

AGENDA

**Thursday, August 11, 2022
Time: 10:00 a.m. – 12:00 p.m.**

**Join [Zoom](#) Meeting
Call in: 1-551-285-1373 Meeting ID: 1618827935
Passcode: 497162**

- 10:00 a.m.** Call to Order
- 10:05 a.m.** Approval of July 14, 2022, meeting minutes
- 10:10 a.m.** Public Hearing Presentations:

**Public Hearing on the Department of Health and Human Services
SFY 2024 Budget recommendations and Legislative package**

- 10:10 – Merea Bentrott, Iowa Health Care Association
10:15 – Shanell Wagler, Early Childhood Iowa
10:20 – Laurie Traetow, Iowa Dental Association**

- 10:25 a.m.** Rules - **Nancy Freudenberg**

The following amendments to the administrative rules are presented for adoption at the August 11, 2022, Council on Human Services meeting.

R-1. Amendments to Chapter 11, “Collection of Public Assistance Debts,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

This rule making updates the name of the Food Assistance program to the Supplemental Nutrition Assistance Program (SNAP). Definitions are updated and references to forms are removed that are no longer used. This review is part of the department’s five-year rules review process.

R-2. Amendments to Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” Chapter 46 “Overpayment Recovery,” and Chapter 60, “Refugee Cash Assistance,” Iowa 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), removes incorrect or obsolete cross references, rescinds obsolete rules, adds information on the kinship caregiver program, updates the division name and adds clarifying language to rules. Time frames for refugee cash assistance have been updated for refugees who entered the country on or after October 1, 2021, to allow for 12 months of assistance based on federal regulations. Rules have also been added to provide information on different categories of Afghan immigrants. This review is part of the department’s five-year rules review process.

R-3. Amendments to Chapter 107, “Certification of Adoption Investigators,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

Clarification on dependent adult abuse being part of the evaluation process for record checks was added to the administrative rules. Forms were updated to add dependent adult abuse as a category. Updated language to cover records checks and reports was also added. This review is part of the department’s five-year rules review process.

R-4. 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-5. Amendments to Chapter 111, “Family Life Homes,” Iowa Administrative Code (Align rules with current practice and the Iowa Code)

These rules define the Family Life Home program administered through State Supplementary Assistance services. The names of the forms were removed to eliminate unnecessary future changes when form names change. This review is part of department’s five-year rules review process.

R-6. Amendments to Chapter 130, “General Provisions,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

This rule making revises outdated language and replaces it with current person-centered language. A link to poverty income guidelines is being used instead of using income charts that need to be updated annually. The term child abuse investigation is being updated to child abuse assessment. This review is part of the department’s five-year rules review process.

R-7. Amendments to Chapter 131, “Social Casework,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

The rule on adverse actions is being updated to specify the current rule reference. This review is part of the department’s five-year rules review process.

R-8. Amendments to Chapter 160, “Adoption Opportunity Grant Program,” Iowa Administrative Code. (Rescinds chapter)

The Adoption Opportunity Grant Program is not funded in Iowa. As a result, the chapter is no longer needed and is being rescinded. This review is part of the department’s five-year rules review process.

R-9. Amendments to Chapter 187, “Aftercare Services Program,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

This rule making extends eligibility to youth ages 21 and 22 years, regardless of whether the youth participated in the aftercare program between the ages of 18 and 21 years old. It also extends eligibility to youth who participate in the Preparation for Adult Living (PAL) program, even if the youth did not spend six of 12 months in foster care prior to aging out of care. This change aligns the rules with Iowa Code. The meaning and intent of preservice has been clarified. Clarification on the payment of monthly stipends and treatment of income has also been added. This rule making is part of the department’s five-year rules review process.

R-10. Amendments to Chapter 203, “Iowa Adoption Exchange,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

These rules update definitions used in the program and clarifies the process for registering children in the Iowa Adoption Exchange. Children with special needs under state guardianship shall be registered on the Iowa Adoption Exchange within 60 days of termination of parental rights unless a deferral is granted. All children under state guardianship for whom an adoptive home is not available within 90 days of termination of parental rights shall be registered on the exchange. This rule making is part of the department’s five-year rules review process.

R-11. Amendments to Chapter 204, “Subsidized Guardianship Program,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

These rules add additional clarification when a subsidized guardianship can continue to age 21. Language is also added to provide information on when a subsidy would be terminated. This rule making is part of the department’s five-year rules review process.

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

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

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

N-2. Amendments to Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care – Documentation Requirements,” Iowa Administrative Code. (Provider documentation requirements)

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 replace it with the requirement to provide a narrative only when the incident, illness, unusual or atypical event occurs during the service encounter. The proposed 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.

N-3. Amendments to Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services- Updating HCBS Habilitation Eligibility Criteria,” Iowa Administrative Code. (Meet federal requirements for HCBS Habilitation Program)

The purpose of this proposed rule making is to amend the needs-based and risk-based eligibility criteria for the Home and Community Based Services (HCBS) Habilitation program. As a condition of approval for the American Rescue Plan Act (ARPA) - Section 9817, the Centers for Medicaid and Medicare (CMS) required states to meet maintenance of effort (MOE) requirements. States are also required to update their Medicaid state plan as a condition of approval due to the MOE requirements for ARPA. Under ARPA states are allowed enhanced FMAP for HCBS services, however, states may not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

N-4. Amendments to Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care – Cost Reporting Rules,” Iowa Administrative Code. (Updating cost reports for HCBS providers)

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

**N-5. Amendments to Chapter 93, “PROMISE JOBS,” Iowa Administrative Code.
(Align rules with current practice and the Iowa Code)**

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

N-6. Amendments to Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code. (Implements new child care legislation, HF2589)

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

**N-7. Amendments to Chapter 116, “Licensing and Regulation of residential Facilities for children with an Intellectual Disability or Brain Injury,” Iowa Administrative Code.
(Align rules with current practice and the Iowa Code)**

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

N-8. Amendments to Chapter 119, “Record Check Evaluation,” Iowa Administrative Code. (Align rules with current practice and the Iowa Code)

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

N-9. Amendments to Chapter 168, “Child Care Expansion Programs,” Iowa Administrative Code. (Rescind chapter)

This chapter is being rescinded as it contains outdated rules no longer used for wrap-around child care programs and expansion of school-age child care programs. Funding has not been allocated for these programs for over ten years. This rule making is part of the department’s five-year rules review process.

- 11:00 a.m.** MCO Quarterly Report, SFY 2022, Quarter 3 – **Kurt Behrens, Medicaid Management Analyst**
- 11:15 a.m.** HHS Branding Update – **Sarah Ekstrand, Public Information Officer, HHS**
- 11:30 a.m.** Director’s Report – **HHS Director Kelly Garcia**
- 11:50 a.m.** Council Update
- 12:00 p.m.** Adjourn

This meeting is accessible to persons with disabilities. (If you have special needs, please contact the Department of Human Services (515) 281-5452 two days prior to the meeting.)

Note: Times listed on agenda for specific items are approximate and may vary depending on the length of discussion for preceding items. Please plan accordingly.

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to collection of public assistance debts

The Human Services Department hereby amends Chapter 11, "Collection of Public Assistance Debts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 217.6 and 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 217.6 and 234.6.

Purpose and Summary

Chapter 11 was reviewed as part of the Department's five-year rules review process. Iowa has formally changed the Food Assistance program's name from Food Assistance to Supplemental Nutrition Assistance Program (SNAP), and this chapter is updated to reflect that change. In addition, this chapter is updated because the definition of "debtor" for Medicaid is inconsistent with the definition used elsewhere in administrative rules. The change aligns the definition of "debtor" in this chapter with that in Chapter 75. Additional changes include removing references to forms that are no longer used as well as updating language to include correct groups under the definition of "public assistance."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6362C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

Please see attached.

Adopted and Final Rules

The following rules are adopted:

ITEM 1. Amend rule ~~441—11.1(217)~~, definitions of “Debtor,” “Public assistance” and “Repayment agreement,” as follows:

“*Debtor*” shall mean a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular debt. For ~~food assistance~~ supplemental nutrition assistance program (SNAP), “debtor” shall include all adult members of the ~~food assistance~~ SNAP household participating at the time the ~~food assistance~~ SNAP overpayment or program violation occurred and shall include nonrecipients found guilty of violating ~~food assistance~~ SNAP rules by committing an act such as, but not limited to, trafficking. For child care assistance, “debtor” may include the current or former provider or current or former recipient of child care assistance. For Medicaid, “debtor” shall include any current or former Medicaid member or nonmember, or the parents of a current or former Medicaid member who was under the age of 21 when the parents completed the application and had responsibility for reporting changes, who fraudulently receives received services or benefits as a result of client or agency error or administrative overpayment or who owes a debt of unpaid premium payments for medical assistance.

“*Public assistance*” shall mean family investment program, ~~food assistance~~ SNAP, Medicaid, state supplementary assistance, PROMISE JOBS, child care assistance, refugee cash assistance, ~~IowaCare~~, and ~~HAWK-I hawki~~ program.

“*Repayment agreement*” shall mean an agreement entered into voluntarily between the department and the debtor for the repayment of debts. Agreements shall be made on Form 470-0495 or 470-0495(S), Agreement to Pay a Debt, or on a notice of debt listed in subrule 11.2(2).

ITEM 2. Amend subrule 11.2(2) as follows:

11.2(2) Notice of debt. A claim is established when the first notice of the debt is issued to the household on one of the following forms:

~~a. Form 470-0338 470-2891, Demand Letter for Food Assistance Agency Error Overissuance (no longer issued) Notice of Medical Assistance Overpayment.~~

~~b. Form 470-2616 470-4179, Demand Letter for FIP/RCA Agency Error Overissuance (no longer issued) Notice of SNAP Debt.~~

~~c. Form 470-2891 470-4530, Notice of Medical Assistance~~ Child Care Assistance Overpayment.

~~d. Form 470-3486 470-4668, Demand Letter for Food Assistance Intentional Program Violation Overissuance (no longer issued) Notice of SNAP Overpayment.~~

~~e. Form 470-3487 470-4683, Demand Letter for Food Assistance Inadvertent Household Error Overissuance (no longer issued) Notice of FIP or RCA Overpayment.~~

~~f. Form 470-3490 470-4668, Demand Letter for FIP/RCA Client Error Overissuance (no longer issued) Notice of PROMISE JOBS Overpayment.~~

~~g. Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.~~

~~h. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance (no longer issued).~~

~~i. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance (no longer issued).~~

~~j. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance (no longer issued).~~

~~k. Form 470-4179, Notice of Food Assistance Debt.~~

~~l. Form 470-4530, Notice of Child Care Assistance Overpayment.~~

~~m. Form 470-4668, Notice of Food Assistance Overpayment.~~

~~n. Form 470-4683, Notice of FIP or RCA Overpayment.~~

~~o. Form 470-4688, Notice of PROMISE JOBS Overpayment.~~

ITEM 3. Amend paragraph **11.3(1)“b”** as follows:

b. For ~~food assistance~~ SNAP, payment shall be applied first to all debts with an agreement and then to debts without an agreement. Within those two groupings, payment shall be applied in the following order:

- (1) First to state-only debts in chronological order of discovery,
- (2) Then to intentional program violation (IPV) debts in chronological order of discovery,
- (3) Then to inadvertent household error (IHE) debts in chronological order of discovery, and
- (4) Then to agency error debts in chronological order of discovery.

ITEM 4. Amend subrule 11.3(2) as follows:

11.3(2) *Application of payment to multiple program areas.* If there are debts in more than one program area of public assistance, payments received shall be applied to those program areas as indicated by the mode of repayment (~~food assistance~~ SNAP benefits, FIP benefits) or as indicated by the client at the time of payment.

ITEM 5. Amend paragraph **11.5(1)“a”** as follows:

a. Debtors not participating in ~~the food assistance program~~ SNAP shall be subject to collection action through the treasury offset program (TOP) which includes, but is not limited to, federal salary offset and federal tax refund offset.

(1) Debtors shall be referred to TOP if they are delinquent in repaying their ~~food assistance~~ SNAP debt and there is a claim or combination of claims with an unpaid balance which exceeds \$25.

(2) No claim which is less than three months old or more than ten years old as of January 31 of the offset year shall be referred. EXCEPTION: Claims which have had a final judgment entered are not subject to the ten-year time limit.

(3) Debtors are delinquent in repaying their ~~food assistance~~ SNAP debt if:

1. A repayment agreement has not been signed and 120 days have elapsed since the due date of the demand letter as defined in 441—subrule 65.21(4) minus any days the claim was not subject to collection action because of an appeal.

2. A repayment agreement has been signed but the debtor has failed to make the agreed-upon payments and has failed to make up the missed payments. The debtor shall be referred to TOP when 120 days have elapsed since the first of the month following the month that the debtor failed to make the agreed-upon payment and has not subsequently made up the missed payment.

ITEM 6. Amend subrule 11.5(6) as follows:

11.5(6) *Application of setoff.* DIA shall apply any setoff received as a result of this rule to the individual's ~~food assistance~~ SNAP debts.

Any amount remaining after the setoff shall be released back to the individual.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist	Telephone Number	Email Address
Kari Lind Mark Adams Paula Burns Anna Casteel	515-281-7000	klind@dhs.state.ia.us

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

Chapter 11 was reviewed as part of the Department’s five-year rules review project. Iowa formally changed the program name from Food Assistance to SNAP and this chapter was updated to reflect that change. In addition, this chapter was updated because the definition of debtor for Medicaid was inconsistent with the definition used elsewhere in administrative rules. This change is aligning the definition of a debtor in this subchapter with that in Chapter 75. Additional changes included removal forms that are no longer used as well as updating language to include correct groups under the definition of *Public Assistance*.

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

Code of Iowa chapters 217.6 and 234.6 grant 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 will have no impact on the program itself, however, it will be a positive change to have the program name be consistent. This rulemaking will neither positively or 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: February 28, 2022

Agency: Human Services
IAC citation: 441 IAC
Agency contact: Kari Lind, Mark Adams, Paula Burns, Anna Casteel

Summary of the rule:

The chapter was updated to update and align the definitions and program names with other chapters. There is no fiscal impact from the changes.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

There is no fiscal impact to the state.

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 2022)</u>	<u>Year 2 (FY 2023)</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 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):

No impact.

Agency representative preparing estimate: Rob Beran

JH 04/21/2022

Telephone number: 281-6188

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to the five-year rules review.

The Human Services Department hereby amends Chapter 40, "Application For Aid," Chapter 41, "Granting Assistance," Chapter 46, "Overpayment Recovery," and Chapter 60, "Refugee Cash Assistance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 217.6 and 239B.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 217.6 and 239B.4.

Purpose and Summary

This rule making reflects changes found during the Department's five-year rules review.

These amendments include updating the name of the Food Assistance program to the Supplemental Nutrition Assistance Program (SNAP), removing incorrect or obsolete cross references, rescinding obsolete rules, adding information about the Kinship Caregiver Program, updating a division name, and adding clarifying language to rules.

Time frames for refugee cash assistance are updated for refugees who entered the country on or after October 1, 2021, to allow for 12 months of assistance based on federal regulations in 87 Fed. Reg. 17312 (March 28, 2022). Rules are also added to provide information on Afghan special immigrant (SI) parolees, Afghan SI conditional permanent residents (CPRs) and Afghan humanitarian parolees. A new definition of "safe haven" is added.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6369C.

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 August 11, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 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—40.22(239B), introductory paragraph, as follows:

441—40.22(239B) Application. The application for the family investment program shall be submitted on the Food and Financial Support Application, Form 470-0462 or Form 470-0462(S). The application shall be signed by the applicant, the applicant's authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and attest to the information for the assistance unit.

ITEM 2. Amend paragraph **40.22(5)“c”** as follows:

c. When assistance has been canceled for failure to return a completed review form pursuant to subrule 40.27(3), assistance shall be reinstated without a new application if the completed form is received by the department within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the Review/Recertification Eligibility Document, Form 470-2881, is received.

ITEM 3. Amend rule 441—40.23(239B), introductory paragraph, as follows:

441—40.23(239B) Date of application. The date of application is the date an identifiable Food and Financial Support Application, Form 470-0462 or Form 470-0462(S), is received by the department. When an application is delivered 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.

ITEM 4. Amend subrule 40.24(4) as follows:

40.24(4) The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date the department enters all eligibility information into the department's computer system, ~~except as described in subrule 40.24(3)~~. The applicant shall become a recipient on the date all eligibility information is entered into the department's computer system and the computer system determines the applicant is eligible for aid.

ITEM 5. Amend rule 441—40.26(239B) as follows:

441—40.26(239B) Effective date of grant. New approvals shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application. When an individual is added to an existing eligible group, the individual shall be added effective as of the date the individual becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date the change is reported. When it is reported that a person is anticipated to enter the home, the effective date of assistance shall be no earlier than the date of entry or seven days following the date of report, whichever is later.

When the change is timely reported as described at subrule 40.27(4), a payment adjustment shall be made

when indicated. When the individual's presence is not timely reported as described at subrule 40.27(4), excess assistance issued is subject to recovery.

In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the effective date of eligibility shall be seven days following the date the person indicated willingness to cooperate. However, in no instance shall the person be added until cooperation has actually occurred.

EXCEPTIONS: When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the effective date of eligibility shall be seven days following the date that the social security number or proof of application for a social security number is provided.

When adding a person who was previously excluded from the eligible group as described at 441—subrules 41.23(5), ~~and 41.25(5) and 46.28(2)~~ and rule 441—46.29(239B), the effective date of eligibility shall be seven days following the date that the period of ineligibility ended.

When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the effective date of eligibility shall be seven days following the date the person signs a family investment agreement or the date the person is otherwise eligible, whichever is later. In no case shall the effective date be within the six-month ineligibility period of a subsequent limited benefit plan as described at 441—paragraph 41.24(8)“a.”

This rule is intended to implement Iowa Code section 239B.3.

ITEM 6. Amend paragraph **40.27(3)“b”** as follows:

b. When the client has completed Form 470-0462 or Form 470-0462(S), Food and Financial Support Application, for another purpose, this form may be used as the review document.

ITEM 7. Amend subparagraph **41.22(6)“b”(4)** as follows:

(4) Paying to the department any cash support payments for a member of the eligible group, except as described at 41.27(7)“p₁” ~~and “q,”~~ received by a recipient after the date of decision as defined in 441—subrule 40.24(4).

ITEM 8. Amend paragraph **41.22(16)“g”** as follows:

g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of ~~economic assistance~~ adult, children and family services, or the administrator's designee, for determination of good cause.

ITEM 9. Amend paragraph **41.23(5)“b,”** introductory paragraph, as follows:

b. *Attestation of status.* As a condition of eligibility, an attestation of citizenship or alien status shall be made for all applicants and recipients on Form 470-0462 or 470-0462(S), Food and Financial Support Application, or Form 470-2549, Statement of Citizenship Status. Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, may be used to attest to the citizenship of dependent children who enter a recipient household. Failure to sign a form attesting to citizenship when required to do so creates ineligibility for the entire eligible group. The attestation may be signed by:

ITEM 10. Adopt the following **new** implementation sentence in rule **441—41.24(239B)**:

This rule is intended to implement Iowa Code section 239B.4(6).

ITEM 11. Rescind and reserve subrule **41.25(1)**.

ITEM 12. Amend subrule 41.25(2), introductory paragraph, as follows:

41.25(2) Duplication of assistance. A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care, ~~or~~ state-funded foster care or kinship caregiver program payments.

ITEM 13. Amend subparagraph **41.25(5)“c”(2)** as follows:

(2) An individual is not participating in a strike at the individual’s place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The ~~district administrator~~ service area manager shall determine whether such a risk to the individual’s physical or emotional well-being exists.

ITEM 14. Rescind and reserve subrule **41.25(9)**.

ITEM 15. Amend subrule 41.25(11), introductory paragraph, as follows:

41.25(11) Access to benefits. As a condition of eligibility, applicants and recipients must agree in writing to not use an electronic access card at prohibited locations. By signing Form 470-0462 or 470-0462(S), Food and Financial Support Application, or Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, the applicant, the applicant’s authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant’s behalf agrees to this condition of eligibility. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and agree to this condition for the assistance unit. Failure to sign a form agreeing to not use the electronic access card at prohibited locations creates ineligibility for the entire eligible group.

ITEM 16. Amend paragraph **41.25(11)“e”** as follows:

e. A new period of ineligibility shall be established when:

(1) to (3) No change.

Assistance issued pending the final decision of an appeal is not subject to recovery pursuant to ~~441—subrule 7.9(6) rule 441—7.17(17A).~~

ITEM 17. Amend paragraph **41.26(1)“e”** as follows:

e. A reserve of other property, real or personal, not to exceed \$2000 for applicant assistance units and \$5000 for recipient assistance units. EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the \$5000 limit. The exception includes those persons who did not receive an assistance grant due to the limitations described at rules 441—45.26(239B) and ~~441—45.27(239B) and persons whose grants were suspended as in 41.27(9)“f” in the month prior to the month of application.~~

Resources of the applicant or the recipient shall be determined in accordance with subrule 41.26(2).

ITEM 18. Amend subrule 41.26(4) as follows:

41.26(4) Liquidation. When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. and b. No change.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 41.27(1)“f” and ~~41.27(7)“ah.”~~ 41.27(7)“aj.” The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month

following the month of receipt.

ITEM 19. Amend rule 441—41.27(239B) as follows:

441—41.27(239B) Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant.

1. and 2. No change.

3. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1)“h”(2) shall be considered as exempt income for the purpose of determining continuing eligibility, ~~including child support as specified in paragraph 41.27(7)“g.”~~ Deductions and diversions shall be allowed when verification is provided.

41.27(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from 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 meet the needs of the eligible group.

a. to g. No change.

h. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance grant(s). Any cash support payment for a member of the eligible group, except as described at 41.27(7)“p.” and “q.” received by the recipient after the date of decision as defined in 441—subrule 40.24(4) shall be refunded to the child support recovery unit.

(2) No change.

~~(3) and (4) Rescinded IAB 12/3/97, effective 2/1/98.~~

i. The applicant or recipient shall cooperate in supplying verification of all unearned income, as defined at ~~rule 441—40.21(239B)~~ 441—paragraph 40.24(1)“b” and 441—subrule 40.27(4). When the information is available, the department shall verify job unemployment insurance benefits by using information supplied to the department by the department of workforce development. ~~When the department uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.~~ When the client notifies the department that the amount of job unemployment insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form 470-0485(C) or 470-0486(M), applicable to the payment month, whichever is later, in order to receive a payment adjustment.

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. to g. No change.

h. *Income verification.* The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at ~~rule 441—40.21(239B)~~ 441—paragraph 40.24(1)“b” and 441—subrule 40.27(4). A self-employed individual shall keep any records necessary to establish eligibility.

41.27(3) to 41.27(5) No change.

41.27(6) Exempt as income and resources. The following shall be exempt as income and resources:

- a. No change.
 - b. The value of the ~~food assistance~~ supplemental nutrition assistance program benefit.
 - c. to w. No change.
 - x. The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, kinship caregiver program, or subsidized adoption assistance.
 - y. to ac. No change.
- 41.27(7) Exempt as income.** The following are exempt as income.
- a. to c. No change.
 - d. ~~Payments~~ Foster care or kinship caregiver program payments received by the family ~~providing that is:~~
 - (1) Providing foster care to a child or children when the family is operating a licensed foster home, or
 - (2) Caring for a relative or fictive kin child or children placed in the home by a court order.
 - e. to ak. No change.
- 41.27(8) to 41.27(11)** No change.
This rule is intended to implement Iowa Code section 239B.7.

ITEM 20. Amend subparagraph **41.30(3)“e”(1)** as follows:

(1) Families that have or are close to having received 60 months of assistance as defined in subrule 41.30(1) may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months. In addition, families that have received assistance for 60 months and are no longer receiving FIP shall complete Form 470-0462 or Form 470-0462(S), Food and Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department’s request shall result in denial of the hardship request.

ITEM 21. Amend subparagraph **41.30(3)“g”(4)** as follows:

(4) PROMISE JOBS staff shall provide necessary supportive services as described in 441—Chapter 93 and shall monitor the six-month FIA. Periodic contacts shall be made with the family ~~at least once a month~~ to monitor progress. These contacts need not be in person. Time and attendance reports shall be required as specified at 441—subrule 93.10(2).

ITEM 22. Amend rule **441—46.21(239B)**, definition of “Overpayment,” as follows:

“*Overpayment*” means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed and any associated fees for accessing the benefits at a prohibited location pursuant to 441—subrule 41.25(11).

ITEM 23. Amend rule 441—46.25(239B), introductory paragraph, as follows:

441—46.25(239B) Source of recoupment. Recoupment shall be made from basic needs. The minimum recoupment amount shall be the amount prescribed in subrule 46.25(3). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments when an agreement to do this is made with the department of inspections and appeals, or have repayment withheld from the grant. The client shall sign Form 470-0495, ~~Repayment Contract~~ Agreement to Pay a Debt, when requested to do so by the department of inspections and appeals. When the client fails to make the agreed upon payment, the agency shall reduce the grant.

ITEM 24. Amend subrule 46.27(4) as follows:

46.27(4) Change of circumstances. When financial circumstances change, the ~~recoupment plan~~ Agreement to Pay a Debt is subject to revision.

ITEM 25. Amend subrule 60.1(3) as follows:

60.1(3) Immigration and Naturalization Service documents. Each refugee shall provide Immigration and Naturalization Service documents in the form of either an I-94 card, an I-151 or I-551 card, ~~or an I-181 card,~~ or other appropriate documentation to support the immigration status defined in subrule 60.1(1). If the name of the resettlement agency which resettled the refugee is not on the document, the refugee shall provide the name of the resettlement agency.

ITEM 26. Amend rule 441—60.7(217) as follows:**441—60.7(217) Time limit for eligibility.**

60.7(1) Assistance. A refugee may receive assistance, if otherwise eligible;

a. For refugees who entered the country prior to October 1, 2021, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country.

b. For refugees who entered the country on or after October 1, 2021, during the first 12 months the refugee is in the United States, beginning the month the refugee enters the country.

EXCEPTION: For asylees, the date of entry is the date asylum is granted. The ~~eight-month~~ 8-month or 12-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for ~~eight~~ 8 or 12 months, or until the child reaches ~~eight~~ 8 or 12 months of age, whichever occurs first. For Afghan special immigrant (SI) parolees and Afghan SI conditional permanent residents (CPRs), the date is the date of “entry into the community,” which is the date the individual departed a safe haven. For Afghan humanitarian parolees, the date is the latter of October 1, 2021, or the date of entry into the community, which is the date the individual departed a safe haven. “Safe haven” is the term the U.S. government and other relevant stakeholders have used for U.S. military bases in the continental United States that housed Afghans evacuated under Operation Allies Refuge/Operation Allies Welcome (OAR/OAW) as Afghans awaited resettlement to their ultimate state of residence.

~~60.7(1)~~ **60.7(2) Resources.** The resources of refugees excluded because of the ~~eight-month~~ 8-month or 12-month limit shall be considered in the same manner as though these refugees were included in the eligible group.

~~60.7(2)~~ **60.7(3) Income.**

a. to *d.* No change.

ITEM 27. Amend paragraph **60.9(5)“d”** as follows:

d. If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the department shall not take into account the sanctioned individual’s needs in determining the filing unit’s need for assistance. ~~If the sanctioned individual is a caretaker relative, assistance provided to the other persons in the grant shall be made in the form of protective payments as defined in rule 441—43.22(239B).~~

ITEM 28. Amend rule 441—60.14(217) as follows:

441—60.14(217) Alternate payees. Alternate payees are defined in 441—Chapter 43 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

EXCEPTION: 441—subrule 43.22(1), paragraph “c,” shall not apply to refugee cash assistance applicants or recipients



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Barb Caruso	Telephone Number 281-4176	Email Address bcaruso@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

These rule changes:

- Removes Spanish and manually generated form numbers.
- Update the name of the food assistance program to supplemental nutrition assistance program.
- Removes incorrect or obsolete cross references.
- Rescind obsolete rules.
- Add information about the kinship caregiver program.
- Updates division name.
- Adds clarifying language to rules.
- Updates the time limit a refuges can get RCA

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

Code of Iowa chapter 239B.4(6) and 217.6

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

There will be no impact for any of the changes. These changes are clean up found during the five-year rule review.

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

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

5. What are the likely areas of public comment?

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 25, 2022

Agency: Human Services
IAC citation: 441 IAC 40, 41, 46 and 60
Agency contact: Barb Caruso

Summary of the rule:

These rule changes:

- Removes Spanish and manually generated form numbers.
- Update the name of the food assistance program to supplemental nutrition assistance program.
- Removes incorrect or obsolete cross references.
- Rescind obsolete rules.
- Add information about the kinship caregiver program.
- Updates division name.
- Adds clarifying language to rules.
- Updates the time limit a refugees can get RCA

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

These changes are clean up found during the five-year rule review. There is no fiscal impact to the state. No additional costs to the regulated community or State of Iowa as a whole are anticipated.

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

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

Assumptions:

There is no fiscal impact to the state.

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 2022)</u>	<u>Year 2 (FY 2023)</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 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):

No impact.

Agency representative preparing estimate: Rob Beran

JH 04/26/2022

Telephone number:

281-6188

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to adoption investigators.

The Human Services Department hereby amends Chapter 107, "Certification of Adoption Investigators," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The rules in Chapter 107 were reviewed as part of the Department's five-year rules review. As a result, clarification on the inclusion of dependent adult abuse in the evaluation process for record checks is added to the administrative rules. Forms are updated to add dependent adult abuse as a category. Language is updated to include categories of record checks and reports.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6370C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

Adopted and Filed Rules

The following rules are adopted:

ITEM 1. Amend subrule 107.4(5), introductory paragraph, as follows:

107.4(5) Record checks. The department of inspections and appeals shall submit record checks for each new applicant and those applying for recertification to determine whether they have any founded child abuse reports, dependent adult abuse reports or convictions or have been placed on the sex offender registry. The department of inspections and appeals shall use Form 470-0643, Request for Child Abuse and Dependent Adult Abuse Information, and Form 595-1396, DHS Criminal History Record Check, Form B, for this purpose. The department shall not certify the applicant with a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry as an adoption investigator, unless evaluation of the founded abuse or crime indicates approval for certification.

ITEM 2. Amend subparagraph **107.5(2)“a”(6)** as follows:

(6) The applicant has a founded child abuse, dependent adult abuse or criminal record conviction, unless an evaluation of the founded abuse or criminal conviction is conducted by the department of inspections and appeals which concludes that the abuse or crime does not merit prohibition of certification.

ITEM 3. Amend paragraph **107.8(1)“c”** as follows:

c. Record checks. The certified adoption investigator shall perform record checks for each applicant and for the other persons living in the home of the applicant as follows:

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse and Dependent Adult Abuse Information form;
2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check, Form B;
3. On the Iowa sex offender registry;
4. On the child abuse and dependent adult abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and
5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse and Dependent Adult Abuse Information form;
2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check, Form B; and
3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks, dependent adult abuse checks and national criminal history checks may be completed on any adult in the home of the applicant if the certified adoption investigator has reason to do so.

(4) and (5) No change.

ITEM 4. Amend paragraph **107.8(1)“d”** as follows:

d. Evaluation of record. If there is a record of founded child abuse, dependent adult abuse or a criminal conviction for the applicant or any other adult living in the home of the applicant, the applicant shall not be approved to adopt, unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(1) The evaluation shall consider the nature and seriousness of the founded child abuse, dependent adult

abuse or crime in relation to adoption, the time elapsed since the commission of the founded abuse or crime, the circumstances under which the abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of abuses or crimes committed by the person.

(2) The person with the founded child abuse, dependent adult abuse or criminal conviction report shall complete and return the Record Check Evaluation form within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame may result in a written denial of approval for adoption.

(3) No change.

(4) If the applicant, or any other person living in the home of the applicant, has a founded child or dependent adult abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, a certified adoption investigator shall initially conduct the evaluation.

1. No change.

2. If the certified adoption investigator determines that the applicant should be approved despite the abuse or criminal conviction, the certified adoption investigator shall provide copies of the child abuse report, dependent adult abuse report or criminal history record and the Record Check Evaluation form to the Administrator, Division of Adult, Children and Family Services, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. Within 30 days, the administrator shall determine whether the abuse or crime merits prohibition of approval and shall notify the certified adoption investigator in writing of that decision. The certified adoption investigator shall mail the applicant the department's written decision regarding the evaluation of an abuse or crime.

ITEM 5. Amend subparagraph **107.8(1)“f”(4)** as follows:

(4) The applicant or any person residing in the home has a record of founded child abuse or dependent adult abuse, unless an evaluation of the founded child abuse or dependent adult abuse has been made by the department, which concluded that the founded child abuse or dependent adult abuse does not merit prohibition of approval of an adoption application.

ITEM 6. Amend subparagraph **107.8(1)“g”(1)** as follows:

(1) The child abuse, dependent adult abuse and criminal history record checks, except for national criminal history checks, shall be repeated. If there are new founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 107.8(1)“d.”

ITEM 7. Amend subparagraph **107.8(1)“h”(2)** as follows:

(2) When a person aged 14 or older moves into the home, the investigator shall perform checks on the Iowa central child and dependent adult abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction, ~~or~~ founded child abuse report, founded dependent adult abuse report or is on the sex offender registry.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Laura Leise	Telephone Number 515-281-8799	Email Address lleise@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 107 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Clarification on adult dependent abuse being part of the evaluation process
- Updated services and language use

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, DHS staff, foster care and adoption youth and DHS contractors.

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: 05/06/22

Agency: Human Services
IAC citation: 441 IAC CHAPTER 107
CERTIFICATION OF ADOPTION INVESTIGATORS
Agency contact: Laura Leise

Summary of the rule:

The rules in Chapter 107 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Clarification on adult dependent abuse being part of the evaluation process
- Updated services and language use

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

No fiscal impact is expected from these clarifying changes.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

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 05/06/2022

Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to licensed 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 update was made to the preamble to reflect this rule making was a result of HF 2198. One change was made to rule 109.8(2)d based on the comment received. The word adult was removed from the rule.

~~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.

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 September 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 August 11, 2022, for an effective date of September 1, 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 September 1, 2022.

The following rule-making action is adopted:

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

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

~~e.~~ 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.~~ 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.~~ 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.~~ 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.~~ 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.~~ 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 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

Rule making related to family-life homes

The Human Services Department hereby amends Chapter 111, "Family-Life Homes," 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 249A.4.

Purpose and Summary

This rule making is part of the Department's five-year rules review process. These rules define the Family-Life Home program administered through the Department through state supplementary assistance services. The names of forms are removed to eliminate unnecessary future changes as form names change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6368C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

ITEM 1. Amend subrule 111.2(4) as follows:

111.2(4) When an applicant has reached a decision to operate a family-life home, the applicant shall complete Form 470-0606, ~~Application for Certification~~.

ITEM 2. Amend subrule 111.6(1) as follows:

111.6(1) Prior to certification the family shall furnish the local department with a medical report on each member of the household. The report shall be on Form 470-0672, ~~Provider Health Assessment Form~~.

ITEM 3. Amend subrule 111.9(1) as follows:

111.9(1) A physician shall certify that the client is free from any communicable disease and does not require a higher level of care than that provided by a family-life home. The certification shall be given prior to placement and following an annual medical review thereafter. The certification shall be given on Form 470-0673, ~~Physician's Report~~.

ITEM 4. Amend rule 441—111.10(249) as follows:**441—111.10(249) Placement agreement.** The head of the family-life home and the resident shall enter into a placement agreement by signing Form 470-0634, ~~Placement Agreement Family Life Home, provided by the department~~.

ITEM 5. Amend **441—Chapter 111**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~234.6(6) "e"~~ 234.6(1) "e" and 249.3(2) "a"(1).



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:
As a part of the 5-year rule review, this change to administrative rules is designed to align consistent language and direction.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code chapter 234.6 Child and Family Services and Iowa Code chapter 249 State Supplemental Assistance
3. Describe who this rulemaking will positively or adversely impact.
The changes will incorporate common language decreasing unnecessary future changes and will positively impact all.
4. Does this rule contain a waiver provision? If not, why?
No. Not applicable.
5. What are the likely areas of public comment?
No public comments are anticipated.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No such impact is anticipated.



Administrative Rule Fiscal Impact Statement

Date: November 29, 2021

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

Summary of the rule:

The rule defines the Family Life Home Program administered by DHS through state supplementary services

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

There is no fiscal impact to the state.

Describe how estimates were derived:

There is no fiscal impact to the state.

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2022)</u>	<u>Year 2 (FY 2023)</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 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):

No impact.

Agency representative preparing estimate: Rob Beran

JH 05/16/2022

Telephone number: 281-6188

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five year rules

The Human Services Department hereby amends Chapter 130, "General Provisions," 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

This rule making is part of the Department's five-year rules review process. The Department revised outdated language and replaced it with current person-centered language to be consistent with best practices. Instead of using income charts that need to be updated annually, the Department is using a link to the poverty income guidelines provided by the U.S. Department of Health and Human Services. The term "child abuse investigation" is changed to "child protective assessment," and the term "mental retardation" is updated to "intellectual disability."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6371C.

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 August 11, 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 November 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 130.2(4) as follows:

130.2(4) The application shall be approved or denied within 30 days from the date of application and the applicant notified of the decision. The decision shall be mailed or given to the applicant on the date the determination is made except that for services ordered by the court, the court order provided by the court and the case permanency plan provided by the department shall serve as notification. When individual case management services are being provided under 441—Chapter 24 for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness, the application shall be approved or denied no later than the date that the department service manager, who is part of the interdisciplinary team, signs the individual program plan.

ITEM 2. Amend paragraphs **130.3(1)“d”** and **“e”** as follows:

d. Persons are financially eligible for services when they are in one of the following categories:

(1) Income maintenance status. They are recipients of the family investment program, or those whose income was taken into account in determining the needs of family investment program recipients, or recipients of supplemental security income or state supplementary assistance, or those in the 300 percent group as defined in 441—subrule 75.1(7).

(2) Income eligible status. The monthly gross income ~~according to~~ is based on family size ~~is no more than the following amounts:~~ Family size income levels are found at aspe.hhs.gov/poverty-guidelines.

Monthly Gross Income Limits

<u>Family Size</u>	
1 Member	\$ 583
2 Members	762
3 Members	942
4 Members	1,121
5 Members	1,299
6 Members	1,478
7 Members	1,510
8 Members	1,546
9 Members	1,581
10 Members	1,612
11 Members	1,645
12 Members	1,678
13 Members	1,711
14 Members	1,744
15 Members	1,777

Monthly Gross Income Limits

Family Size

16 Members	1,810
17 Members	1,843
18 Members	1,876
19 Members	1,909
20 Members	1,942

~~(3) to (5) — Rescinded IAB 6/9/04, effective 7/1/04.~~

e. Certain services are provided without regard to income which means family income is not considered in determining eligibility. The services provided without regard to income are information and referral, child ~~abuse investigation~~ protective assessment, child abuse treatment, child abuse prevention services, including protective child care services, family-centered services, dependent adult abuse evaluation, dependent adult abuse treatment, dependent adult abuse prevention services, and purchased adoption services to individuals and families referred by the department.

ITEM 3. Amend rule 441—130.4(234) as follows:

441—130.4(234) Fees.

130.4(1) The department may set fees to be charged to clients for services received. The fees will be charged to those clients eligible under rule ~~441—130.3(234)~~, but not those receiving services without regard to income due to a protective service situation. Nothing in these rules shall preclude a client from voluntarily contributing toward the costs of service.

~~**130.4(1)**~~ **130.4(2) Collection.** The provider shall collect fees from clients. The provider shall maintain records of fees collected, and such records shall be available for audit by the department or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment.

~~**130.4(2) Monthly income.** Rescinded IAB 1/8/92, effective 3/1/92.~~

~~**130.4(3) Child care services.** Rescinded IAB 6/9/04, effective 7/1/04.~~

~~**130.4(4)** Rescinded, effective 7/1/81.~~

This rule is intended to implement Iowa Code section 234.6.

ITEM 4. Amend subrules 130.6(2) and 130.6(3) as follows:

130.6(2) Ensure that there is a department case plan for each individual or family based on assessment of strengths and needs. Furnish appropriate sections of the initial plan and of all updated department case plans to the provider agency when services are purchased for an individual. When individual case management services are being provided under 441—Chapter 24 for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness, the individual case management services provider shall distribute the case plans.

130.6(3) Refer the client to other workers or agencies through proper channels, and coordinate all workers involved in the case.

When individual case management services are being provided under 441—Chapter 24 for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness, the individual case management services provider shall be responsible for making referrals and coordinating workers as specified in the individual program plan.

ITEM 5. Amend rule 441—130.7(234) as follows:

441—130.7(234) Case plan. The department worker shall develop a case plan with or on behalf of persons approved to receive services. However, a case plan is not required (1) for child or adult protective ~~investigation~~ assessment, (2) for foster care cases in which the department does not have custody, guardianship or a voluntary placement agreement, or (3) when child care is the only service. A case plan shall be developed with or on behalf of every other person approved to receive services unless the person has a case manager as specified in 441—Chapter 24. When department services are provided before an individual program plan in compliance with 441—Chapter 24 is approved, a department case plan must be developed according to the requirements of this rule.

When individual case management services are being provided under 441—Chapter 24 for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness, the rules in 441—Chapter 24 on time limits, plan format and on who develops the plan shall apply for adults and for children whose services are not under court jurisdiction. The department worker shall determine eligibility for those services provided by the department; however, a separate department case plan need not be developed. If the individual program plan does not include sufficient information to meet department service requirements or the requirements in this chapter, the person providing department social casework shall complete either a case plan or addendum and coordinate distribution to the persons who receive the individual program plan with the case manager.

The case plan shall become part of the client's case record. The client shall participate in the development of this plan to the extent possible. The case plan shall be consistent with other service or program plans. A copy of the case plan shall be provided to the client or, when indicated, to the parent or representative of the client. For adult services, the case plan shall be recorded using Form 470-0583, Individual Client Case Plan. For children's services, the case plan shall be known as the case permanency plan and shall be prepared using Form 470-3453, Family Case Plan.

130.7(1) and 130.7(2) No change.

130.7(3) The case plan shall be developed and filed in the case record as follows:

a. In child welfare cases, the case plan shall be developed in partnership with the child, the family, and the caregiver.

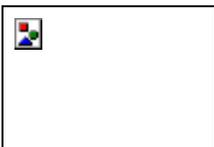
(1) The recommendations from the child protective services assessment ~~summary~~ and the safety plan developed with the family shall be considered an initial case plan.

(2) No change.

b. No change.

130.7(4) and 130.7(5) No change.

This rule is intended to implement Iowa Code section 234.6.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Linda Dettmann	Telephone Number 515-281-3012	Email Address ldettma@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

This proposed rule making is part of the Department's five-year rules review process. The Department is revising outdated language and replacing it with current person-centered language to be consistent with best practices. Instead of using income charts that need to be updated annually the Department is using a link to poverty income guidelines provided by health and human services. The term child abuse investigation is being updated to child protective assessment and the term mental retardation is being updated to intellectual disability.

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

This proposed rule making is part of the Department's five- year rules review process.

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

The proposed rule making will be a positive impact as they will provide current information on application processes and eligibility factors.

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

The proposed amendments do not include a waiver provision as the Department has a waiver process under 441-1.8.

5. What are the likely areas of public comment?

Public comment, if received, is expected to be positive, as information is being updated to provide current processes and information.

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

There is no impact on private sector jobs expected.



Administrative Rule Fiscal Impact Statement

Date: May 9, 2022

Agency: Human Services

IAC citation: 441 IAC 130

Agency contact: Linda Dettmann

Summary of the rule:

This proposed rule making is part of the Department’s five-year rules review process. The Department is revising outdated language and replacing it with current person-centered language to be consistent with best practices. Instead of using income charts that need to be updated annually the Department is using a link to poverty income guidelines provided by health and human services. The term child abuse investigation is being updated to child abuse assessment and the term mental retardation is being updated to intellectual disability.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

There is no fiscal impact to the state.

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	_____	_____

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):

No impact.

Agency representative preparing estimate: Rob Beran

JH 05/09/2022

Telephone number: 281-6188

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five year rule review

The Human Services Department hereby amends Chapter 131, "Social Casework," 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

This making is part of the Department's five-year rules review process. The rule regarding adverse actions is updated to specify the correct rule references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6372C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

441—131.5(234) Adverse actions. Services shall be denied or terminated and appropriate notice given to clients as specified in ~~rule~~ rules 441—16.3(17A) and 441—130.5(234).



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Linda Dettmann	Telephone Number 515-281-3012	Email Address ldettma@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Updating Chapter 131- Social Casework for the Department's Five-Year Rule process. Updated rule in Adverse Actions to specify correct rule references.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
234.6
3. Describe who this rulemaking will positively or adversely impact.
It will positively impact clients as it will provide accurate information on notice and appeal rights.
4. Does this rule contain a waiver provision? If not, why?
No. The Department has a separate waiver provision under 441-1.8.
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 impact on jobs expected.



Administrative Rule Fiscal Impact Statement

Date: May 5, 2022

Agency: Human Services

IAC citation: 441 IAC 130

Agency contact: Linda Dettmann

Summary of the rule:

Updating rule to reflect correct references for notices of decision for adverse actions.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

There is no fiscal impact to the state.

Describe how estimates were derived:

There are no potential costs estimated for this rule.

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 to the state.</p>		
<p><i>Fiscal impact to persons affected by the rule:</i> 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.</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:	Rob Beran	JH 05/05/2022
Telephone number:	281-6188	

HUMAN SERVICES DEPARTMENT[441]

DRAFT ONLY: Dates herein may not comply with Schedule for Rule Making.

Adopted and Filed

Rule making related to five year rules review.

The Human Services Department hereby rescinds Chapter 160, "Adoption Opportunity Grant Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The rules in Chapter 160 were reviewed as part of the Department's five-year rules review process. As a result, it was determined the chapter is no longer needed and should be rescinded because the Adoption Opportunity Grant Program is not funded in Iowa. This rule making rescinds Chapter 160.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6364C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

Rescind and reserve 441—Chapter 160.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Laura Leise	Telephone Number 515-281-8799	Email Address lleise@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 160 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Chapter determined to be no longer needed and can be obsoleted.

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, DHS staff, foster care and adoption youth and DHS contractors.

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: May 6, 2022

Agency: Human Services

IAC citation: 441 IAC 160

Agency contact: David Philmon

Summary of the rule:

The rule has determined that chapter 160 is no longer needed and can be obsolete.

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 Adoption Opportunity Grant program is not funded or used in the State. As a result, this chapter is no longer needed. 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	0.00	0.00

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

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

Agency representative preparing estimate: David Philmon JH 05/06/2022
 Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to Aftercare Services Program.

The Human Services Department hereby amends Chapter 187, "Aftercare Services Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 217.6 and 234.46.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.46.

Purpose and Summary

The rules in Chapter 187 were reviewed as part of the Department's five-year rules review. This rule making:

- Extends eligibility to youth aged 21 and 22, regardless of whether the youth participated in aftercare services between the ages of 18 and 21 years old.

- Extends eligibility to youth who participate in the Preparation for Adult Living (PAL) program, even if the youth did not spend 6 of 12 months in foster care prior to aging out of care.

- Adds supervised apartment living to the list of foster care placements because placements can include a variety of settings.

- Clarifies the meaning and intent of "preservices."

- Refines termination rules for youth who are participating in two similar services to avoid duplication.

- Allows youth to use a full \$600 in extended services funds in a half-year, instead of the \$300 per quarter that is currently allowed in Chapter 187. Advocates and youth have reported a desire to have more flexibility to use these funds.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6366C.

No public comments were received.

No changes were made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on August 11, 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 41_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 November 1, 2022.

The following rule-making action is adopted:

Please see attached.

ADOPTED and FILED RULES

The following rules are adopted:

ITEM 1. Amend paragraph **187.2(3)“a”** as follows:

a. Preservices. The youth must meet eligibility requirements for preservices as described below:

- (1) The youth is at least 17 years of age; and
- (2) The youth ~~was~~ is placed in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center; ~~was adopted from foster care~~ after reaching 16 years of age; or entered a subsidized guardianship arrangement from foster care after reaching 16 years of age; and
- (3) The youth has access to funding for preservices provided in contract that has not been fully expended for the contract year.

ITEM 2. Rescind subparagraph **187.2(3)“c”(3)**.

ITEM 3. Renumber subparagraph **187.2(3)“c”(4)** as **187.2(3)“c”(3)**.

ITEM 4. Amend subparagraph **187.2(3)“d”(2)** as follows:

(2) Foster care may include, but is not limited to, placement in:

1. A foster family home; or
2. A foster care group home; or
3. An emergency shelter; or
4. Supervised apartment living; or
4. ~~5.~~ A preadoptive home; or
5. ~~6.~~ The home of a relative or suitable person; or
6. ~~7.~~ A psychiatric medical institution for children (PMIC).

ITEM 5. Amend subrule 187.3(1) as follows:

187.3(1) Preservices. ~~Planning, coordination of services, Informational~~ and trust-building activities may be provided to a youth placed out of home, as described in paragraph 187.2(3)“a,” who is expected to participate in aftercare services at 18 years of age or older. The administrator may provide funds as described in paragraph 187.3(4)“a.” However, funds provided to the youth in preservices will be deducted from available start-up funds in the youth’s first year of participation in core services.

ITEM 6. Amend subrule 187.3(6) as follows:

187.3(6) Preparation for adult living (PAL) stipend. When an eligible youth is actively participating in the program, the administrator or designee shall deliver the preparation for adult living program as described in Iowa Code section 234.46 and as follows:

a. To be eligible for the PAL stipend, the youth must:

- (1) ~~Meet~~ Have met eligibility requirements in Iowa Code section ~~234.46~~ 234.46(1) upon reaching the age of 18 and meet eligibility requirements in rule 441—187.2(234), ~~and~~
- (2) ~~Have been placed out of home in~~ exited foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center as identified by Iowa Code chapter 232 on or after the youth’s eighteenth birthday, ~~and have exited after having been in any combination of the same services in at least 6 of the 12 months before leaving placement; and~~
- (3) ~~Be ineligible for voluntary foster care placement, due to~~ Meet one or more of the following criteria:
 1. ~~The youth has a high school diploma~~ Be enrolled in or equivalent, actively pursuing enrollment in

postsecondary education, a training program or work training; or

2. The youth has reached 20 years of age, Be employed for 80 hours per month or be actively seeking that level of employment; or

3. The youth became eligible for aftercare services due to exiting the Iowa state training school or an Iowa detention center; Be attending an accredited school full-time pursuing a course of study leading to a high school diploma; or

4. The youth became eligible for aftercare services due to exiting court-ordered care in accordance with Iowa Code chapter 232 by a relative or another person with a significant relationship with the youth Be attending an instructional program leading to a high school equivalency diploma.

~~b. To be eligible for the PAL stipend, the youth must meet one or more of the following criteria:~~

~~(1) Be enrolled in or actively pursuing enrollment in postsecondary education, a training program or work training; or~~

~~(2) Be employed for 80 hours per month or be actively seeking that level of employment; or~~

~~(3) Be attending an accredited school full-time pursuing a course of study leading to a high school diploma;~~

~~or~~

~~(4) Be attending an instructional program leading to a high school equivalency diploma.~~

~~e. b.~~ The maximum monthly stipend shall be provided after completion of the youth's budget. The maximum amounts provided to a youth shall be stated in the contract and shall be based on program eligibility and guidelines, as follows:

(1) The monthly stipend shall be prorated based on the number of days of youth participation, for those entering and exiting the program during the month.

(2) When the monthly unearned income of the youth exceeds the overall maximum monthly stipend offered in the preparation for the adult living program, the youth is not eligible for payments under subrule 187.3(4) unless unused startup funds remain.

(3) When the net earnings of the youth exceed the overall maximum monthly stipend offered in the preparation for the adult living program, the monthly stipend shall be reduced by 50 cents for every dollar earned by the youth over the overall monthly maximum stipend.

(4) All earned and unearned income received by the youth during the 30 days before the determination shall be used to project future income. If the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(5) Nonrecurring lump-sum payments are excluded as income. Nonrecurring lump-sum payments include, but are not limited to, one-time payments received for such things as income tax refunds, rebates, credits, refunds of security deposits on rental property or utilities, and retroactive payments for past months' benefits such as social security, unemployment insurance, or public assistance.

(6) The youth shall timely report the beginning and ending of earned and unearned income. A report shall be considered timely when made within ten days from the receipt of income or the date income ended.

(7) When the youth timely reports a change in income, the youth's prospective eligibility and stipend amount for the following month shall be determined based on the change.

(8) Recoupment shall be made for any overpayment due to failure to timely report a change in income or for benefits paid during an administrative appeal if the department's action is ultimately upheld. Recoupment may be made through a reasonable reduction of any future stipends.

(9) Recoupment shall not be made when a youth timely reports a change in income and the change is timely acted upon, but the timely notice policy in rule 441—16.3(17A) requires that the action be delayed until the second calendar month following the month of change.

(10) The stipend may be paid to the youth, the foster family, or another payee other than a department employee. The payee shall be agreed upon by the parties involved and specified in the individual self-sufficiency plan, described in subrule 187.3(2).

(11) The maximum stipend may be based on the age of the youth.

ITEM 7. Amend paragraph **187.3(7)“d”** as follows:

d. The extended services funds approved for the youth have not exceeded ~~\$300~~ \$600 for a ~~three-month~~ six-

month period calculated from the date of initiation of extended services.

ITEM 8. Reletter paragraph **187.4(1)“e”** as **187.4(1)“f.”**

ITEM 9. Adopt the following **new** paragraph **187.4(1)“e”**:

e. The youth has entered a residential services program and has resided there for 60 days. Residential services program means a program where housing and support services are provided, including but not limited to homeless shelters or transitional living programs.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Doug Wolfe	Telephone Number 515-360-0388	Email Address dwolfe@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 187 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Extended eligibility to youth age 21 and 22, regardless whether they participated at age 18-21, and to youth to participate in PAL, even if they did not spend 6 of 12 months in foster care prior to aging out of care (this aligns with Iowa Code 234.46).
- Included Supervised Apartment Living in the definition of foster care.
- Clarified meaning and intent of "preservices".
- Clarified termination rules for youth who are participating in two similar services, to avoid duplication.
- Advocates and youth reported they want more flexibility to use funds—so this would allow them to use a full \$600 to pay rent or help purchase a car, for example, instead of just having 300 at a time. In other words, the \$300 per quarter is spread out, so the youth can use \$600 in a half year.

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

Iowa Code Section 217.6 provides rule making authority to the director of the Iowa Department of Human Services.

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

It is expected that amendments herein will provide a positive benefit to members of the public, including former foster care youth.

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 187
Agency contact: Doug Wolfe, Transition Program Manager

Summary of the rule:

The rule extended eligibility to youth age 21 and 22, regardless whether they participated at age 18-21, and to youth to participate in PAL, clarified some terms and definitions, as well as allows more flexibility for advocates and youth to use funds allotted to them.

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 changes are neutral or will be addressed in the current budget.

The eligibility changes are expected to be negligible—services to a few youth can be easily absorbed in the budget and will likely be offset by reductions to exceptions to policy.

The changes to the funding distribution will have no fiscal impact. The rule allows more flexibility for youth, but does not add more funds for them to utilize. Youth will get to claim up to \$600 per six month period, instead of \$300 every quarter.

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:

Agency representative preparing estimate: David O. Philmon, Jr. MBA. MSBA JH 04/21/2022

Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to Iowa Adoption Exchange

The Human Services Department hereby amends Chapter 203, "Iowa Adoption Exchange," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.119 and 237.3.

Purpose and Summary

The rules in Chapter 203 were reviewed as part of the Department's five-year rules review process.

The purpose of the Iowa Adoption Exchange is to facilitate the placement of Iowa children who are legally available for adoption. Administrative rules in this chapter require that children with special needs under state guardianship be registered on the Iowa Adoption Exchange within 60 days after termination of parental rights unless a deferral is granted. All children under state guardianship for whom an adoptive home is not available within 90 days after termination of parental rights shall be registered on the Iowa Adoption Exchange. Department workers, child-placing agencies and certified adoption investigators shall register adoptive families if the families wish to adopt a child with special needs or a sibling group.

This rule making updates definitions used in the program and clarifies the process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6365C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** definition of "Recruitment, retention, training and support (RRTS) contract" in rule 441—203.1(232):

"Recruitment, retention, training and support (RRTS) contract" means the state's contractor(s) responsible for activities related to licensing foster families and approving adoptive families, providing support services to foster and preadoptive families, conducting preservice and in-service training, and providing assistance in matching children in need of foster home care.

ITEM 2. Amend rule 441—203.2(232) as follows:

441—203.2(232) Children to be registered on the exchange system. All children with special needs under state guardianship shall be registered on the Iowa adoption exchange system within 60 days of receipt of the termination of parental rights court order, unless a deferral is granted by the adoption program manager. In addition to the children with special needs being placed on the exchange system, those children under state guardianship for whom an adoptive home is not available within 90 days after termination shall be placed on the exchange system by department staff. Department workers shall forward the child's photograph to the Division of Adult, Children and Family Services, Adoption Program, for photo listing in the Iowa's Waiting Children Book at the time that the child is registered on the Iowa adoption exchange system.

Licensed child-placing agencies may register a child whose parental rights have been terminated and who is under their guardianship using one of the following methods:

~~a-~~ **203.2(1)** The agency shall submit Form 470-0751, ~~Exchange Referral of Child/Sibling Group~~ 470-3351 to the department for entry of the child's name and data if the agency is registering ~~less~~ fewer than four children a calendar year. The RRTS contractor(s) manages the state's photo listing. This form authorizes the RRTS contractor to post the child on the state and national exchanges.

~~b-~~ **203.2(2)** The agency shall access the Iowa adoption exchange system and directly enter the child's name and data when the agency registers four or more children in a calendar year.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Laura Leise	Telephone Number 515-281-8799	Email Address lleise@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 203 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Clarification on definitions
- Clarification on process

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, DHS staff, foster care and adoption youth and DHS contractors.

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: May 6, 2022

Agency: Human Services
IAC citation: 441 IAC CHAPTER 203
IOWA ADOPTION EXCHANGE
Agency contact: Laura Leise

Summary of the rule:

The purpose of the Iowa adoption exchange as mandated by Iowa Code section 232.119, is to facilitate the placement of Iowa children who are legally available for adoption.

This chapter requires that children with special needs under state guardianship be registered on the Iowa adoption exchange within 60 days after termination of parental rights unless a deferral is granted according to Iowa Code section 232.119 and that all children under state guardianship for whom an adoptive home is not available within 90 days after termination be registered, not just children with special needs. Child-placing agencies may also register children under their guardianship whose parental rights have been terminated.

Department workers, child-placing agencies and certified adoption investigators shall register approved adoptive families, if the families wish to adopt a child with special needs or a sibling group.

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 clarifies definitions and process. 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:

Agency representative preparing estimate: David Philmon

JH 05/06/2022

Telephone number:

404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five year rules

The Human Services Department hereby amends Chapter 204, "Subsidized Guardianship 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

The rules in Chapter 204 were reviewed as part of the Department's five-year rules review process. Clarification is added regarding when a subsidized guardianship can continue to the age of 21. Language is also added to provide information on when a subsidy would be terminated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as ARC 6367C.

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 August 11, 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 November 1, 2022.

The following rule-making action is adopted:

ITEM 1. Amend rule 441—204.7(234) as follows:

441—204.7(234) Termination of subsidy. A Guardianship Subsidy Agreement shall remain in effect until the subsidy is terminated based on one of the grounds listed in this rule. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child reaches the age of 18, unless the department determines that the subsidy may continue until the child reaches the age of 21 to facilitate the child's completion of high school or a high school equivalency diploma, or the department determines the child is eligible to receive subsidy to the age of 21 due to the child's physical, intellectual, or mental health disability.
2. The child marries or enlists in the military.
3. The child no longer lives with the guardian, except for placement outside the home as limited by subrule 204.4(3).
4. The relationship ends due to the death of the child.
5. The terms of the Guardianship Subsidy Agreement are concluded.
6. The guardian requests that the guardianship payment cease.
7. The department has determined the guardian is not providing financial support to the child.
8. The guardian fails to abide by the terms of the Guardianship Subsidy Agreement.
9. The guardianship case is terminated by court order.
10. The department funds for subsidized guardianship are no longer available.
11. Due to incapacity, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, the guardianship has been or will be vacated, and a successor guardian was not named in the Guardianship Subsidy Agreement.
12. The guardian or guardians die or are incapacitated (one guardian in a single-parent family or both guardians in a two-parent family), and a successor guardian is not named in the Guardianship Subsidy Agreement.

ITEM 2. Amend 441—Chapter 204, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~2006 Iowa Acts, House File 2734, section 17, subsection 10.~~



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Laura Leise	Telephone Number 515-281-8799	Email Address lleise@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The rules in Chapter 204 were reviewed as part of the Department's five-year rules review project. As a result, the following changes were made.

- Clarification on termination of subsidy to align with manual and agreements

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, DHS staff, foster care and adoption youth and DHS contractors.

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: May 6, 2022

Agency: Human Services

IAC citation: 441 IAC 204

Agency contact: David Philmon

Summary of the rule:

The rule clarifies the termination of subsidy to align with manual and agreements

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 changes; ie. Clarification on termination of subsidy to align with manual and agreements. 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 2027)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

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

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

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

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

Agency representative preparing estimate: David Philmon

JH 05/06/2022

Telephone number: 404-345-1088

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to facility participation and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 54, "Facility Participation," 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

Chapter 54 is being reviewed as part of the five-year rules review process the Department. As part of this review the word enterprise is being removed from Iowa Medicaid. Form names are also being removed from the rules. Changes are being made to align residential care facilities (RCF) rules with existing policy. RCFs no longer use cost reporting, but instead have a set per diem that changes annually. These rules are being updated to reflect those changes.

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 13, 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 rule **441—54.1(249)** as follows:

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

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

1. Contract between the facility and the resident on Form 470-0477, ~~RCF Admission Agreement~~.

ITEM 3. Amend rule **441—54.3(249)** as follows:

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

ITEM 4. Amend rule **441—54.3(1)** as follows:

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

ITEM 5. Rescind rules **441—54.3(2) through 54.3(11)**.

ITEM 6. Renumber rule **441-54.3(12) as 54.3(2)** as follows:

Termination or change of ownership.

- a. A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department of human services with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. ~~The person responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:~~
- (1) ~~In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old~~

partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.

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

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

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

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

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

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

ITEM 7. Rescind 441-54.3(13) through 54.3(15).

ITEM 8. 441-54.4(4) no changes.

ITEM 9 Amend rule **441-54.5(249)** as follows:

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

ITEM 10. Amend rule **441—54.6(249)** as follows:

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

ITEM 11. Amend rule 441—**54.7** as follows:

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

ITEM 12. Rescind rules **441—54.7(1)** and **(2)**

ITEM 13. Rescind rule **441—54.8**



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



Administrative Rule Fiscal Impact Statement

Date: April 20, 2022

Agency: Human Services

IAC citation: 441 IAC 54

Agency contact: Jessica McBride

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	<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:
 No fiscal impact.

Fiscal impact to persons affected by the rule:

No impact.

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

No impact.

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

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to service documentation
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code 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 proposing to amend the documentation requirements for narrative service documentation for each service encounter and each shift for 24-hour services. This proposed rule making removes this administrative burden related to delivering services.

These amendments will 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.

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 August 16, 2022. Comments should be directed to:

N-2

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 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

Name of Program Specialist LeAnn Moskowitz	Telephone Number 515-321-8922	Email Address lmoskow@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

The purpose 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]

Notice of Intended Action

Proposing rule making related to eligibility criteria for HCBS Habilitation program and providing an opportunity for public comment.

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

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

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

i) The individual no longer meets the needs-based criteria used for the initial determination of eligibility; or ii) The individual is no longer eligible for or enrolled in Medicaid or the HCBS benefit. This means that if the member met the initial needs-based eligibility criteria using the interRAI screening tool and would have continued to meet the eligibility criteria were it not for the change in assessment and criteria they must remain eligible for Habilitation services until they no longer meet the needs –based eligibility criteria which was determined using the interRAI tool prior to the change in the assessment tool and needs-based eligibility criteria.

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

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 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 13, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

PROPOSED RULE CHANGES

ITEM 1. Amend subrule ~~441—~~**78.27(2)** as follows:

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

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

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

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

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

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

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

(4) ~~The member has a history of severe and persistent mental illness resulting in involvement in the criminal justice system (e.g., prior incarceration, parole, probation, criminal charges, jail diversion program or mental health court)~~ Services available in the individual's community have not been able to meet the individual's needs; or

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

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

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

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

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

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

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

(5) ~~The member exhibits social behavior that puts the member's safety or others' safety at risk, which results in the need for service intervention which may include crisis management or protective oversight~~ The individual needs assistance with management and intervention of maladaptive or antisocial behaviors to ensure the safety of the individual and/or others.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist LeAnn Moskowitz	Telephone Number 515-321-8922	Email Address lmoskow@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

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

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

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

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

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

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

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

5. What are the likely areas of public comment?

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

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

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

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

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

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



Administrative Rule Fiscal Impact Statement

Date: June 13, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

The purpose of these rules are to amend the needs-based and risk-based eligibility criteria for the Habilitation program to reference the state plan amendment (IA-21-0010). This rule package updates the criteria to reflect the language changes that CMS required. These changes were previously reported in the Administrative Rule Committee Number Hab Rule (ARC-5899C) package adopted on August 12, 2021 and have already been implemented. The initial cost estimate presented in the earlier rule package assumed no reductions to the number served or utilization. Therefore, the CMS requirement that all members remain eligible for Habilitation services should not have any material impact.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

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

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

No impact is anticipated.

Fiscal impact to persons affected by the rule:

This rule may affect a member who does not meet eligibility based on the new tools however federal rules require that individuals who were found eligible for the State plan HCBS benefit before modification of the needs-based criteria under this adjustment authority must remain eligible for the HCBS benefit. There is no fiscal impact expected to persons affected by the rule.

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

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

Agency representative preparing estimate: Soraya Miller

JH 07/26/2022

Telephone number:

515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to HCBS waiver cost reports and providing an opportunity for public comment.

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code 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 proposed amendments were drafted in collaboration with a stakeholder workgroup in response to proposed legislation regarding utilization of generally accepted accounting principles (GAAP) in completion of cost report reviews. The proposed amendments are based on provider feedback and department analysis of the impact to providers of the proposed changes. Proposed changes were made that were a benefit to providers and members and did not require legislation to move forward.

The proposed amendments to the Home and Community Based Services (HCBS) Waiver Cost Reporting requirements are as follows:

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

Fiscal Impact

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

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

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

Jobs Impact

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

Waivers

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

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 13, 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 **441-79.1(1) “e”(3)** as follows:**79.1(1) “e”(3)** The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment ~~based on the provider’s actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 4.5 percent~~ pursuant to paragraph 79.1(15) “f.”

ITEM 2. Amend the introductory paragraph of subrule **441-79.1(15)** as follows:

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

ITEM 3. Rescind paragraph **441-79.1(15) “a.”** and adopt the following **new** paragraph in lieu thereof:

a. Reporting requirements.

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

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

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

(4) A certified Home Health agency enrolled to deliver HCBS that is required to submit a Medicare cost report may request a 60-day extension for submitting the financial and statistical cost report. All other providers may request a 30-day extension for submitting the financial and statistical report. All requests must be submitted in writing to the Iowa Medicaid Provider Cost Audit and Rate Setting Unit by the financial and statistical report due date. No other extensions will be granted.

(5) If a provider terminates its participation in any HCBS program or service, the provider shall submit a final financial and statistical report on or before the 60th day following the date of termination, for retrospective adjustment in accordance with 441-79.1(15) "f"(1).

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

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

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

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

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

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

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

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

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

ITEM 4. Rescind paragraph **441-79.1(15) "b."** and adopt the following **new** paragraph in lieu thereof:

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

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

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

(3) 20 Percent Identified Cost Limitation

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

(a) Wages, benefits, and payroll taxes

(b) Direct care transportation expense – with and without member present

(c) Direct care development, training, and supplies

(d) Member specific assistance

(e) Member specific equipment repair or purchase

2. For each waiver service, the sum of reported costs not identified in subparagraph

79.1(15) "b."(3)1 are limited to 20 percent of the identified costs in subparagraph 79.1(15)

"b."(3)1.

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

(5) Compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function and does not exceed the maximum allowed compensation as described in subparagraph 79.1(15) "b."(5)4 and subparagraph 79.1(15) "b."(5)5.

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

2. Compensation means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including, but not limited to, salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include, but are not limited to, costs of leave, employee insurance, pensions and unemployment plans. If the facility's fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to Iowa Medicaid or its designee. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. Providers shall report all compensation paid to related parties, including payroll taxes, on the financial and statistical report.

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

4. The maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative is equal to the Intermediate Care Facility for Persons with an Intellectual Disability maximum compensation for facilities with 60 beds or more per 441 IAC Chapter 82.5(11)e(4).

5. The maximum allowed compensation for any other owner or immediate relative is 60 percent of the amount allowed in subparagraph 79.1(15) "b."(5)4.

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

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

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

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

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

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

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

(e) An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence that the following criteria have been met:

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

(a) The supplying organization is a bona fide separate organization;

(b) That a substantial part of its business activity of the type carried on with the facility is transacted with others and there is an open competitive market for the type of services, facilities, or supplies furnished by the organization;

(c) That the services, facilities, or supplies are those which commonly are obtained by similar institutions from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by the institutions; and

(d) That the charge to the agency is in line with the charge for services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for the services, facilities, or supplies.

ITEM 5. Rescind paragraph **441-79.1(15)“c.”** and adopt the following **new** paragraph in lieu thereof:

c. Prospective rates for new providers.

(1) “New Providers” means providers who have not submitted an annual report including at least 6 months of actual, historical costs of operations for any service as listed in subrule 79.1(15).

(2) New providers shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period.

(3) Projected costs of any new service, as listed in subrule 79.1(15), shall be submitted on Form 470-5477 .

(4) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)“ f.”

(5) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph “d.”

ITEM 6: Rescind paragraph **441-79.1(15)“d.”** and adopt the following **new** paragraph in lieu thereof:

d. Prospective rates for established providers.

(1) “Established providers” means providers who have submitted an annual report including 6 months of actual, historical costs of operation.

(2) The prospective rate will be adjusted annually, effective the first day of the third month after the month during which the annual financial and statistical report is submitted to the department.

(3) The provider’s prospective rate shall be the lower of:

1. the provider’s reasonable and proper actual cost-based rate as calculated by the provider’s most recent financial and statistical report and adjusted by the consumer price

index for all urban consumers for the preceding 12-month period ending as of the provider's fiscal year end,

2. in the first year reporting 6 months of actual, historical costs of operation, or a year in which the provider's base rate is recalculated, the base rate is equal to the amount calculated in subsection (1). above,
3. in a year in which the provider's base rate is not recalculated, the prior period base rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider's fiscal year end, or
4. the upper rate limit pursuant to rule 441-79.1(2).

(4) Recalculation of base rates (rebasings).

1. For providers of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency, the base rates will be recalculated based on the reasonable and proper actual costs of operation as calculated by the Fiscal Year 2022 financial and statistical report.
2. For provider of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency; and 15-minute HCBS intellectual disability waiver supported community living services, the base rates will be recalculated based on the reasonable and proper costs of operation for the provider's fiscal year ending on or after January 1, 2024.
3. Subsequent to the recalculation of base rates in subsection (2), a provider's base rate shall be recalculated no less than every three years.

(5) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)"f."

ITEM 7. Amend paragraphs **441-79.1(15)** “f” as follows:

f. Retrospective adjustments.

(1) For fee for service, retrospective adjustments shall be made based on reconciliation of provider’s reasonable and proper actual service costs with the revenues received for these services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service 15-minute HCBS intellectual disability waiver supported community living services; HCBS brain injury waiver supported community living services; HCBS children’s mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency under HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver, as reported on Form 470-5477, subject to the upper rate limit allowed in rule 441-79.1(2).

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

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

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

~~(3)(5) If a provider does not remit the amount of the overpayment identified in subparagraph 2 within 30 days after notice, the department will deduct the amount owed from future payments.~~
providers who do not reimburse revenues exceeding 105.5 percent of actual costs 30 days after

~~notice is given by the department will have the revenues over 105.5 percent of the actual costs deducted from future payments.~~

ITEM 8. Rescind paragraph **441-79.1(15) "g."**



Iowa Department of Human Services
Information on Proposed Rules

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

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

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

The proposed amendments to the HCBS Waiver Cost Reporting requirements:

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

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

Section 249A.4

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

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

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

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

5. What are the likely areas of public comment?

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

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

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

No.



Administrative Rule Fiscal Impact Statement

Date: 05/12/2022

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

Summary of the rule:

The proposed amendments to the HCBS Waiver Cost Reporting requirements

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

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

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

Assumptions:

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

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

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

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

Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:
Expenditures will be absorbed within the Medical Assistance appropriation

Fiscal impact to persons affected by the rule:

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

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

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

Agency representative preparing estimate: Soraya Miller JH 07/01/2022

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposed rule making related to PROMISE JOBS and providing an opportunity for public comment.

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 93 is being reviewed as part of the Department's five-year rules review process. Proposed changes are being made to clarify language, accurately reflect the job readiness and job search activities and update case retention rules in the PROMISE JOBS program. These changes are technical in nature and will not have an impact on caseloads or program costs.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 of Human Services no

later than 4:30 p.m. on August 30, 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 the attached.

Proposed Rule Changes

PROMISE JOBS PROGRAM

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

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

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

Item 2. Amend paragraph **93.2(2) “b”** as follows:

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

Item 3. Amend paragraph **93.2(2) “c”** as follows:

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

Item 4. Amend paragraph **93.3(3) “a”** as follows:

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

Item 5. Amend paragraph **93.3(3) “b”** as follows:

Exempt status change. Persons who become FIA-responsible while receiving FIP shall initiate PROMISE JOBS orientation and FIA development by contacting the appropriate PROMISE JOBS office to schedule an appointment within ten calendar days of the mailing date of the letter explaining that exempt status has been lost and FIA responsibility has begun, as required by 441—subrule 41.24(5). If the person fails to schedule an appointment or fails to appear for an appointment, PROMISE JOBS shall send one written reminder letter that

Proposed Rule Changes

informs the person that those who do not develop a family investment agreement shall enter into a limited benefit plan. If the person fails to schedule an appointment within ten calendar days of the written reminder letter or fails to appear for an appointment scheduled after the written reminder letter is sent, the person shall enter into a limited benefit plan as described at 441—paragraph 41.24(8)“c.”

Item 6. Amend subrule **93.3(4)** as follows:

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

Item 7. Amend paragraph **93.3(4) “b”** as follows:

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

Item 8. Amend subrule **93.3(6)** as follows:

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

Item 9. Amend paragraph **93.4(2) “a”** as follows:

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

Item 10. Amend subparagraph **93.4(4) “a” (2)** as follows:

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

Item 11. Amend subparagraph **93.4(4) “b” (3)** as follows:

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

Item 12. Amend subparagraph **93.4(4) “b” (4)** as follows:

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

Item 13. Adopt the following new subparagraph **93.4(4) “b” (10)**:

Family violence option as described at 93.4(5)“b.”

Proposed Rule Changes

Item 14. Amend subparagraph **93.4(4) “c” (4)** as follows:

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

Item 15. Amend subparagraph **93.4(5) “a” (4)** as follows:

~~Sexual or~~ Victim of domestic abuse history violence or sexual abuse.

Item 16. Adopt the following **new** subparagraph **93.4(5) “b” (4)**:

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

Item 17. Adopt the following **new** subparagraph **93.4(5) “b” (5)**:

Review the need for inclusion of a barrier to participation in the FIA at least once every six months to determine if the barrier continues to exist.

Item 18. Amend paragraph **93.4(8) “b”** as follows:

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

Item 19. Amend subrule **93.5(8)** as follows:

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

Item 20. Amend subrule **93.5(9)** as follows:

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

Item 21. Amend rule **441—93.6(239B)** as follows:

Job readiness and job search activities. Job readiness and job search activities include job ~~club~~ readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, workplace essentials training unplanned job opportunities, substance abuse treatment, mental health treatment, and other rehabilitation activities. The participant and the PROMISE JOBS worker

Proposed Rule Changes

shall incorporate into the FIA the job readiness and job search activities that are appropriate for the goals, work history, skill level, and life circumstances of the participant.

Item 22. Amend subrule **93.6(1)** as follows:

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

Item 23. Amend paragraph **93.6(1) “a”** as follows:

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

Item 24. Rescind and reserve subparagraph **93.6(1) “a” (1)**:

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

Item 25. Rescind and reserve subparagraph **93.6(1) “a” (2)**:

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

Item 26. Amend paragraph **93.6(1) “b”** as follows:

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

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

Item 27. Amend paragraph **93.6(1) “c”** as follows:

Structured job search ~~Other job readiness activities.~~ A written plan shall be developed with each participant using Form 470-4481, Job Search Plan Agreement, indicating the number of job search hours required depending on family circumstances and other component activities listed on the participant's FIA. Structured job search includes daily reporting to the job search site to access resources for job leads. Job readiness may

Proposed Rule Changes

include activities that prepare the participant to search for or obtain employment and are completed outside of a training session. This includes activities, such as, but not limited to, working individually with Iowa Workforce Development (IWD), Bureau of Refugee Services (BRS), or FaDSS staff, to develop a résumé, improve interview skills, or any of the other skills identified in paragraph “b.”

Item 28. Amend paragraph **93.6(1) “d”** as follows:

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

Item 29. Amend subparagraph **93.6(1) “d” (1)**:

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

Item 30. Rescind and reserve subparagraph **93.6(1) “d” (2)**:

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

Item 31. Rescind and reserve subparagraph **93.6(1) “d” (3)**:

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

Item 32. Rescind and reserve subparagraph **93.6(1) “d” (4)**:

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

Item 33. Amend paragraph **93.6(1) “e”** as follows:

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

Item 34. Amend subparagraph **93.6(1) “e” (1)** as follows:

Proposed Rule Changes

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

Item 35. Amend subparagraph **93.6(1) “e” (2)** as follows:

Participants who must repeat or make up a portion of job seeking readiness skills training or structured job search as a result of absences due to reasons other than those described at rule 441—93.14(239B) shall not receive an additional transportation payment.

Item 36. Amend paragraph **93.6(1) “f”** as follows:

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

Item 37. Amend paragraph **93.6(1) “g”** as follows:

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

Item 38. Amend subrule **93.6(2)** as follows:

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

Item 39. Adopt the following **new** subparagraph **93.6(2) “a” (5)**:

Be signed by the participant and the PROMISE JOBS advisor.

Item 40. Amend paragraph **93.6(2) “b”** as follows:

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

Proposed Rule Changes

Item 41. Amend paragraph **93.6(2) “d”** as follows:

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

Item 42. Amend paragraph **93.6(3) “a”** as follows:

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

Item 43. Amend subrule **93.6(4)** as follows:

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

Item 44. Amend paragraph **93.6(4) “a”** as follows:

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

Item 45. Adopt the following **new** subparagraph **93.6(4) “a” (1)**:

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

Item 46. Adopt the following **new** subparagraph **93.6(4) “a” (2)**:

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

Item 47. Adopt the following **new** subparagraph **93.6(4) “a” (3)**:

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

Proposed Rule Changes

Item 48. Amend paragraph **93.6(4) “b”** and rescind as follows:

Content Job Search Plan. ~~Workplace essentials training may include but is not limited to:~~ PROMISE JOBS and the participant shall develop a written job search plan using Form 470-4481, Job Search Plan Agreement, at the beginning of the structured job search period. The plan shall:

- (1) ~~Identifying and setting goals~~ Contain a designated period for job search and the specific methods for finding job openings.
- (2) ~~Self-esteem building~~ Specify the number of hours to be committed for the designated period so as to provide the most effective use of transportation funds.
- (3) ~~Emotional awareness~~ Specify the due date for providing documentation of job search activities.
- (4) ~~Relationship management~~ Contain information as specific as possible about areas of employment interests, employers to be contacted, and other pertinent factors.
- (5) ~~Conflict resolution skills~~ Be signed by the participant and the PROMISE JOBS advisor.
- (6) ~~Problem-solving skills.~~
- (7) ~~Decision-making skills.~~
- (8) ~~Time-management skills.~~
- (9) ~~Team-building skills.~~
- (10) ~~Networking skills.~~
- (11) ~~Listening skills.~~
- (12) ~~Positive thinking.~~
- (13) ~~Priority setting.~~
- (14) ~~Appropriate workplace behaviors.~~
- (15) ~~Cultural sensitivity.~~
- (16) ~~Workplace expectations.~~
- (17) ~~Stress management.~~

Item 49. Amend paragraph **93.6(4) “c”** as follows:

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

Item 50. Amend paragraph **93.6(4) “d”** as follows:

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

Item 51. Amend paragraph **93.6(4) “e”** as follows:

Failure to participate in ~~workplace essentials~~ structured job search. Participants who without good cause do not complete ~~workplace essentials~~ structured job search as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at 93.4(5), 441—93.13 (239B), and 93.14(239B) shall apply.

Proposed Rule Changes

Item 52. Amend paragraph **93.6(5) “b”** as follows:

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

Item 53. Amend paragraph **93.6(5) “d”** as follows:

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

Item 54. Amend subparagraph **93.7(1) “a” (2)**:

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

Item 55. Amend paragraph **93.7(1) “c”** as follows:

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

Item 56. Amend paragraph **93.7(1) “e”** as follows:

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

Item 57. Amend paragraph **93.7(1) “f”** as follows:

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

Item 58. Amend paragraph **93.7(2) “d”** as follows:

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

Item 59. Amend subparagraph **93.7(2) “d” (2)** as follows:

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

Item 60. Amend paragraph **93.7(2) “e”** as follows:

Proposed Rule Changes

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

Item 61. Amend paragraph **93.7(2) “g”** as follows:

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

Item 62. Amend paragraph **93.7(3) “b”** as follows:

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

Item 63. Amend paragraph **93.7(3) “d”** as follows:

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

Item 64. Amend paragraph **93.7(4) “d”** as follows:

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

Item 65. Amend subparagraph **93.7(4) “f” (1)** as follows:

Child care and transportation. ~~Participants assigned to work experience shall receive a child~~ Child care assistance and transportation payments shall be provided as described at 441 – 93.11(239B), when needed for participation in work experience, if required, and a transportation payment for each month or part thereof as described at subrules 93.11(2) and 93.11(3). The portion of the transportation payment for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.11(3).

Item 66. Amend paragraph **93.7(4) “i”** as follows:

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

Item 67. Amend subparagraph **93.7(5) “c” (1)** as follows:

Proposed Rule Changes

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

Item 68. Amend paragraph **93.7(5) “e”** as follows:

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

Item 69. Amend paragraph **93.7(5) “g”** as follows:

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

Item 70. Amend paragraph **93.8(1) “b”** as follows:

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

Item 71. Amend paragraph **93.8(2) “b”** as follows:

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

Item 72. Amend paragraph **93.8(3) “f”** as follows:

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

Item 73. Amend subrule **93.8(4)** as follows:

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

Item 74. Amend paragraph **93.8(5) “a”** as follows:

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

Proposed Rule Changes

Item 75. Amend subparagraph **93.8(6) “a” (2)** as follows:

Participant eligibility for child care assistance and payment of transportation payments and child care payments begins as described in subparagraph 93.8(6) “a”(1) and shall be terminated when a training plan is canceled.

Item 76. Amend paragraph **93.8(6) “b”** as follows:

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

(1) ~~All child~~ Child care assistance payments issued under the PROMISE JOBS program count toward this limit. needed for participation in post-secondary education activities are limited to 24 fiscal months.

(2) All child care assistance payments issued for child care provided on or after March 1, 2009 for participation in post-secondary education activities, count toward this limit, including payments issued while the person was not a PROMISE JOBS participant, pursuant to 441—subparagraph 170.2(2) “b”(1).

Item 77. Amend paragraph **93.8(6) “c”** as follows:

Transportation. ~~Participants assigned to educational activities shall receive a transportation~~ Transportation payments for each month or part thereof shall be provided as described at subrule 93.11(3) when needed for participation in educational activities unless transportation payments are available from another source. Transportation needed for participation in education activities is subject to the limits described in paragraph “a.”

Item 78. Amend paragraph **93.8(9) “a”** as follows:

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

Item 79. Amend paragraph **93.9(1) “a”** as follows:

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

Item 80. Amend subparagraph **93.9(1) “c” (3)** as follows:

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

Proposed Rule Changes

Item 81. Amend paragraph **93.9(1) “e”** as follows:

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

Item 82. Amend paragraph **93.9(1) “g”** as follows:

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

Item 83. Amend paragraph **93.9(2) “b”** as follows:

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

Item 84. Amend paragraph **93.9(3) “a”** as follows:

~~The department of human services worker or~~ The PROMISE JOBS worker shall:

Item 85. Amend subparagraph **93.10(1) “a” (1)** as follows:

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

Item 86. Amend subparagraph **93.10(1) “a” (2)** as follows:

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

Item 87. Amend paragraph **93.10(2) “a”** as follows:

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

Item 88. Amend paragraph **93.10(2) “b”** as follows:

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

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

Proposed Rule Changes

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

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

Item 89. Amend paragraph **93.10(2) “c”** as follows:

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

Item 90. Amend paragraph **93.10(2) “d”** as follows:

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

Item 91. Amend paragraph **93.10(2) “e”** as follows:

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

Item 92. Amend paragraph **93.10(2) “g”** as follows:

Failure to provide required documentation or verification. Participants who fail to provide documentation or verification as described in this subrule after written notification from PROMISE JOBS as described in subrule 93.10(1) shall be considered to have chosen the limited benefit plan. Procedures at rule 93.4(5), 441 – 93.13(239B), and 441—93.14(239B) shall apply.

Item 93. Amend paragraph **93.10(3) “a”** as follows:

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

Item 94. Amend paragraph **93.10(3) “b”** as follows:

Other documentation. A participant shall secure and provide written documentation to verify a claimed problem or barrier to participation within ~~five~~ ten working days of a written request by PROMISE JOBS.

Proposed Rule Changes

Acceptable documentation may include a signed statement from a third party with knowledge of the problem or barrier.

Item 95. Amend subparagraph **93.10(3) “c” (1)** as follows:

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

Item 96. Amend rule **441—93.11(239B)** as follows:

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

Item 97. Amend subparagraph **93.11(2) “a” (1)** as follows:

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

Item 98. Amend subparagraph **93.11(3) “a” (1)** as follows:

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

Item 99. Amend subparagraph **93.11(3) “a” (2)** as follows:

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

Item 100. Amend paragraph **93.11(5) “d”** as follows:

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

Item 101. Amend subrule **93.12(3)** as follows:

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

Item 102. Amend subrule **93.12(5)** as follows:

When a participant or a provider has been referred to the DIA to initiate recovery, the DIA shall use the same methods of recovery as are used for the FIP program, described at DIA administrative rules 481—74

Proposed Rule Changes

90.1(10A) to ~~71.9~~ 90.9(10A), except that the FIP grant shall not be reduced to effect recovery without the participant's written permission.

Item 103. Amend paragraph **93.12(5) "a"** as follows:

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

Item 104. Amend subrule **93.13(1)** as follows:

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

Item 105. Amend paragraph **93.13(2) "a"** as follows:

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

Item 106. Amend paragraph **93.13(2) "b"** as follows:

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

Item 107. Amend paragraph **93.13(2) "c"** as follows:

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

Item 108. Amend paragraph **93.13(2) "d"** as follows:

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

Item 109. Amend paragraph **93.13(2) "e"** as follows:

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

Item 110. Amend paragraph **93.13(2) "f"** as follows:

Physical threats. Participants who make physical threats to other participants or staff and do not demonstrate that the participant is not at fault by providing written documentation from a doctor, licensed psychologist,

Proposed Rule Changes

probation officer, or law enforcement official after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

Item 111. Amend paragraph **93.13(2) “g”** as follows:

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

Item 112. Amend paragraph **93.13(2) “h”** as follows:

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

Item 113. Amend subparagraph **93.13(2) “i” (2)** as follows:

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

Item 114. Amend paragraph **93.13(2) “k”** as follows:

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

Item 115. Amend paragraph **93.13(2) “m”** as follows:

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

Item 116. Amend paragraph **93.14(2) “m”** as follows:

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

Item 117. Renumber subrule **93.15(5)** to **93.15(6)**:

Request for a hearing on work conditions or availability of workers’ compensation coverage. A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions the availability of workers’ compensation coverage or the wage rate used in determining hours of work experience program participation.

Item 118. Adopt the following new subrule **93.15(5)**:

Proposed Rule Changes

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

a. The appeal is filed either:

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

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

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

c. The department's action is affirmed.

Item 119. Amend paragraph **93.15(6) "a"** as follows:

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

Item 120. Amend subrule **93.17(3)** as follows:

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Angie Madison	Telephone Number 515-281-6082	Email Address amadiso@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 93 was reviewed as part of the Department's five-year rules review project.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Code of Iowa chapter 239B grants the Department the legal basis for making changes to this chapter of rules.
3. Describe who this rulemaking will positively or adversely impact.
This rulemaking will neither positively nor adversely impact any population.
4. Does this rule contain a waiver provision? If not, why?
No.
5. What are the likely areas of public comment?
None.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No.



Administrative Rule Fiscal Impact Statement

Date: March 28, 2022

Agency: Human Services

IAC citation: 441 IAC 93

Agency contact: Angie Madison

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

Pursuant to the Department's five-year review, changes are being made to clarify language, accurately reflect the job readiness and job search activities, and update case file retention rules. These changes are technical in nature and will have no impact on caseloads or program/administrative costs. Therefore there is no fiscal impact.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

No fiscal impact is anticipated.

Fiscal impact to persons affected by the rule:

This rulemaking will neither positively nor adversely impact any population.

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

No impact.

Agency representative preparing estimate: Francis Thurman

JH 06/21/2022

Telephone number: 515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to child care and providing an opportunity for public comment.

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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 13, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

PROPOSED RULE CHANGES

ITEM 1. Amend subrule **441—109.4(2)** as follows:

109.4(2) Required written policies.

b. Develop and implement policies for enrollment and discharge of children, field trips and non-center activities, ~~transportation~~, discipline, nutrition, ~~and~~ health and safety policies, and if transporting children, transportation policy.

g. When serving children under the age of 3, develop and implement a policy for responding to incidents of biting that includes the following elements.

ITEM 2. Amend paragraph **441—109.6(1) “e”** as follows:

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

- Increase associates degree in non-related field or completion of at least two years of a four-year degree from 20 to 25 points
- Increase full time (20 hours or more per week) in a child care center or preschool setting from 20 to 25 points.
- Increase Child development associate diploma (CDA) or one-year diploma in child-development from a community college or technical school from 40 to 45 points.
- Increase associate’s degree in child development or bachelor’s degree in child-related field from 50 to 60 points.

EDUCATION		EXPERIENCE (Points multiplied by years of experience)	CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20
Associate's degree in child development or bachelor's degree in a child-related field	50	Part-time (less than 20 hours per week) in a child care center or preschool setting	10
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40	Full-time (20 hours or more per week) child development-related experience	10
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20	Registered child development home provider	10
		Nonregistered family home provider	5

ITEM 3. Amend paragraph **441—109.6(2) “d”** as follows:

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

- Increase associate's degree in non-child-related field or completion of at least two years of a four-year degree from 20 to 25 points.
- Increase fulltime (20 hours or more per week) in a child care center or preschool setting from 20 to 25 points.
- Increase child development associate (CDA) or one-year diploma in child development from a community college or technical school from 40 to 45 points.
- Increase associate's degree in child development or bachelor's degree in child related field from 50 to 60 points.

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20	Registered child development home provider	10	
		Nonregistered family home provider	5	

ITEM 4. Amend subrule **441—109.6(2)** as follows:

109.6(2) Onsite Supervisor. The on-site supervisor is required when the program has multiple sites or when a director is not routinely present for 6 hours daily. The center director must identify a person in charge during their absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of ~~eight~~ six hours of the center's hours of operation. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination shall be made by the department. Information shall be submitted sufficient to determine that the on-site supervisor meets the following minimum qualifications:

ITEM 5. Amend subrule **441—109.6(3)** as follows:

109.6(3) Director and on-site supervisor functions combined. In a center where the functions of the center director and the on-site supervisor are accomplished by the same person, the educational and experience requirements for a center director shall apply. If the center director

is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least ~~eight~~ six hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

ITEM 6. Amend subparagraph **441—109.6(6) “d” (6)** as follows:

(6) A center considering involvement of a person who has had a national criminal history check at another center may request information from that center. That center may provide the following information in writing upon a center's request, using Form 470-4896, ~~National Criminal History Check Confirmation~~. If the person being considered for employment has not had involvement with child care in the past 6 months, a new national criminal history check must be completed.

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

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

ITEM 7. Add paragraph **441—109.7(1) “f”** as follows:

f. child care staff employed in programs that only serve children over the age of 3 are exempt from taking health and safety trainings under 109.7(1) “e” (2) and (6).

ITEM 8. Add paragraph **441—109.7(3) “f”** as follows:

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

ITEM 9. Amend paragraph **441—109.10(1)** “a” as follows:

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

ITEM 10. Modify paragraph **441—109.10(15)** “a” as follows:

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood), and plans for responding to ~~intruders within the center,~~ intoxicated parents, and lost or abducted children. In addition, the center shall have guidelines for responding or evacuating in case of blizzards, power failures, bomb threats, chemical spills, ~~earthquakes,~~ or other disasters that could create structural damage to the center or pose health hazards. If the center is located within a ten-mile radius of a nuclear power plant or research facility, the center shall also have plans for nuclear evacuations. Emergency plans shall include written procedures including plans for the following:

ITEM 11. Amend subrule **441—109.11(4)** as follows:

109.11(4) Bathroom facilities. At least one functioning toilet and one sink for each 15 children ages 2 years and older shall be provided in a room with natural or artificial ventilation. Training seats or chairs may be used for children under two years of age. New construction after November 1, 1995, shall provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink shall be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

ITEM 12. Amend subrule ~~441—109.11(7)~~ as follows:

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

1. If radon mitigation is in place, re-testing shall occur at least every 2 years from initial measurements to confirm radon gas levels are below 4.0 picocurie per liter

2. If initial testing confirmed radon gas levels below 4.0 picocurie per liter, re-testing shall occur at least every 5 years from initial measurements.

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

e. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are required to follow radon testing requirements outlined in Iowa Code 280.32.

ITEM 13. Amend subrule **441—110.9(4)** as follows:

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

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

ITEM 14. Amend paragraph **441—110.15 "c"** as follows:

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

ITEM 15. Amend subrule **441—120.9(2)** as follows:

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

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Ryan Page	Telephone Number 515-281-7714	Email Address rpage@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

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

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

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

237A. HF2589

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

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

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

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

5. What are the likely areas of public comment?

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

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

None known.



Administrative Rule Fiscal Impact Statement

Date: July 15, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

237A. HF2589

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

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

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

No impact is anticipated.

Agency representative preparing estimate: Francis Thurman

JH 07/18/2022

Telephone number:

515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to licensing and regulation and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 116, "Licensing and Regulation of Residential Facilities for Children With an Intellectual Disability or Brain Injury," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 116 is being reviewed as part of the Department's five-year rules review process. As part of the proposed rule making, a cross-reference to the Iowa Code chapter that contains the definition of brain injury is being updated. Updating the cross-reference makes it easier for a user to find the definition. This streamlines the process and makes it consistent with MHDS redesign legislation bills.

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 August 30, 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
N-7

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:

ITEM 1. Amend rule **441—116.2(237)**, definition of “Community residential facility for children with an intellectual disability or brain injury,” and “Comprehensive residential facility for children with an intellectual disability or brain injury,” as follows:

441—116.2(237) Definitions.

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

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



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Denise Dutton	Telephone Number 515-242-6302	Email Address ddutton@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 116 was reviewed as part of the Department’s five-year rules review process. As part of the review, a cross-reference to the Iowa Code chapter that contains the definition of brain injury is updated. Updating the cross-reference makes it easier for a user to get straight to the definition, instead of having to go through one Iowa Code chapter to then be referred onto another chapter. This streamlines the process and makes it consistent with MHDS Redesign legislation bills.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 217.6 and 237.3
3. Describe who this rulemaking will positively or adversely impact.
Updating the cross-reference makes it easier for a user to get straight to the definition, instead of having to go through one Iowa Code chapter to then be referred onto another chapter. This streamlines the process and makes it consistent with MHDS Redesign legislation bills.
4. Does this rule contain a waiver provision? If not, why?
The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department’s general rule on exceptions at Iowa Admin. Code 441—1.8.
5. What are the likely areas of public comment?
There is no likely area of public comment as only a cross-reference is being changed.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: July 14, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

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

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

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

Fiscal impact to persons affected by the rule:

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

Agency representative preparing estimate:

Telephone number:

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to record check evaluations and providing an opportunity for public comment.

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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 13, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

PROPOSED RULE CHANGES

ITEM 1. Amend subrule **119.3(1)** as follows:

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

a. to d. No change.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Gloriana Fisher	Telephone Number 515-281-5392	Email Address gfisher@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
As a part of the 5-year rule review, this change to administrative rules is designed to align consistent language and direction.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code chapter 135B and 135C
3. Describe who this rulemaking will positively or adversely impact.
The changes will incorporate common language decreasing unnecessary future changes and will positively impact all.
4. Does this rule contain a waiver provision? If not, why?
No. Not applicable.
5. What are the likely areas of public comment?
No public comments are anticipated.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No such impact is anticipated.



Administrative Rule Fiscal Impact Statement

Date: July 18, 2022

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

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

These changes add in the form number, remove the address, and provide direction on contact methods. There is no fiscal impact.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

No impact is anticipated.

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

No impact is anticipated.

Agency representative preparing estimate: Francis Thurman

JH 07/25/2022

Telephone number:

515-281-6855

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to child care expansion grants and providing an opportunity for public comment.

The Human Services Department hereby proposes to rescind Chapter 168, "Child Care Expansion Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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

This chapter was reviewed as part of the Department's five year rules review process. This chapter is being rescinded as it contains outdated rules no longer in use for wrap-around child care programs and expansion of school- age child care programs. Funding has not been allocated for these expansion programs for over ten years.

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 August 30, 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:

Rescind and reserve 441—Chapter 168.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Erin Clancy	Telephone Number 515-281-0321	Email Address eclancy@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
This rulemaking was reviewed as part of the Department's five-year rules review process. This chapter is being rescinded as it contains outdated rules no longer in use.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code sections 17A.3 through 17A.7.
3. Describe who this rulemaking will positively or adversely impact.
This rulemaking will have a positive impact on the public by removing outdated rules no longer in use.
4. Does this rule contain a waiver provision? If not, why?
The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department's general rule on exceptions at Iowa Admin. Code 441—1.8.
5. What are the likely areas of public comment?
There is no likely area of public comment.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
The proposed amendments have no impact on private-sector jobs and employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: June 17, 2022

Agency: Human Services

IAC citation: 441 IAC 168

Agency contact: Erin Clancy

Summary of the rule:

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

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

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

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

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

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

There is no fiscal impact.

Fiscal impact to persons affected by the rule:

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

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

No impact is anticipated.

Agency representative preparing estimate: Francis Thurman

JH 07/01/2022

Telephone number: 515-281-6855