24: 6 average number served x \$488.50 x 12 = \$59,792

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	29,896.20	59,792.40
Other (specify):		
TOTAL REVENUE	29,896.20	59,792.40
Expenditures:		
General fund		
Federal funds	29,896.20	59,792.40
Other (specify):		
TOTAL EXPENDITURES	29,896.20	59,792.40
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:

2022 legislative session (HF 2252) made changes to Iowa Code 237A.13.

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:

Additional costs can be absorbed in the current Child Care Assistance budget with the balance of federal Child Care Development Fund (CCDF) funds. .

Fiscal impact to persons affected by the rule:

This rule change will make it possible for more families to obtain child care assistance.

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

None expected.

Agency representative preparing estimate: Francis Thurman

JH 06/24/22

Telephone number:

515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to refugee services program and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 61, "Refugee Services Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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

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

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 27, 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 RULES

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

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

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

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

"Cash assistance" means financial assistance to refugees, including TANF, SSI, refugee cash assistance and general assistance as defined in 42 CFR 400.2 as amended to June 7, 2022.

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

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

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

“*Refugee*” means any person who:

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

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

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

“*Resettlement agency*” means any business, organization or group of related persons having a current contract with the ~~U.S.~~ United States Department of State’s Bureau ~~for Refugee~~

~~Programs~~ of Population, Refugees and Migration for the resettlement of refugees within the United States of America.

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

441—61.2(217) Authority. The department has been given authority to administer the refugee program by Executive Order Number 21, signed by the governor December 24, 1985. ~~U.S.~~ United States Department of State and ~~U.S.~~ United States Department of Health and Human Services rules govern various program operations.

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

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

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

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

- a.* No change.
- b.* Any other national of Cuba or Haiti who meets both of the following conditions:
 - (1) The person either:
 1. to 2. No change.
 3. Has an application for asylum pending with the United States Citizenship and Immigration ~~and Naturalization~~ Service.

(2) No change.

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

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

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

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

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

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

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

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

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

f. Skills recertification which includes referrals to training that meets the criteria for appropriate training as ~~provided for in paragraph “b.”~~

If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training:

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

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

(3) Is specifically intended to assist the professional in becoming relicensed in his or her profession; and,

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

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

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

l. Referral to the Iowa Workforce Development for provision of any or all of the above services.

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

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

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

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

~~e.~~ b. Unemployed refugees who are not receiving cash assistance.

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

d. All newly arriving refugees up to five years in the United States, who apply for services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

441—61.14(217) Unaccompanied refugee minors program. The department administers the

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

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

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

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

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

Iowa Code 217.6

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

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

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

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

5. What are the likely areas of public comment?

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

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

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



Administrative Rule Fiscal Impact Statement

Date: July 8, 2022

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

Summary of the rule:

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

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

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

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

Chapter 61 was reviewed as part of the Department’s five-year rules review process. The Department manages and coordinates the refugee program activities within the state. This Chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program]. No Fiscal Impact.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
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>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

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

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

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

Fiscal impact to persons affected by the rule:

N/A

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

N/A

Agency representative preparing estimate: Diane Barrett

JH 07/26/2022

Telephone number:

515-281-6024

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to services in psychiatric institutions and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 85, "Services In Psychiatric Institutions," 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 85 is being reviewed as part of the Department's five-year rules review process. As part of this review federal code references and cross references to other Department rule chapters were updated. Obsolete form names were removed from the rules. The locations of the state mental health institutes were updated.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441_1.8(17A,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 11, 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 subparagraph 85.1(1)“a”(5) as follows:

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

ITEM 2 Amend rule 85.2 as follows:

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

ITEM 3 Amend subrule 85.3(3) as follows:

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

ITEM 4 Amend subrule 85.3(4) as follows:

- Financial eligibility for persons under the age of 21. To be eligible for payments for the cost of care provided by a psychiatric facility, persons under the age of 21 must be eligible under one of the

coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75.

ITEM 5 Amend rule 85.4 as follows:

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

ITEM 6 Amend subrule 85.5(1) as follows:

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

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

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

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

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

ITEM 9 Amend subrule 85.8(1) as follows:

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

ITEM 10 Amend subrule 85.8(2) as follows:

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

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

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

ITEM 11 Amend subrule 85.8(4) as follows:

Extent of eligibility.

~~a.~~ While on inpatient status, a person eligible under a coverage group listed in 441–75.1(249A) 441–Chapter 75 is entitled to the full scope of Medicaid benefits.

~~b.~~ While on inpatient status, a person eligible under the IowaCare program is entitled to the services listed at 441–92.8(249A, 81GA, ch167).

ITEM 12 Amend subrule 85.22(3) as follows:

Certification for need for care. For persons eligible for Medicaid prior to admission, an independent team shall certify that ambulatory care resources available in the community do not meet the treatment needs of the recipient, that proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician, and that the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be

needed. Team members are independent when they are not employees of or consultants to the facility. Form 470-2780, ~~Certification of Need for Inpatient Psychiatric Services~~, may be used to document these criteria.

ITEM 13 Amend subrule 85.22(4) as follows:

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

ITEM 14 Amend rule 85.23 as follows:

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

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

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

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

Rates for new facilities are based on historical costs submitted on Form 470-0664, ~~Financial and Statistical Report for Purchase of Service Contracts~~, if the institution is established and has the

historical data. If the institution is newly established, the rate shall be based on a proposed budget submitted on Form 470-0664. A Form 470-0664 with actual cost data shall be submitted after at least six months of participation in the program for a new rate adjustment.

ITEM 17 Amend rule 85.43 as follows:

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

Section 249A.4

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

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

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

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

5. What are the likely areas of public comment?

Public comment is not anticipated for the technical corrections.

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

No impact on private sector jobs.



Administrative Rule Fiscal Impact Statement

Date: June 30, 2022

Agency: Human Services

IAC citation: 441 IAC 85

Agency contact: Hannah Olson

Summary of the rule:

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

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

The purpose of this rule is to update rule references for CFR citations, remove references to obsolete structures, align with an update to Chapter 75 rules and make technical corrections. There is no fiscal impact anticipated with the technical corrections and the changes in these rules.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>
<input 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		
<i>Fiscal impact to persons affected by the rule:</i> There is no fiscal impact expected to persons affected by the rule.		
<i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i> There is no fiscal impact to counties or other local governments.		
Agency representative preparing estimate:	Soraya Miller	JH 08/03/2022
Telephone number:	515-281-6017	

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to foster parent training and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 117, "Foster Parent Training," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 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 paragraph **117.1(2)“d”** as follows:

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

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

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

ITEM 3. Amend rule **117.3(237)** as follows:

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

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

117.5(3) Denial. Preservice training programs which do not meet the requirements in rules 441-117.1(237), 441-117.3(237), 441-117.4(237) and in-service training programs which do not meet the criteria in rules 441-117.1(237), 441-117.4(2237) and 441-117.7(237) shall be denied approval. The applicant may submit a revised program for approval at a later date.

ITEM 5. Amend rule **117.7(237)** as follows:

117.7(237) Required in-service training. At least six hours of in-service training are required to assist foster parents in confidently and effectively addressing the needs of children placed in foster care. ~~The Foster Parent Training Plan, Form 470-341,~~ shall be used to address in-service training needs. The training plan shall be developed with the department or retention and recruitment contractor and the foster parent annually.

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

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

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

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

- (1) Group training shall receive one credit hour for each face-to-face or interactive virtual contact hour.
- (2) Written materials shall receive one credit hours for each 100 pages.
- (3) DVDs or videotapes shall receive one credit hour for each two program hours.
- (4) College courses shall receive one credit hour for each college credit hour.

- (5) Internet training classes shall receive one credit hour for each program hour. A maximum of three hours of training credit per year may be received through the ~~Web site~~ Website www.fosterparents.com.

ITEM 7. Amend subparagraph **117.7(3)"c"** as follows:

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

ITEM 8. Amend subrule **117.8(2)** as follows:

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

ITEM 9. Rescind subrule **117.8(4)**.

ITEM 10. Amend subrule 117.9(1) as follows:

117.9(1) Training stipend. Each family that is issued an initial or renewal foster family home license shall receive a \$100 stipend to be used for the family's annual in-service training. The department's recruitment and retention contractor shall issue one stipend per license on or after the date that the license is issued. When a family with a two-year foster family home license has completed the first training cycle of six hours of in-service training, the contractor shall issue the next training stipend no earlier than the start of the second year of licensure contingent upon

the foster family's completion of the in-service training hours in the first cycle. Foster families who elect not to receive the \$100 stipend shall notify the department and the contractor.



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

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

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

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

No

5. What are the likely areas of public comment?

We do not expect any public comment on these rules.

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

No impact is expected to private sector jobs or employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: April 20, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY 2023)	Year 2 (FY 2024)
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> There is no fiscal impact.</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:	David O. Philmon, Jr, MBA, MSBA	JH 04/21/2022
Telephone number:	404-345-1088	

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to IV-A Emergency Assistance Program and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 133, "IV-A Emergency Assistance Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 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—133.1 (235)**, definitions of “Child,” and “Emergency assistance” as follows:

441—133.1(235) Definitions.

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

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

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

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

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

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

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

Father—adoptive father.

Mother—adoptive mother.

Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

Grandmother—grandmother in law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

Great-grandfather—great-great-grandfather.

Great-grandmother—great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

Uncle—~~aunt~~, of whole or half blood.

Uncle-in-law—~~aunt-in-law~~.

Great uncle—great-great uncle.

Great aunt—great-great aunt.

First cousins—nephews—nieces.

Second cousins, meaning the son or daughter or one's parent's first cousin.

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

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

- a. Family-centered services as established in 441—Chapter 172.
- b. Shelter care as established at rule 441—202.2(234).
- c. Protective child care as established at 441—subparagraph 170.2(2) “b”(3).
- d. ~~Tracking, monitoring, and outreach as established at rule 441—151.33(232).~~

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

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

ITEM 5. Amend subrule 133.4(235) as follows:

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

Iowa Code Section 234.6 and 235.3

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

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

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

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

5. What are the likely areas of public comment?

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

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

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



Administrative Rule Fiscal Impact Statement

Date: August 4, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
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>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Iowa Code Section 234.6 and 235.3

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

No impact is anticipated.

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

No impact is anticipated.

Agency representative preparing estimate: David Philmon, Jr.

JH 08/15/2022

Telephone number:

404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to interstate compact on the placement of children
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 142, “Interstate Compact on the Placement of Children,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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 September 27, 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 subrule 142.2(1) as follows:

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

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

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

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

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

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

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

Iowa Code Section 232.158(7)

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

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

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

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

5. What are the likely areas of public comment?

There is likely no area of public comment.

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

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



Administrative Rule Fiscal Impact Statement

Date: June 22, 2022

Agency: Human Services

IAC citation: 441 IAC 142

Agency contact: Trisha Barto

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
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:
 Iowa Code Section 232.158(7)
- Funding has been provided for the rule change.
Please identify the amount provided and the funding source:
- Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:
 There is no fiscal impact.

Fiscal impact to persons affected by the rule:

N/A

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

N/A

Agency representative preparing estimate: David Philmon, Jr.

JH 08/02/2022

Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

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 143, “Interstate Compact on Juveniles,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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

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 September 27, 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 143**, preamble, as follows:

PREAMBLE

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

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

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

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

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

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

143.3(2) Interstate Compact for Juveniles Form IA VI, Application for ~~Compact Services; and Interstate Compact Form VI, Memorandum of Understanding~~ and Waiver₂ shall be signed by the juvenile and parents or guardian, the Iowa juvenile court judge consenting to the placement in the receiving state, and the juvenile compact deputy.

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

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

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

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

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

Iowa Code section 232.171

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

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

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

No, as it is not needed nor required.

5. What are the likely areas of public comment?

There are no likely areas that will generate public comment.

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

No



Administrative Rule Fiscal Impact Statement

Date: March 11, 2022

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

Summary of the rule:

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

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

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

These are technical changes that align with current practice. There is no fiscal impact.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
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>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

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

Fiscal impact to persons affected by the rule:

N/A

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

N/A

Agency representative preparing estimate: David Philmon, Jr.

JH 08/02/2022

Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to quality improvement initiative grants
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 166, “Quality Improvement Initiative Grants,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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 September 27, 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—166.2(249A) as follows:

441—166.2(249A) Availability of grants. The department shall set aside an annual amount from the civil money penalty fund established pursuant to Iowa Code section 249A.57 to be awarded in the form of emergency reserve fund grants to eligible entities for approved quality improvement initiatives support and protection of residents of a facility that closes (voluntarily or involuntarily). At no time shall the grant set-aside cause the civil money penalty emergency reserve fund to drop below \$1 million.

166.2(1) In any calendar year in which sufficient funds are available in the civil money penalty fund to support quality improvement initiative grants, the department may issue a notice for applications for grants.

166.2(2) There is no entitlement to any funds available for grants awarded pursuant to this chapter. The department may award grants to the extent funds are available and, within its discretion, to the extent that applications are approved.

166.2(3) The project plan as described in rule 441—166.4(249A) and allocation of funds shall be in compliance with state and federal law and approved by the Centers for Medicare and Medicaid Services (CMS).

166.2(4) Emergency reserve fund grants are available for purposes of:

- a. Time-limited expenses incurred in the process of relocating residents when a facility closes (voluntarily or involuntarily) or downsizes pursuant to an agreement with the department, and
- b. Development and maintenance of temporary management or receivership capability.

ITEM 2. Amend rule 441—166.3(249A) as follows:

441—166.3(249A) Grant eligibility. Grants are available ~~only~~ for quality improvement initiatives that are outside the scope of normal operations for the nursing facility or other applicants. Grants cannot be used as replacement funding for goods or services that the applicant already offers.

166.3(1) Grants may be awarded for:

- a. Short-term quality improvement initiatives (three years or less), and
- b. ~~Initiatives with a longer term that involve collaborative efforts of state government and various stakeholders~~ Situations eligible for emergency reserve funds.

166.3(2) The department will comply with CMS guidance on civil money penalty uses.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Jeanne Schirmer	Telephone Number 5153217247	Email Address jschirm@dhs.state.is.us
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1. Give a brief purpose and summary of the rulemaking:
 This rule is amended to align with federal regulations regarding the use of civil money penalties (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). This rule is also amended to update the department’s process to describe the purposes for CMP emergency reserve fund grants.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
 Sections 1819(h)(2)(B)(ii)(IV)(ff) and 1919(h)(3)(C)(ii)(IV)(ff) of the Social Security Act, 42 CFR Part 488.433(b)(2), 488.433(b)(5) and Iowa Code 249A.57.

3. Describe who this rulemaking will positively or adversely impact.
 Nursing facility residents and nursing facilities will be affected by the updated rule.

4. Does this rule contain a waiver provision? If not, why?
 This amendment does not contain a waiver provision because the federal government requirements do not allow for waiver of the state’s use of civil money penalty funds. Uses of these funds must be approved by the Centers for Medicare and Medicaid Services.

5. What are the likely areas of public comment?
 Not expected.

6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
 This amendment will not have an impact on private-sector jobs and employment opportunities.



Administrative Rule Fiscal Impact Statement

Date: July 8, 2022

Agency: Human Services

IAC citation: 441 IAC 166

Agency contact: Jeanne Schirmer

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

This rule is intended to align with federal regulations and amend language in the use of CMP funds. No fiscal impact is expected.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
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:

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

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

No fiscal impact.

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

Agency representative preparing estimate: Jason Buls

JH 07/08/2022

Telephone number:

515-281-5764

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to in-home health-related care and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 177, "In-Home Health-Related Care," 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 chapter 249.

Purpose and Summary

This chapter is being reviewed as part of the Department's five-year rules review process. Currently the In-Home Health-Related Care (IHHC) program requires a registered nurse to provide supervision of a client's care plan in order to receive services. Over the past several years the Department has experienced more nursing agencies opting out of providing supervision services for this program. Several counties have no nursing agencies willing to provide the supervision necessary for the program services. This results in individuals being enrolled in the program with physicians having to provide supervision, which is an unreasonable expectation, or individuals enrolled in the program without a supervising practitioner which requires an exception to the administrative rule.

Medicaid programs providing similar services under the home-and community based programs do not require a supervising practitioner when the service being provided is considered unskilled or is for personal care services. These proposed amendments remove nursing supervision for unskilled personal care services and maintain nursing supervision for skilled services. Proposed amendments also identify how the program is implemented from the application process through termination, if termination is necessary.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 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 rule 441—177.1(249) as follows:

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

Item 2. Amend rule 441—177.2(249) to amend the definition of own home and add definitions of client participation, nursing care, personal care services, skilled nursing services, skilled services and supervising practitioner as follows:

441—177.2(249) ~~Own home.~~ Definitions.

"Client Participation" has the meaning assigned to it in in section 441-177.7.

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

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

"Personal Care Services" includes

- Services that assist the client with the activities of daily living, such as, but not limited to, helping the client with bathing, toileting, getting in and out of bed, ambulation, hair-care, oral hygiene and administering medications that are physician ordered, but ordinarily self-administered.
- Services that help or retrain the client in necessary skills for daily living.
- Incidental household services that are essential to the client's health care at home and are necessary to prevent or postpone institutionalization.

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

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

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

Item 3. Amend rule 441—177.3(249) as follows:

441—177.3(249) Service criteria. ~~The client shall require health care services that would require the supervision of a professional registered nurse working under the certification of a physician.~~

177.3(1) ~~Skilled services. Skilled services may include but not be limited to:~~ must be certified by a physician as provided in 441-177.6 and must be supervised by a supervising practitioner

a-n. rescind

177.3(2) ~~Personal care services. Personal Care services may include but not be limited to:~~ must be certified by a physician as provided in 441-177.6. Personal care services do not require supervision by a supervising practitioner.

a-g. rescind

Item 4. Amend rule 177.4(249) as follows:

441—177.4(249) Eligibility and Application.

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

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

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

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

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

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

Item 5. Rescind and reserve subrules 441.177.4(2) - 177.4(6).

Item 6. Rescind and reserve paragraph 441.177.4(9)a-c

Item 6. Amend subrule 441. 177.4(10) as follows:

441.177.4(10) Application. Application for in-home health-related care shall be made on a form 470-5170 or 470-5170(S) ~~prescribed by~~ and submitted to the department. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

Item 7. Amend rule 177.5(249) as follows:

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

177.-5 (1) *Age.* The provider shall be at least 18 years of age.

177.-5 (2) *Health assessment.* The provider shall obtain certification on form 470-0672 that the provider is physically and emotionally capable of providing assistance to another person, whose physical, mental or developmental health prevents independent self-care. ~~who may have physical and emotional limitations.~~

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

(i) a physician; or

(ii) an advanced registered nurse practitioner or by a physician's assistant if the nurse practitioner or physician's assistant ~~who~~ is working under the direction of a physician.

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

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

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

(1) Before the provider agreement is signed, and

2) Annually thereafter.

Item 8. Rescind rule 441.177.6(249) and replace it with the following new rule:

441.177.6 (249) Physician's certification.

177. 6(1) Certification requirements.

A physician must certify on form 470-0673:

a. The skilled services or personal cares services are required by the person's physical, mental, or developmental health;

b. The specific skilled services or personal cares services required, the method of providing those services, and the expected duration of services; and

c. The required skilled services and personal cares services can be delivered in the individual's own home.

177. 6(2) Certification review. After certification and any subsequent certification, a physician must review the certification and withdraw, renew, or amend the existing certification:

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

Item 9. Rescind rule 441.177.7(249) and replace it with the following new rule:

441-177. 7(249A) Service worker duties.

177. 7(1) Service plan.

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

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

b. In consultation with the client's case manager and any supervising health practitioner, the service worker shall review and update the service plan on or before the 90th day following the creation of or previous review of the service plan. The updated service plan must comply with subsection (a) above.

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

Item 10. Rescind rule 441.177.8(249) and replace it with the following new rule:

441 -177. 8(249) Supervising practitioner duties.

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

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

177.8(3) Medical records.

- a. The supervising practitioner shall keep appropriate medical records, a copy of the service plan, and the physician's certification in the supervising practitioner's case file. In addition, the medical records shall include, whenever appropriate, transfer forms, physician's orders, progress notes, drug administration records, treatment records, and incident reports.
- b. The supervising practitioner shall make all medical records available to the service worker, the client, and the client's legal representative.
- c. The supervising practitioner shall ensure that upon termination of the in-home care plan, the medical records are transferred to the county office of the department of human services or the office of the public health nurse.
- d. The department of human services or the office of the public health nurse shall retain medical records transferred to it under subsection (c) for five years or, if an audit is commenced within the five years, until completion of that audit. During the period of retention, the department of human services or the office the public health nurse shall make the medical records available to the service worker.

Item 11. Amend rule 441.177.9(249) as follows:

441—177.9(249) Written agreements.

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

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

177.9(3) Provider agreement.

- a. The client and the provider shall enter into an agreement using ~~the provider agreement form 470-0636~~ prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the provider agreement by using the separate amendment to provider agreement form.
- b. Written instructions for dealing with emergency situations shall be completed by the service worker and included in the provider agreement, which shall be maintained in the client's home and in the county department of human services office. The instructions shall include:
 - (i) the name and telephone number of the client's physician, the nurse, responsible family members or other significant persons, and the service worker;
 - (ii) information as to which hospital to utilize; and
 - (iii) information as to which ambulance service or other emergency transportation to utilize.

Item 12. Rescind and replace rule 441.177.10(249).

441-177.10(249) Payment.

177. 10(1) Payment approved. Notwithstanding 42 U.S.C. 1382(c)(7), after the service manager or their designee approves the service plan, payment is effective as of the later of (a) the date of the application, or (b) the date all eligibility requirements are met and qualified health care services are provided.

177. 10(2) Client participation.

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

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

177. 10(3) Maximum benefit payable. The maximum benefit payable for in-home health-related care services inclusive of all services for all providers is the reasonable charges for such services up to and including \$480.55. The provider shall accept the maximum benefit payable and shall not charge the client or others in excess of that benefit.

177.10(4) Payment. The client or the person legally designated to handle the client’s finances shall be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.

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

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

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

177. 10(5) Reasonable charges. Payment will be made only for reasonable charges for in-home health care services as determined by the service worker who will determine reasonableness by:

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

b. Services at no charge. The availability of services at no cost to the IHRC program.

ITEM 13 Amend subrule 441.177(11)(249) as follows:

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

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

177.11(4) *Excessive costs.* When the cost of care exceeds the maximum established in 177.410(3).

177.11(5) *Other services utilized.* When the service worker determines that other services can be utilized to better meet the client's needs.

177.11(6) *Terms of provider agreement not met.* When it has been determined by the service worker that the terms of the provider agreement have not been met by the client or the provider, the state supplementary assistance payment may be terminated.

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



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

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

Iowa Code chapter 249 State Supplemental Assistance

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

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

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

No. Not applicable.

5. What are the likely areas of public comment?

No public comments are anticipated.

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

No such impact is anticipated.



Administrative Rule Fiscal Impact Statement

Date: July 28, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2023)</u>	<u>Year 2 (FY 2024)</u>
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:

No fiscal impact is anticipated.

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

No fiscal impact is anticipated.

Agency representative preparing estimate: Jason Buls

JH 07/29/2022

Telephone number:

515-281-5764