IOWA Department of HUMAN SERVICES

Kelly Garcia, Director

Council on Human Services

# AGENDA

**Thursday, April 14, 2022**
**Time: 10:00 a.m. – 11:00 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 March 10, 2022, meeting minutes

**10:05 a.m.** Rules - **Nancy Freudenberg**

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

**R-1. Amendments to Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code. (Adds greater clarification of the home health agency rules)**
The rules update provider requirements for the Integrated Homes and Chronic Health Homes based on the deficiencies identified in the audit completed in 2019 by the Office of the Inspector General for the Health Homes (HH) program. The rules adds greater clarification of the HH programs and provide overall quality improvement. Documentation requirements are identified for HH providers to follow to bill and receive home health payments for intensive services and outreach services.

**R-2. Amendments to Chapter 170, "Child Care Services," Iowa Administrative Code. (Implements Child Care Assistance Exit Child Care Program)**
The Department is implementing the new Child Care Assistance Exit program for families who are on child care assistance with income above 225% of the federal poverty level (current CCA Plus program) and goes up the 250% of the federal poverty Level (FPL). For families with special needs children the income level will be up to 275% of the FPL. Without these increases in income limits families currently on child care assistance who have an increase in income while on the program would no longer be eligible for CCA. These rules are implementing 2021 Iowa Acts, Chapter 178, HF 302.

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

**N-1. Amendments to Chapter 7, "Appeals and Hearings" Iowa Administrative Code. (Adds new service standards for mailing documents, ensures consistency with other state agencies)**
This rulemaking updates information on the current appeal process, including adding additional days for mailing and receiving documents to allow for new service standards implemented for first class mail by the United States Postal Service effective October 1, 2021. Proposed amendments ensure consistency with other state agencies regarding the Rules of Civil Procedure for abandoned appeals. Further clarification has been added when an appeal hearing cannot be granted in specific situations. This review is part of the department's five-year rules review process.

**N-2. Amendments to Chapter 13, "Program Evaluation," Iowa Administrative Code. (Aligns rules with current practice)**
This rulemaking updates the name of Iowa's food assistance program to the Supplemental Nutrition Assistance Program to be consistent with the name of the federal program and to alleviate confusion around food benefits. This review is part of the department's five-year rules review process.

**N-3. Amendments to Chapter 22, "Autism Support Program," Iowa Administrative Code. (Align rules with current practice and the Iowa Code)**
This chapter was updated to reflect the change that requirements for notices of adverse action were moved from Chapter 7 to Chapter 16. Code cites were updated. This review is part of the department's five-year rules review process.

**N-4. Amendments to Chapter 57, "Interim Assistance Reimbursement," Iowa Administrative Code. (Align rules with current practice)**
Form names are being removed from this chapter as the names are outdated. This will reduce confusion for individuals who obtain assistance through this program.
This review is part of the department's five-year rules review process.

**N-5. Amendments to Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Iowa Administrative Code. (Applied behavior analysis services)**
The proposed rulemaking allows registered behavior technicians to deliver applied behavior analysis (ABA) services under the direct supervision of behavior analysts or assistant behavior analysists licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the licensed supervisor. ABA is a covered benefit under Medicaid. The rules will position providers to expand their organization by creating positions specific to registered behavior technicians while serving Medicaid members.

**N-6. Amendments to Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services" Iowa Administrative Code. (Updates the prior authorization form used for medical child care).**
The department is changing the forms used in the prior authorization approval process for medical child care. The revised form will provide greater detail on the child's medical and behavioral needs. Medical child care is specialized child care for children with significant medical needs and developmental delays. Medical child care combines traditional child care and nursing care and provides additional services. Hours are determined through a prior authorization process. Changes were made to the form to better align and capture the needs of the children, including those on the autism spectrum.

**N-7. Amendments to Chapter 161, "Iowa Senior Living Trust Fund, " Chapter 162, "Nursing Facility Conversion and Long-Term Care Services Development Grant," and Chapter 164, "Iowa Hospital Trust Fund," Iowa Administrative Code. (Rescind rule chapters no longer in effect).**
All three chapters are rescinded as these programs no longer exist and the legislation that authorized the programs has been repealed. This review is part of the department's five-year rules review process.

**10:20 a.m.** Alignment Update – **Deputy Director Sarah Reisetter, Iowa Department of Public Health**

**10:35 a.m.** Director's Report **– Director Kelly Garcia**

**10:55 a.m.** Council Update

**11:00 a.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.

**ARC 6298C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to appeals and hearings and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

*Purpose and Summary*

As part of the five-year rules review process, the Department's appeal rules were reviewed.

This rule making reflects changes in the new service standards implemented for first-class mail by the United States Postal Service (USPS). Proposed amendments ensure consistency with other state agencies regarding the use of the Rules of Civil Procedure for abandoned appeals. Further clarification has been added when an appeal hearing cannot be granted in specific situations.

In October 2021, the USPS implemented new service standards for first-class mail. Mail traveling within a local area will continue to be two-day delivery. A local area is defined as a three-hour drive (or less than 140 miles) between an originating facility and destination-processing facility. However, mail that must travel greater distances will take longer to deliver. Mail pieces can take up to five days for delivery.

Due to the new service standards, the USPS recommends mail or correspondence that requires a deadline to be sent early. Federal and state regulations dictate time frames for appeals from start to finish, as well as for specific steps throughout the process. These same regulations restrict the early issuance of appeal correspondence. Based on this change, the Department proposes amending the time frame to request a review or submit a motion to vacate from 10 days to 14 days.

When a party fails to appear for an appeal hearing, an Abandonment Order may be issued, and the party is given an opportunity to file a motion to vacate stating the good cause reasons the party missed the appeal hearing. These proposed amendments revise the definition of "good cause" for setting aside a default judgment to match the definition used in the Iowa Rule of Civil Procedure 1.971 and make the definition consistent with other departments within state government.

A hearing may not be granted when the appeal involves patient treatment interventions outlined in the patient handbook of the Civil Commitment Unit for Sexual Offenders. The proposed amendments reflect that a hearing cannot be granted in this circumstance.

For persons other than attorneys seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. The proposed amendments reflect that the form is required for appeals that are handled through the expedited and standard appeals processes and allows for an appeal to be denied if a completed form is not provided. Language regarding dates for adoption of federal law or regulation was added in this rule making.

As part of this review, the Department reached out to Iowa Legal Aid and Disability Rights Iowa as stakeholders in the appeals process. Iowa Legal Aid suggested a clarification be made in subrule 7.16(3)

indicating attorneys are not required to submit a completed Form 470-5526 to represent an appellant during a managed care organization state fair hearing. The Department concurs with this suggestion. This is a positive change for parties-in-interest.

*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 May 10, 2022. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "In-person hearing" in rule **441—7.1(17A)**:

*"In-person hearing"* means an appeal hearing where the administrative law judge and appellant are physically present in the same location but witnesses are not required to be physically present.

ITEM 2. Amend rule **441—7.1(17A)**, definition of "Good cause," as follows:

*"Good cause,"* ~~means an intervening cause, not attributable to the negligence of a party, reasonably resulting in a delay or failure to attend, for purposes of subrules 7.4(3) and 7.9(2)~~ for purposes of this

rule, shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.971.

ITEM 3. Amend rule 441—7.2(17A) as follows:

**441—7.2(17A) Governing law and regulations.** In the absence of an applicable rule in this chapter, the DIA rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIA rules, the program-specific federal or state law shall control. For example, Supplemental Nutrition Assistance Program (SNAP) appeals shall be conducted in accordance with 7 CFR 273.15 and 7 CFR 273.16 as amended to December 8, 2021, and medical assistance appeals shall be conducted in accordance with 42 CFR Part 431, subpart E, and Part 438, subpart F, as both are amended to December 8, 2021.

ITEM 4. Renumber subrules **7.3(2)** to **7.3(4)** as **7.3(4)** to **7.3(6)**.

ITEM 5. Adopt the following **new** subrules 7.3(2) and 7.3(3):

**7.3(2)** *Refusal to process an application.* Unless otherwise provided by law, when an appellant seeks a contested case hearing after the department refuses to process an application for benefits or services, a hearing shall be granted.

**7.3(3)** *When a hearing is not granted.* A hearing shall not be granted when one of the following issues is appealed:

*a.* Patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.

*b.* Children have been removed from or placed in a specific foster care setting or preadoptive placement.

ITEM 6. Amend paragraph **7.6(3)"b"** as follows:

*b. Additional designation of issues.* If any party believes additional issues should be designated, ~~on or before the tenth day following the date of the notice of hearing,~~ the party shall identify ~~those~~ the additional issues within the following timelines. The presiding officer shall determine whether all issues have properly been preserved.

(1) Child abuse and dependent adult abuse registry appeals. For child abuse and dependent adult abuse registry appeals, the party shall identify additional issues at least 30 days before the date of hearing.

(2) Appeals set on or before ten days following the notice of hearing. If the hearing is ~~within~~ on or before ten days ~~of~~ following the date of the notice of hearing, the party shall identify any additional issues at the hearing.

(3) All other appeals. For all other appeals not identified in this paragraph, the party shall identify the additional issues on or before the tenth day following the date of the notice of hearing.

ITEM 7. Amend subrule 7.7(1) as follows:

**7.7(1)** *Medical assistance.* In cases involving the determination of medical assistance, the contested case hearing shall be held within a time frame such that the final administrative action is timely pursuant to 42 CFR 431.244(f) as amended to December 8, 2021.

ITEM 8. Renumber subrules **7.9(5)** and **7.9(6)** as **7.9(6)** and **7.9(7)**.

ITEM 9. Adopt the following **new** subrule 7.9(5):

**7.9(5)** *Standard of review.* In child abuse appeals, the criteria and level of deference by which the presiding officer shall render a decision is based on a preponderance of evidence.

ITEM 10. Amend paragraph **7.11(1)"a"** as follows:

*a.* A request for director's review shall be in writing and postmarked or received within ~~ten~~ 14 calendar days of the date on which the proposed decision was issued, except as provided for under

paragraph 7.11(1)*"b."* A request for director's review may be accompanied by a brief written summary of the arguments in favor of director's review.

ITEM 11. Amend subrule 7.11(2) as follows:

**7.11(2)** *Grant or denial of review.* The department has full discretion to grant or deny a request for review. In addition, the director may initiate review of a proposed decision on the director's own motion at any time on or before the ~~tenth~~ fourteenth day following the issuance of the proposed decision.

When the department grants a request for director's review, the appeals section shall notify the parties to the appeal of the review request and enclose a copy of the request. All other parties shall have ~~ten~~ 14 calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

ITEM 12. Amend subrule 7.11(3) as follows:

**7.11(3)** *Cross-appeal.* When a party requests director's review in accordance with subrule 7.11(1), the remaining parties shall have ~~ten~~ 14 calendar days from that date to submit cross-requests for director's review. The party originally seeking director's review shall have ~~ten~~ 14 calendar days from the date of the cross-request for director's review to submit further written arguments or objections for consideration upon review.

ITEM 13. Amend subrule 7.16(3) as follows:

**7.16(3)** *Written designation.* For persons other than attorneys seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. This form is required for all managed care appeals, including those handled through the expedited appeals process. Failure to provide the form or legal documentation may result in denial of the appeal request.

ITEM 14. Amend rule 441—7.19(17A), introductory paragraph, as follows:

**441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings.** The department acts on alleged intentional program violations either through an administrative disqualification hearing or referral to a court of appropriate jurisdiction. An individual accused of an intentional program violation may waive the individual's right to an administrative disqualification hearing in accordance with the procedures outlined in this rule and in 7 CFR 273.16(e) and (f) as amended to December 8, 2021.

Iowa Department of Human Services

# Information on Proposed Rules

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

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

   In October 2021, the United States Postal Service implemented new service standards for First-Class Mail. Mail traveling within a local area will continue to be two-day delivery. A local area is defined as a three-hour drive (or less than 140 miles) between originating and destination processing facilities. However, mail that must travel greater distances will take longer to deliver. Mail pieces can take up to 5 days for delivery.

   Due to the new service standards, the Postal Service recommends mail or correspondence that requires a deadline be sent early. Federal and state regulations dictate timeframes for appeals from start to finish, as well, as for specific steps throughout the process. These same regulations restrict the issuance of appeal correspondence early. Based on this change, the Department proposes amending the timeframe to request a review or submit a motion to vacate from ten days to fourteen days.

   When a party fails to appear for an appeal hearing, an Abandonment Order may be issued and the party is given an opportunity to file a motion to vacate stating the good cause reasons the party missed the appeal hearing. The proposed amendments revise the definition of “good cause” for setting aside a default judgment to match the definition used in the Iowa Rule of Civil Procedure 1.971 and makes the definition consistent with other departments within State Government.

   A hearing may not be granted when the appeal involves patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders. The proposed amendments reflect that a hearing cannot be granted in this circumstance.

   For persons seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative’s written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. The proposed amendments reflect that the form is required for appeals that are handled through the expedited and standard appeals processes and allows for an appeal to be denied if a completed form is not provided.

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

   Iowa Code Chapter 17A and Iowa Code Section 217.6

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

   Any individual who submits a review request or motion to vacate will be positively impacted by the proposed amendments extending the timeframe to submit such a request. Parties will have fourteen days to submit a request, instead of the current ten-day timeframe.

   Parties who must file a motion to vacate will be positively impacted by the revision to the definition of good cause as the proposed amendments align the definition with the Iowa Rule of Civil Procedure and with other departments across state government.

   Individuals who have filed appeals involving patient treatment interventions at the civil commitment unit for sexual offenders have never had the right to an appeal hearing. While this was clear in a previous

rulemaking package, it was removed in error. The proposed amendment reflect that a hearing cannot be granted in this circumstance.

The proposed amendments requiring persons seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal to complete Form 470-5526, Authorized Representative for Managed Care Appeals for appeals handled through an expedited or standard appeals process makes the process more consistent. This is a positive change for parties-in-interest.

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

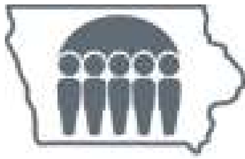
   The proposed amendments do not include waiver provisions because they confer benefits on those affected and are pursuant to federal law that does not provide for waivers, given that the process is optional. Individuals may request a waiver under the Department's general rule on exceptions at Iowa Admin.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

5. What are the likely areas of public comment?

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

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

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



# Administrative Rule Fiscal Impact Statement

Date: December 13, 2021

**Agency:** Human Services

**IAC citation:** 441 IAC 7

**Agency contact:** Denise Dutton

**Summary of the rule:**

In October 2021, the United States Postal Service implemented new service standards for First-Class Mail. Mail traveling within a local area will continue to be two-day delivery. A local area is defined as a three-hour drive (or less than 140 miles) between originating and destination processing facilities. However, mail that must travel greater distances will take longer to deliver. Mail pieces can take up to 5 days for delivery.

Due to the new service standards, the Postal Service recommends mail or correspondence that requires a deadline be sent early. Federal and state regulations dictate timeframes for appeals from start to finish, as well, as for specific steps throughout the process. These same regulations restrict the issuance of appeal correspondence early. Based on this change, the Department proposes amending the timeframe to request a review or submit a motion to vacate from ten days to fourteen days.

When a party fails to appear for an appeal hearing, an Abandonment Order may be issued and the party is given an opportunity to file a motion to vacate stating the good cause reasons the party missed the appeal hearing. The proposed amendments revise the definition of "good cause" for setting aside a default judgment to match the definition used in the Iowa Rule of Civil Procedure 1.971 and makes the definition consistent with other departments within State Government.

A hearing may not be granted when the appeal involves patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders. The proposed amendments reflect that a hearing cannot be granted in this circumstance.

For persons seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. The proposed amendments reflect that the form is required for appeals that are handled through the expedited and standard appeals processes and allows for an appeal to be denied if a completed form is not provided.

*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 2022) | Year 2 (FY 2023) |
|---|---|---|
| **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):***

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

| | | |
|---|---|---|
| Agency representative preparing estimate: | Rob Beran | JH 2-17-22 |
| Telephone number: | 281-6188 | |

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to food program terminology and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 13, “Program Evaluation,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 234.6, 249A.4 and 514I.1.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 234.6, 249A.4 and 514I.1.

*Purpose and Summary*

As part of the Department’s five-year rules review process, this proposed rule making updates the name of Iowa’s food assistance program. The formal name of Iowa’s food assistance program is proposed to be changed from Food Assistance Program to the Supplemental Nutrition Assistance Program (SNAP) to be consistent with the name of the federal program and to alleviate confusion around food benefits that are available.

*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 April 26, 2022. Comments should be directed to:

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **441—Chapter 13**, preamble, as follows:

PREAMBLE

The purpose of this chapter is to define the methods and procedures used by the department to provide a systematic process for measuring the validity of the eligibility determinations in the family investment program (FIP), ~~food assistance program~~ supplemental nutrition assistance program (SNAP), child care assistance program, and medical assistance program; to provide a basis for establishing state agency liability for errors; and to provide program information that can be used by the department in determining a corrective action plan to ensure the rules and regulations are implemented in accordance with the program rules.

ITEM 2. Amend rule **441—13.1(234,239B,249A,514I)**, definitions of "Client," "Public assistance programs" and "State policies," as follows:

*"Client"* means a current or former applicant or recipient of the family investment program (FIP), ~~food assistance program~~ supplemental nutrition assistance program (SNAP), child care assistance program, or medical assistance program.

*"Public assistance programs"* means those programs involving federal funds, i.e., family investment program (FIP), ~~food assistance program~~ supplemental nutrition assistance program (SNAP), child care assistance program, and medical assistance program.

*"State policies"* means the rules and regulations used by the department to administer the family investment program (FIP), ~~food assistance program~~ supplemental nutrition assistance program (SNAP), child care assistance program, and medical assistance program.

ITEM 3. Amend paragraph **13.5(3)"a"** as follows:

*a.* Personal interviews are required on all active ~~food assistance~~ SNAP reviews.

Iowa Department of Human Services

# Information on Proposed Rules

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

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

   As part of the Department's five-year rules review process, this rulemaking package updates the name of Iowa's food program. The formal name of Iowa's food program has changed from Food Assistance to the Supplemental Nutrition Assistance Program (SNAP) to be consistent with the name of the federal program and to alleviate confusion around food benefits that are available.

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

   Iowa Code Sections 234.6, 249A.4 and 514I.4

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

   Changing the formal name of Iowa's food program from Food Assistance to the Supplemental Nutrition Assistance Program (SNAP) will make the program name consistent with the name of the federal program and to alleviate confusion around food benefits that are available.

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

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

5. What are the likely areas of public comment?

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

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

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

# Administrative Rule Fiscal Impact Statement

Date: March 3, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC Chapter 13

**Agency contact:** Denise Dutton

**Summary of the rule:**

As part of the Department's five-year rules review process, this rulemaking package updates the name of Iowa's food program. The formal name of Iowa's food program has changed from Food Assistance to the Supplemental Nutrition Assistance Program (SNAP) to be consistent with the name of the federal program and to alleviate confusion around food benefits that are available.

*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 2022)** | **Year 2 (FY 2023)** |
| **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 03/17/2022

Telephone number: 281-6188

**ARC 6299C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to notice of adverse action and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 22, "Autism Support Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 225C.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 225C.6.

*Purpose and Summary*

This proposed rule making is part of the Department's five-year rules review process. Requirements for notices of adverse action were moved from Chapter 7 to Chapter 16, effective April 15, 2020. This chapter is updated to reflect that change. The Chapter 22 preamble was also updated to replace the reference to 2013 Iowa Acts with a reference to the Iowa Code. *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 May 10, 2022. Comments should be directed to:

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

*Public Hearing*

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **441—Chapter 22**, preamble, as follows:

PREAMBLE

These rules provide for definitions of diagnostic and financial eligibility, provider qualifications, and appeal procedures related to the autism support program created in ~~2013 Iowa Acts, Senate File 446, division XVII~~ Iowa Code chapter 225D. The purpose of the autism support program is to provide funding for applied behavioral analysis services and care coordination for children with a diagnosis of autism who meet certain financial and clinical eligibility criteria.

ITEM 2. Amend rule 441—22.8(225D) as follows:

**441—22.8(225D) Appeal.** Notice of adverse action ~~and~~ shall be given in accordance with 441—Chapter 16. The right to appeal shall be given in accordance with 441—Chapter 7.

Iowa Department of Human Services

# Information on Proposed Rules

| Name of Program Specialist | Telephone Number | Email Address |
|---|---|---|
| Connie Fanselow | 515-725-0131 | cfansel@dhs.state.ia.us |

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

   This rulemaking was reviewed as part of the Department's five-year rules review process. Requirements for notices of adverse action were moved from Chapter 7, Appeals and Hearings, to Chapter 16, Notices, effective April 15, 2020. This chapter is updated to reflect that change.

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

   Iowa Code Section 225C.6

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

   This is a positive impact as this chapter will be in compliance with other chapters within the Iowa Administrative Code. This will assist anyone who is looking for guidance regarding the department's notice requirements.

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?

   This rulemaking brings the Iowa Administrative Code into compliance with the Iowa Code. 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: February 16, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 22

**Agency contact:** Connie Fanselow

**Summary of the rule:**

This rulemaking was reviewed as part of the Department's five-year rules review process. Requirements for notices of adverse action were moved from Chapter 7, Appeals and Hearings, to Chapter 16, Notices, effective April 15, 2020. This chapter is updated to reflect that change.

*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 2022)** | **Year 2 (FY 2023)** |
| **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 03/28/2022

Telephone number: 281-6188

**ARC 6297C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to interim assistance reimbursement forms and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 57, "Interim Assistance Reimbursement," 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*

This proposed rule making was reviewed as part of the Department's five-year rules review process. Form names are being removed from this chapter as the names are outdated. This will reduce confusion for individuals who obtain assistance through this program.

*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 May 10, 2022. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 57.2(1) as follows:

**57.2(1)** *Agreement.* The county agency shall enter into a written agreement with the department of human services on Form 470-1948~~, Interim Assistance Reimbursement Agreement~~.

ITEM 2. Amend subrule 57.2(2) as follows:

**57.2(2)** *Authorization.* The county agency shall secure written authorization from the person seeking interim assistance. By signing Form 470-1950~~, Authorization for Reimbursement of Interim Assistance~~, the person:

*a.* Indicates the intent to apply for SSI benefits.

*b.* Authorizes the Social Security Administration to:

(1) Withhold the amount of interim assistance from the person's initial payment or initial posteligibility payment, and

(2) Make this amount payable to the county agency.

ITEM 3. Amend subrule 57.3(1) as follows:

**57.3(1)** The county agency shall submit the information requested on ~~the Certificate of Authority,~~ Form 470-1947~~,~~ to the Social Security Administration at the address given on the form:

*a.* Before the date the agency first participates in the program, and

*b.* Subsequently when changes in the list of authorized officials occur.

Iowa Department of Human Services

# Administrative Rule Transmittal

| Subject of Rule Making<br>Interim Assistance Reimbursement | | |
|---|---|---|
| Administrative Code Chapters Affected<br>Chapter 57 | Iowa Code Section or Bill Giving Rule Making Authority<br>249A.4 | |
| Program Specialist<br>Denise Dutton | Date Initiated<br>3/10/22 | Desired Effective Date<br>9/1/22 |

Are you requesting emergency rule making? ☒ No ☐ Yes

Are there grounds for emergency rule making? ☒ No

☐ Yes, because:

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

Are public hearings needed? ☒ No ☐ Yes

Are changes to a data system needed? ☒ No ☐ Yes

Will this affect appeal volume? ☒ No ☐ Yes: ☐ Increase ☐ Decrease

Is training required? ☒ No ☐ Yes, scheduled for:

Are form changes required? ☒ No ☐ Yes, to:

Are manual changes required? ☒ No ☐ Yes, to:

**Division Sign-Off:**

| Bureau Chief Signature (Process initiation) | Date |
|---|---|
| Division Administrator Signature (Form Content Approval) | Date |
| Attorney General Signature (Review) | Date |
| Fiscal Administrative Rules Coordinator | Date |

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

Iowa Department of Human Services

# Information on Proposed Rules

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

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

   This rulemaking was reviewed as part of the Department's five-year rules review process. Form names are being removed from this chapter as the names are outdated. This will reduce confusion for individuals who obtain assistance through this program.

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

   Iowa Code Section 249A.4

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

   Removing outdated form names positively impacts anyone who utilizes the Interim Assistance Reimbursement program to reduce confusion and ensure the correct forms are being used to obtain assistance.

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

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

5. What are the likely areas of public comment?

   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: March 10, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 57

**Agency contact:** Denise Dutton

**Summary of the rule:**

This rulemaking was reviewed as part of the Department's five-year rules review process. Form names are being removed from this chapter as the names are outdated. This will reduce confusion for individuals who obtain assistance through this program.

*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 2022)** | **Year 2 (FY 2023)** |
| **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 03/17/2022

Telephone number: 281-6188

**ARC 6300C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to applied behavioral analysis services delivered by registered behavior technicians and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 77, “Conditions of Participation for 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*

This proposed rule making allows registered behavior technicians to deliver applied behavior analysis (ABA) services under the direct supervision of behavior analysts or assistant behavior analysts licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the licensed supervisor.

ABA services are covered as a benefit under Medicaid. This proposed rule making recognizes a new level of certification to provide a pathway for staff under the

supervision of a board-certified behavior analyst (BCBA) to provide services to enrolled members. BCBAs must directly supervise individuals working in this new provider class.

This proposed rule making outlines the qualifications for a registered behavior technician, the treatment limitations, and how claims must be submitted. It will also position providers to expand their organizations by creating positions for registered behavior technicians.

*Fiscal Impact*

ABA services are provided today by BCBAs and assistant BCBAs. There are a limited number of ABA providers practicing in the state currently, and expanding the workforce could increase the utilization of services, but it is unknown what the increase in utilization would be. ABA services are covered under Medicaid as a benefit. The proposed subrule recognizes a new level of certification to provide a pathway for staff under the supervision of a BCBA. BCBAs must directly supervise individuals working in this new provider class. The number of BCBAs practicing across the state would limit overall utilization. The fiscal impact is expected to be minimal. Any expenditures will be absorbed within the medical assistance appropriation.

*Jobs Impact*

This proposed rule making will position providers to expand their organizations by creating positions for registered behavior technicians. Specific projections are not available.

*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 May 10, 2022. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and

interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** subrule 77.26(10):

**77.26(10)** *Registered behavior technicians.*

*a.* A person is eligible to participate as a registered behavior technician when the person holds:

(1) A current certification from the Behavior Analyst Certification Board as a registered behavior technician; or

(2) A bachelor's degree in education, psychology, social work, physical therapy, occupational therapy, or speech language pathology.

*b.* A registered behavior technician must provide treatment under the supervision of a behavior analyst or assistant behavior analyst licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the supervising licensed behavior analyst.

Iowa Department of Human Services

# Information on Proposed Rules

| Name of Program Specialist | Telephone Number | Email Address |
|---|---|---|
| Hannah Olson | 515.201.5543 | Holson1@dhs.state.ia.us |

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

   The proposed rule amends Iowa Admin Code r. 441-77 to include a new subsection entitling registered behavior technicians to deliver Applied Behavior Analysis (ABA) services under the direct supervision of behavior analysts or assistant behavior analysts licensed pursuant to chapter 154D. Claims for payment for such services must be submitted by the licensed behavior analyst.

   During the 2021 legislative session a bill (HF691) was introduced to add registered behavior technicians to the list of providers eligible to deliver ABA services. It was determined that legislation was not needed, we just needed to add the below language to existing rules.

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

   249A.4

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

   This will positively impact ABA providers by expanding their hiring pool and allowing them to receive reimbursement for ABA services provided to Medicaid members by registered behavior technicians. It will positively impact members as growing provider capacity will increase access to ABA services across the state.

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

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

5. What are the likely areas of public comment?

   ABA providers will likely support this change.

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 rules will position providers to grow their organizations by creating positions specific to registered behavior technicians. The educational requirement for registered behavior technician certification is a high school diploma or equivalency, meaning this could create jobs not previously available to Iowans in that demographic. Specific projections are not available.

# Administrative Rule Fiscal Impact Statement

Date: March 24, 2022

**Agency:** Human Services

**IAC citation:** New Subrule 441 IAC 77.26(10)

**Agency contact:** Hannah Olson

**Summary of the rule:**

The proposed rule amends Iowa Admin Code r. 441-77 to include a new subsection entitling registered behavior technicians to deliver Applied Behavior Analysis (ABA) services under the direct supervision of behavior analysts or assistant behavior analysts licensed pursuant to chapter 154D. Claims for payment for such services must be submitted by the licensed supervisor.

*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:***

Applied Behavioral Analysis (ABA) services are provided today by Board-Certified Behavior Analysts and Assistant Board-Certified Behavioral Analysts. There are a limited number of ABA providers practicing in the state currently and expanding the workforce could increase the utilization of services, but it is unknown what the increase in utilization would be.

This change is not adding services; ABA is currently a covered benefit. This rule is recognizing a new level of certification to provide a pathway for staff under the supervision of a Board Certified Behavior Analyst (BCBA). BCBA's must directly supervise individuals working in this new provider class. The number of BCBA's practicing across the state would limit overall utilization. Fiscal impact is expected to be minimal. Any expenditures will be absorbed within the Medical Assistance appropriation.

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

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

***Assumptions:***

***Describe how estimates were derived:***

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

| | Year 1 (FY 2022) | Year 2 (FY 2023) |
|---|---|---|
| **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:*

☒ Funding has been provided for the rule change.
*Please identify the amount provided and the funding source:*
Funding will be absorbed within the Medical Assistance appropriation

☐ Funding has not been provided for the rule.

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

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

This will positively impact ABA providers by expanding their hiring pool and allowing them to receive reimbursement for ABA services provided to Medicaid members by registered behavior technicians. It will positively impact members as growing provider capacity will increase access to ABA services across the state.

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

No fiscal impact to counties or other local governments

| | | |
|---|---|---|
| Agency representative preparing estimate: | Soraya Miller | JH -- 03/25/2022 |
| Telephone number: | 515-281-6017 | |

**ARC 6286C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rule making related to child care medical services 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 chapter 249A.

*State or Federal Law Implemented*

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

*Purpose and Summary*

The Department is proposing to change the forms used in the prior authorization approval process for medical child care. The revised form will provide greater detail on the child's medical and behavioral needs.

Medical child care is specialized child care for children with significant medical needs and developmental delays. Medical child care combines traditional child care and nursing care and provides additional services, including on-site therapy such as physical, occupational and speech therapies. Medically necessary services are provided under a plan of care that is developed by licensed professionals within their scope of practice and authorized by the member's physician. Children who are eligible for Medicaid and who have medically necessary services are eligible for medical care. Hours are determined through a prior authorization process and use of the updated form.

Changes were made to the form to better align with and capture the needs of the children, including those on the autism spectrum.

*Fiscal Impact*

This rule making will change the required forms used in the prior authorization approval process for medical child care. The new form could allow for additional hours of service to be authorized for the current population (131 children) at a rate of $23.95 per hour with a center open for approximately 250 days. The expected increase in utilization is not known with certainty so the department has calculated a range estimate. The fiscal impact based on an additional two authorized hours of service for the current population (131 children) at a rate of $23.95 per hour with a center open for approximately 250 days with utilization ranging from 65.7 percent to 100 percent ranges from $485,000 to $739,000 in total dollars, of which the State will pay $179,000 to $273,000. The fiscal impact based on the maximum hours allowed per facility for the current population (131 children) at a rate of $23.95 per hour with a center open for approximately 250 days with utilization ranging from 65.7 percent to 100 percent ranges from $600,000 to $919,000, of which the State will pay $223,000 to $339,000. Based on the above assumptions, the anticipated State dollar impact will be between $179,000 and $339,000. *Jobs Impact*

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

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 April 26, 2022. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subparagraph **78.57(6)"c"(12)** as follows:

(12) ~~Forms 470-4815 and 470-4816 are~~ <u>Form 470-5686 is</u> utilized during the prior authorization review.

Iowa Department of Human Services

# Information on Proposed Rules

| Name of Program Specialist | Telephone Number | Email Address |
|---|---|---|
| Tashina Hornaday | 515-201-3553 | thornad@dhs.state.ia.us |

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

   The rule will change the required forms used in the prior authorization approval process for medical childcare. The updated form provides greater detail of information for medical/behavior needs for the child.

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

   249A.4

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

   This will positively impact the children who require medical child care services to receive hours to care for them based on medical and behavioral needs. The revised form includes additional information relate to the child's medical and behavioral needs.

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

   No, a 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?

   The likely areas of public comment will be related to the potential increase in service hours for medical childcare and will be supportive.

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

   This rule does not have an impact on private-sector jobs and employment opportunities in Iowa.

# Administrative Rule Fiscal Impact Statement

Date: February 1, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 78.57

**Agency contact:** Tashina Hornaday

**Summary of the rule:**

The rule will change the required forms used in the prior authorization approval process for medical childcare. The updated form provides greater detail of information for medical/behavior needs for the child.

*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 will change the required forms used in the prior authorization approval process for medical childcare. The new form could allow for additional hours of service to be authorized for the current population (131 children) at a rate of $23.95 with a center open for approximately 250 days.

*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:***

The fiscal impact based on additional 2 authorized hours of service for the current population (131 children) at a rate of $23.95 with a center open for approximately 250 days with utilization ranging from 65.7% to 100% ranges from $485K - $739K (total dollars)/ $179K - $273K (state dollars).

The fiscal impact based on the maximum hours allowed per facility for the current population (131 children) at a rate of $23.95 with a center open for approximately 250 days with utilization ranging from 65.7% to 100% ranges from $600K - $919K (total dollars)/ $223K - $339K (state dollars)

***Describe how estimates were derived:***

Estimates are based on maximum hours allowed per facility for the current population (131 children) at 100% utilization due to the uncertainty of knowing how many additional authorized hours of service would be utilized. Impact would be $919K (total dollars)/ $339K (state dollars).

| *Estimated Impact to the State by Fiscal Year* | | |
|---|---|---|
| | **Year 1 (FY 23))** | **Year 2 (FY 24)** |
| **Revenue by each source:** | | |
| General fund | | |
| Federal funds | 580,216.00 | 580,216.00 |
| Other (specify): | | |
| **TOTAL REVENUE** | 580,216.00 | 580,216.00 |
| **Expenditures:** | | |
| General fund | 919,081.00 | 919,081.00 |
| Federal funds | | |
| Other (specify): | | |
| **TOTAL EXPENDITURES** | 919,081.00 | 919,081.00 |
| **NET IMPACT** | -338,865.00 | -338,865.00 |

☒ This rule is required by state law or federal mandate.
*Please identify the state or federal law:*
Identify provided change fiscal persons:
441—78.57(249A) Child care medical services

☒ Funding has been provided for the rule change.
*Please identify the amount provided and the funding source:*
Expenditures will be absorbed within the Medical Assistance appropriation

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

***Fiscal impact to persons affected by the rule:***
There is no fiscal impact to persons affected by this rule

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***
There is no fiscal impact to counties or local governments

Agency representative preparing estimate: Soraya Miller

Telephone number: 515-281-6017

**ARC 6282C**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

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

The Human Services Department hereby proposes to rescind Chapter 161, "Iowa Senior Living Trust Fund," Chapter 162, "Nursing Facility Conversion and Long-Term Care Services Development Grants," and Chapter 164, "Iowa Hospital Trust Fund," 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*

This proposed rule making is part of the Department's five-year rules review process. Chapters 161 and 162 are rescinded and reserved because the programs no longer exist and Iowa Code chapter 249H, which authorized the programs, was repealed in 2013. Chapter 164 is rescinded and reserved because the program no longer exists and Iowa Code chapter 249I, which authorized the trust fund, was repealed in 2005. This rule making brings the Iowa Administrative Code into compliance with the Iowa Code.

*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 April 26, 2022. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve **441—Chapter 161**.

ITEM 2. Rescind and reserve **441—Chapter 162**.

ITEM 3. Rescind and reserve **441—Chapter 164**.

Iowa Department of Human Services

# Information on Proposed Rules



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



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

   This rulemaking was reviewed as part of the Department's five-year rules review process. Chapter 161, Iowa Senior Living Trust Fund, and Chapter 162, Nursing Facility Conversion and Long-Term Care Services Development Grants, are rescinded as the programs no longer exist and Iowa Code Chapter 249H that authorized the programs was repealed in 2013. Chapter 164, Iowa Hospital Trust Fund, is rescinded as the program no longer exists and Iowa Code Chapter 249I that authorized the trust fund was repealed in 2005. This rulemaking brings the Iowa Administrative Code into compliance with the Iowa Code.

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

   Iowa Code Section 249A.4

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

   There are no negative impacts as these programs were repealed in 2005 and 2013. This rulemaking brings the Iowa Administrative Code into compliance with the Iowa Code.

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?

   This rulemaking brings the Iowa Administrative Code into compliance with the Iowa Code.
   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: February 16, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 161, 162 and 164

**Agency contact:** Denise Dutton

**Summary of the rule:**

This rulemaking was reviewed as part of the Department's five-year rules review process. Chapter 161, Iowa Senior Living Trust Fund, and Chapter 162, Nursing Facility Conversion and Long-Term Care Services Development Grants, are rescinded as the programs no longer exist and Iowa Code Chapter 249H that authorized the programs was repealed in 2013. Chapter 164, Iowa Hospital Trust Fund, is rescinded as the program no longer exists and Iowa Code Chapter 249I that authorized the trust fund was repealed in 2005. This rulemaking brings the Iowa Administrative Code into compliance with the Iowa Code.

*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 2022)** | **Year 2 (FY 2023)** |
| **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 03/03/2022 |
| Telephone number: | 281-6188 | |

# HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

### Rule making related to Health Home Programs

The Human Services Department hereby amends Chapter 77, "Conditions Of Participation For Providers Of Medical And Remedial Care," Chapter 78, "Amount, Duration And Scope Of Medical And Remedial Services," and Chapter 79, "Other Policies Relating To Providers Of Medical And Remedial Care," Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code 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 updating rules for Integrated Health Homes and for Chronic Health Homes based on the deficiencies identified in the audit completed in 2019 by the Office of Inspector General (OIG) for the Health Home (HH) programs for the state fiscal years 2013 through 2016.

The amendments clarify the standards and requirements for the delivery of Health Home services. The audit recommended the Department improve its monitoring of the HH programs to ensure that HH providers comply with federal and state requirements for maintaining documentation to support the services for which the providers billed and received payments. The audit also recommended the Department revise the state plan to define the documentation requirements that HH providers must follow to bill and receive higher in-home health payments for intensive services and educate providers on these requirements. Recommendations were also made that the state plan be revised to define the documentation requirements the HH providers must follow to bill and receive payments for outreach services and also educate providers on these requirements.

State plan amendments have now been submitted and approved. The Department developed an ongoing audit process to be completed by Iowa Medicaid and the managed care organizations that ensure the HH services are appropriately documented. Iowa Medicaid hosted a face-to-face training and plans additional opportunities for training providers on core services and documentation. Monthly webinars, biannual face-to-face training and individual technical assistance based on provider needs have been implemented.

### Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 23, 2022, as ARC 6206C.

The Department received 50 comments from five respondents on the proposed rules. The comments and corresponding responses from the Department are divided into three topic areas as follows:

**<u>1. Chapter 77 General Requirements</u>**

a. One respondent commented the rules say, "Integrated Health Homes – means a

provider enrolled to integrate" and provider should be changed to a Team of Health Care Professionals." 77.47(1) Definitions.

**Department Response:** The definition of Team of Health Care Professionals also includes the Lead Entity as such the Department will not amend this rule.

b. One respondent commented that "Integrated Health Homes – means a provider enrolled to integrate" should be changed from provider to an interdisciplinary team member. 77.47(1) Definitions.

**Department Response**: The definition of Team of Health Care Professionals also includes the Lead Entity, as such the Department will not amend this rule.

c. One respondent commented that the self-assessment should be changed from "An integrated health home must complete a self-assessment when enrolling as a new health home and annually thereafter," to "An integrated health home must complete a self-assessment when enrolling as a new health home" as it is technically not part of the SPA and created a more restrictive environment. 77.47(3) Integrated health home provider qualifications.

**Department Response:** This has been a requirement since the original Integrated Health Home State Plan Amendment in 2013. This is not a new requirement and is consistent with other program oversight activities, therefore the Department will not amend this rule.

d. One respondent commented that previous provider definitions have allowed Iowa accredited providers of mental health services, and not only limited it to CARF accredited providers. 77.47(3) Integrated health home provider qualifications.

**Department Response:** The Department recognizes that providers accredited in accordance with 441-Chapter 24 to deliver services to individuals with mental illness are also qualified to deliver integrated health home services. The Department will amend the subrule as follows:

77.47(3) Integrated health home provider qualifications.

(8) Provider accredited under 441—Chapter 24 to deliver services to persons with mental illness.

e. One respondent commented that nurse needed to be deleted or add care coordinator or change to "The health home is responsible for assisting members with …in" or "The health home must ensure that the nurse care manager is responsible for assisting members with…"

**Department Response:** The Department agrees with the comment and will amend subrule 77.47(5) b(1) as follows:

(1) The health home must ensure that the nurse care manager is responsible for oversight of the service including assisting members with medication adherence, appointments, referral scheduling, tracking follow-up results from referrals, understanding health insurance coverage, reminders, transition of care, wellness education, health support or lifestyle modification, and behavior changes.

f. One respondent commented that 77.47(3)(f) (1) and (2) and 77.47(4) b. were inconsistent with role titles. 77.47(3) Integrated health home provider qualifications.

**Department Response:** The Department agrees with the comment and will amend subrule 77.47(4)b (2) as follows:

(2) ~~Nurse care coordinators~~ Nurse Care Manager. The lead entity must have nurse care managers to support the health home in meeting provider standards. A nurse care manager
managers to support the health home in meeting provider standards. A nurse care manager

must be a registered nurse or have a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

g. One respondent commented that "other social determinants of health" should be deleted from "(2) The health home must complete status reports to document the member's housing, legal status, employment status, education, custody, and other social determinants of health, as applicable." 77.47(5) Health home general requirements.

**Department Response:** Whole person care includes social health and environmental health. Federal guidance states that the social need of the member needs to be addressed through the delivery of health home service. This is not a new guideline for health home service providers and is a best practice in the delivery of whole person care. The Department will not amend this rule.

h. One respondent commented that annually should be removed from "The health home must initially and annually provide letters of support from at least one area hospital and two area primary care practices" 77.47(5) Health home general requirements.

**Department Response:** The Department agrees with this comment and will amend the rule to require the health home to submit the letters of support initially at the time of enrollment and then again during the federally required reenrollment period. Subrule 77.47(5) a. (6) will be amended as follows:

(6) The health home must ~~and annually~~ at the time of enrollment and reenrollment provide letters of support from at least one area hospital and two area primary care practices that agree to collaborate with the health home on care coordination and hospital and emergency department notification.

i. One respondent commented that fragmentation should be removed from "The health home must be responsible for preventing fragmentation or duplication of services provided to members." 77.47(5) Health home general requirements.

**Department Response:** The Department acknowledges that the specific word "fragmentation" is not included in the SPA, however the intent of whole person care is to avoid fragmentation by ensuring continuity of care for the member. Therefore, the department will not amend this rule.

j. One respondent commented that 77.47(5) is inconsistent with 78.53(2) e.

**Department Response:** The Department agrees with the comment and will amend the 77.47(5) b. (5) as follows:

(5) The health home must communicate with the member, authorized representative, and the member's family and caregivers in a culturally appropriate manner for the purposes of assessment of care decisions, including the identification of authorized representatives.

k. One respondent commented that "delete" must change to "encourage" in "The health home must use email, text messaging, patient portals and other technology to communicate with members" 77.47(5) Health home general requirements.

**Department Response:** The Department agrees with the comment that the member may choose their preferred method of communication. 77.47(5) c. will be amended as follows:

c. Enhanced access. The health home must provide enhanced access for members and member caregivers, including access to health home services 24 hours per day, seven days per week. The health home must use email, text messaging, patient portals and other

technology to communicate with members based on the member's preferred method of communication.

l. One respondent commented that this section needs clarified as "meetings" is inconsistent with the SPA. 77.47(5) Health home general requirements.

**Department Response:** The Department disagrees with the comment. The intent of the use of the word meeting is to be inclusive of in-person, virtual or telephonic meetings. The Department will not amend this rule.

m. One respondent commented that "with lead entities and the department" is inconsistent with the SPA and not included in the SPA language and as such would appear to add an additional requirement upon the health home. "The health home must participate in or convene ad hoc or scheduled meetings with lead entities and the department to plan and discuss implementation. " 77.47(5) Health home general requirements.

**Department Response:** The Department disagrees with this comment. This language is not new and has remained consistent within the SPA since the implementation of the program. The SPA states "Agree to participate in or convene ad hoc or scheduled meetings to plan and discuss implementation of goals and objectives for practice transformation with ongoing consideration of the unique practice needs for adult members with SMI and child members with SED and their families". The Department will not amend this rule**.**

n. One respondent commented that adults with a serious emotional disturbance needs to change to serious mental illness in "practice transformation, with ongoing consideration of the unique practice needs for adult members with a serious emotional disturbance and child members with a serious emotional disturbance and those members' families." 77.47(5) Health home general requirements.

**Department Response:** The Department agrees with this comment and will amend 77.47(5) as follows:

(5) The health home must participate in or convene ad hoc or scheduled meetings with lead entities and the department to plan and discuss implementation of goals and objectives for practice transformation, with ongoing consideration of the unique practice needs for adult members with a serious ~~emotional disturbance~~ mental illness and child members with a serious emotional disturbance and those members' families.

o. One respondent recommended that health homes providers have access to the data in real-time to make necessary adjustments regarding, "The health home must participate in ongoing process improvement on clinical indicators and overall cost-effectiveness." 77.47(5) Health home general requirements.

**Department Response:** As a condition of participation in the Health Home program, Health Homes are required to have electronic medical health records that are meaningfully used. When this standard is met and the Health Home has an operational electronic medical health record, the Health Home will have access to more real-time data to use as part of their quality improvement program. No additional changes will be made to this rule.

**2. Chapter 78- Definitions, Covered Services, Patient-Centered Care Plan and Core Services**.

a. One respondent recommended all references to "patient-centered" should be changed to "person-centered" for consistency and clarity. Definitions, Covered Services, Patient-Centered Care Plan and Core Services.

**Department Response:** The Department agrees with the comment and will amend

78.53(1), 78.53(2), 78.53(5)c, and 78.53(5)c(1) to change all references of patient centered to person centered. 78.53(5)d was not updated as another change superseded that portion of the rule that contained the patient centered wording.

b. One respondent stated that "78.53 (1) Definitions (2) Covered services (5) c. PCSP and patient-centered care plan (5) d. Core Services" should be revised as it is not all inclusive as it fails to include the option for a referral by the family, authorized caregivers and legal guardians or representatives, etc." 78.53(4) Member identification and enrollment.

**Department Response:** The Department agrees with the comment and will amend 78.53(4) a. as follows:

(a) Eligible members are identified through a referral from the department, lead entity, primary care provider, hospital, other providers, ~~or~~ the member, the member's authorized representative.

c. One respondent stated: How the member presented to the health home, including the referral. DELETE this section as this is not a requirement of eligibility, so why is there a documentation requirement? 78.53(5) Health home documentation.

**Department Response:** To understand the source of referrals for health home services assists the health home with understanding the population at a community level and identifies any need for targeted outreach. The Department will not amend this rule.

d. One respondent stated: Identified needs and plan to assess for eligibility. DELETE this section as this is requiring documentation on how the health home plans to determine if the member is eligible. Eligibility is dictated by the mental health professional assessment of functional impairment and as such is outside of the purview and control of the health home. 78.53(5) a. Health home documentation.

**Department Response:** A narrative note documenting that the Health Home will verify the member's eligibility by obtaining the required documentation that the member has a functional impairment as identified and by a mental health professional. The Department will not amend this rule.

**e**. One respondent stated: Documentation that the member is eligible for health home services. If a member is not eligible, the health home must document the plan to support the member. DELETE - a documentation requirement for a health home for a plan of services for an individual that is not eligible for the health home services should not be a requirement placed upon the health home. 78.53(5) Health home documentation.

**Department Response:** If the member being referred for health home services is not clinically eligible for the health home services, the health home will make appropriate referrals to other community services for which the member may be eligible. The Department will not amend this rule.

f. One respondent stated: Plan to complete the comprehensive assessment. DELETE – there is already an entire section (b. Comprehensive Assessment) devoted to this, so this is duplicative and appears as a task in futility requiring a health home to document how they are going to fulfill a required task. 78.53(5) Health home documentation.

**Department Response:** To ensure that the member receives comprehensive coordinated care the health home will document the plan to obtain appropriate historical

records from providers and the member at the time of intake. The team should identify the information needed and the professionals from whom they will need to obtain the information from to complete the Comprehensive Assessment and the Social History for the eligible member. The department will not amend this rule**.**

g. One respondent stated: Documentation of eligibility and member's agreement to continue participation in the program, obtained on an annual basis. DELETE or clarify. Isn't it implied if a member meets with the health home and goes through the extensive steps to revise and update their annual care or service plan, that the member intends to continue to participate in the program? 78.53(5) Health home documentation.

**<u>Department Response:</u>** The Department agrees with this comment. The completed annual assessment demonstrates that the member agrees to continue participation. The Department will amend 78.53(5) a. (9) as follows:

(9) Documentation of continued eligibility shall be reviewed annually and maintained in the member's service record. ~~and member's agreement to continue participation in the program, obtained on an annual basis.~~

h. One respondent stated: This section needs clarified. This is limiting and lacks flexibility to provide immediate services or one-time needs. "Core services. Documentation must reflect monthly provisions of one of the six core health home services as outlined in subrule 78.53(2), based on the member's identified needs in the member's patient-centered care plan or person-centered service plan." 78.53(5) Health home documentation.

**<u>Department Response</u>**: The Department agrees with this comment and will amend 78.53(5) d. as follows:

d. Core services. Documentation must reflect monthly provision of one of the six core health home services as outlined in subrule 78.53(2~~), based on the member's identified needs in the member's patient-centered care plan or person-centered service plan.~~

i. One respondent stated: 78.53(5)" e." applies to ICM services and does not apply to non-ICM members. "The health home provides at least one of the six core health home services described in subrule 78.53(2) during the month, and (3) The health home maintains the documentation outlined in paragraph 78.53(5) e" 78.53(6) Payment

**<u>Department Response:</u>** The Department agrees with this comment and will amend 78.53(5)e to remove the reference to subparagraph "e" for clarification. The rule will be amended as follows:

78.53(5)e The health home maintains the documentation outlined in paragraph 78.53(5) ~~"e."~~

**<u>3. Chapter 79- Services</u>**

a. One respondent stated: Need to add "if relevant" at the end of each of the services identified in points 1 through 10 so as not to imply documentation required for services that may not be applicable to the respective members. 79.3(2) "d" (40) Health home services

**<u>Department Response:</u>** The Department agrees with the comment as it applies to one of the items and will amend subparagraph 79.3(2) "d" (40) as follows:

~~3.~~ 5. Comprehensive transitional care plan, including appropriate follow-up, from inpatient to other settings, <u>if relevant</u>.

**Based on comments changes were made to the following rules:**

**77.47(3)**
**77.47(5)b(1)**
**77.47(4)b(2)**
**77.47(5)a(6)**
**77.47(5)b(5)**
**77.47(5)d(5)**
**78.53(1)**
**78.53(2)**
**78.53(5)c**
**78.53(5)c(1)**
**78.53(5)d**
**78.53(2)**
**78.53(4)a**
**78.53(5)a(9)**
**78.53(5)d**
**78.53(5)e**
**79.3(2)d(40)**

## Adoption of Rule Making

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

## Fiscal Impact

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

## Jobs Impact

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

## Waivers

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

## 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 July 1, 2022.

The following rule-making action is adopted:

Please see attached.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** implementation sentence in rule **441—77.1(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Adopt the following **new** implementation sentence in rule **441—77.2(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 3. Adopt the following **new** implementation sentence in rule **441—77.4(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 4. Adopt the following **new** implementation sentence in rule **441—77.5(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 5. Adopt the following **new** implementation sentence in rule **441—77.6(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 6. Adopt the following **new** implementation sentence in rule **441—77.7(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 7. Adopt the following **new** implementation sentence in rule **441—77.8(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 8. Adopt the following **new** implementation sentence in rule **441—77.9(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 9. Adopt the following **new** implementation sentence in rule **441—77.10(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 10. Adopt the following **new** implementation sentence in rule **441—77.11(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 11. Amend rule **441—77.12(249A)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section 249A.4 ~~and 2010 Iowa Acts, chapter 1192, section 31~~.

ITEM 12. Adopt the following **new** implementation sentence in rule **441—77.21(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 13. Adopt the following **new** implementation sentence in rule **441—77.24(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 14. Adopt the following **new** implementation sentence in rule **441—77.29(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

ITEM 15. Rescind rule 441—77.47(249A) and adopt the following **new** rule in lieu thereof:

**441—77.47(249A) Health home services providers.** Subject to the requirements of this rule, a provider may participate in the medical assistance program as a provider of health home services.

**77.47(1)** *Definitions.*

*"Chronic condition"* means, for purposes of this rule, one of the conditions outlined in 441—subparagraph 78.53(3)*"a"*(1).

*"Chronic condition health home"* means a provider enrolled to deliver personalized, coordinated care for members with one chronic condition and at risk of developing another.

*"Functional impairment"* means the loss of functional capacity that (1) is episodic, recurrent, or continuous; (2) substantially interferes with or limits the achievement of or maintenance of one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills; and (3) substantially interferes with or limits the individual's functional capacity with family,

employment, school or community. "Functional impairment" does not include difficulties resulting from temporary and expected responses to stressful events in a person's environment. The level of functional impairment must be identified by the assessment completed by a mental health professional as defined in rule 441—24.1(225C).

*"Health home*" means a chronic condition health home or an integrated health home.

*"Integrated health home*" means a provider enrolled to integrate medical, social, and behavioral health care needs for adults with a serious mental illness and children with a serious emotional disturbance.

*"Lead entity*" means a managed care organization that supports and oversees the chronic condition health home and the integrated health home network.

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

*"Serious emotional disturbance*" means the same as defined in rule 441—83.121(249A).

*"Serious mental illness*" means, for an adult, a persistent or chronic mental health, behavioral, or emotional disorder that (1) is specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or its most recent International Classification of Diseases, and (2) causes serious functional impairment and substantially interferes with or limits one or more major life activities, including functioning in the family, school, employment or community. "Serious mental illness" may co-occur with substance use disorder, developmental disabilities, neurodevelopmental disabilities or intellectual disabilities, but those diagnoses may not be the clinical focus for health home services.

**77.47(2)** *Chronic condition health home provider qualifications.*

*a.* A chronic condition health home must be one of the following:

(1) Physician(s).

(2) Clinical practice or clinical group practice.

(3) Rural health clinic.

(4) Community health center.

(5) Community mental health center accredited under 441—Chapter 24.

(6) Federally qualified health clinic.

*b.* A chronic condition health home may include multiple sites when those sites are identified as a single organization or medical group that shares policies, procedures, and electronic systems across all of the single organization's or medical group's practice sites.

*c.* A chronic condition health home must achieve accreditation, recognition, or certification as a patient-centered medical home (PCMH) through a national accreditation or certification entity recognized by the department within the first year of operation and maintain the accreditation, recognition, or certification for the duration of enrollment as a health home. A chronic condition health home that fails to achieve accreditation, recognition, or certification within the first year of enrollment will have the chronic condition health home enrollment terminated unless granted an extension by the department.

*d.* A chronic condition health home must complete a self-assessment when enrolling as a new health home and annually thereafter.

*e.* A chronic condition health home must meet the requirements, qualifications, and standards outlined in the chronic condition health home state plan amendment.

*f.* A chronic condition health home must participate in monthly, quarterly, and annual outcomes data collection and reporting.

*g.* At a minimum, a chronic condition health home must fill the following roles:

(1) Designated practitioner. The chronic condition health home must have at least one physician with an active Iowa license and credentialed with at least one managed care organization. If a chronic condition health home has multiple sites, a specific site may have a nurse practitioner or physician's assistant, so long as the chronic condition health home has as least one physician.

(2) Dedicated care manager. The chronic condition health home must have at least one nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

(3) Health coach. The chronic condition health home must have at least one trained health coach.

**77.47(3)** *Integrated health home provider qualifications.*

*a.* An integrated health home must be one of the following:

(1) Community mental health center accredited under 441—Chapter 24.

(2) Licensed mental health service provider.

(3) Licensed residential group care setting.

(4) Licensed psychiatric medical institution for children (PMIC).

(5) Provider accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) to provide behavioral health services.

(6) Provider accredited by the Council on Accreditation for behavioral health or child, youth and family services.

(7) Provider accredited by the Joint Commission for behavioral health care services.

(8) ) Provider accredited under 441—Chapter 24 to deliver services to persons with mental illness.

*b.* An integrated health home may include multiple sites when those sites are identified as a single organization or medical group that shares policies, procedures, and electronic systems across all of the single organization's or medical group's practice sites.

*c.* An integrated health home must complete a self-assessment when enrolling as a new health home and annually thereafter.

*d.* An integrated health home must meet the requirements, qualifications, and standards outlined in the integrated health home state plan amendment.

*e.* An integrated health home must participate in monthly, quarterly, and annual outcomes data collection and reporting.

*f.* At a minimum, an integrated health home must fill the following roles:

(1) If serving adults:

1. Nurse care manager. The integrated health home must have a nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

2. Care coordinator. The integrated health home must have a care coordinator who has a bachelor of science in social work or a bachelor of science or bachelor of arts degree in a related field.

3. Trained peer support specialist. The integrated health home must have a peer support specialist who has completed a department-recognized training program and passed the competency examination within six months of hire.

(2) If serving children:

1. Nurse care manager. The integrated health home must have a nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

2. Care coordinator. The integrated health home must have a care coordinator who has a bachelor of science in social work or a bachelor of science or bachelor of arts degree in a related field.

3. Family peer support specialist. The integrated health home must have a family peer support specialist who has completed a department-recognized training program and passed the competency examination within six months of hire.

**77.47(4)** *Lead entity qualifications.*

*a.* A lead entity must meet the following requirements:

(1) The lead entity must be licensed and in good standing in the state of Iowa as a health maintenance organization in accordance with 191—Chapter 40.

(2) The lead entity must have a statewide integrated network of providers to serve members with serious mental illness and serious emotional disturbance.

(3) The lead entity must complete a self-assessment at the time of enrollment and annually thereafter.

(4) The lead entity must meet requirements, qualifications, and standards outlined in the state plan.

(5) The lead entity must participate in monthly, quarterly, and annual outcomes data collection and reporting.

*b.* At a minimum, a lead entity must fill the following roles:

(1) Physician. The lead entity must have at least one physician to support the health home in meeting provider standards. The physician must have an active Iowa license to practice medicine in accordance with 653—Chapter 9 and be credentialed with at least one managed care organization.

(2) Nurse care coordinators. Nurse Care Managers. The lead entity must have nurse care managers to support the health home in meeting provider standards. A nurse care manager must be a registered nurse or have a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

(3) Social workers. The lead entity must have a care coordinator with a bachelor of science or bachelor of arts degree in social work or a related field, including sociology, counseling, psychology, or human services, to support the health home in meeting the provider standards and delivering health home services.

(4) Behavioral health professionals. The lead entity must have a psychiatrist to support the health home in meeting provider standards and to deliver health home services. The psychiatrist must have an active Iowa license to practice medicine in accordance with 653—Chapter 9 and be credentialed with at least one managed care organization.

**77.47(5)** *Health home general requirements.*

*a. Whole person orientation.* The health home is responsible for providing whole person care.

(1) The health home must provide or take responsibility for appropriately arranging care with other qualified professionals for all the member's health care needs. This includes care for all stages of life, including acute care, chronic care, preventive services, long-term care, and end-of-life care.

(2) The health home must complete status reports to document the member's housing, legal status, employment status, education, custody, and other social determinants of health, as applicable.

(3) The health home must implement a formal screening tool to assess behavioral health, including mental health and substance abuse treatment needs, along with physical health care needs.

(4) The health home must work with the lead entity or Iowa Medicaid to develop capacity to receive members redirected from emergency departments, engage in planning transitions in care with area hospitals, and follow up on hospital discharges, including psychiatric medical institutions for children.

(5) The health home must provide bidirectional and integrated primary care and behavioral health services through use of a contract, memoranda of agreement or other written agreements approved by the department.

(6) The health home must initially ~~and annually~~ at the time of enrollment and reenrollment provide letters of support from at least one area hospital and two area primary care practices that agree to collaborate with the health home on care coordination and hospital and emergency department notification.

(7) The health home must advocate in the community on behalf of health home members, as needed.

(8) The health home must be responsible for preventing fragmentation or duplication of services provided to members.

*b. Coordinated integrated care.* The health home must provide coordinated integrated care.

(1) The health home must ensure that the nurse care manager is responsible for oversight of the service including assisting members with medication adherence, appointments, referral scheduling, tracking follow-up results from referrals, understanding health insurance coverage, reminders, transition of care, wellness education, health support or lifestyle modification, and behavior changes.

(2) The health home must utilize member-level information, member profiles, and care coordination plans for high-risk individuals.

(3) The health home must incorporate tools and evidenced-based guidelines designed for identifying care opportunities across the age and diagnostic continuum, integrating clinical practices, and coordinating care with other providers.

(4) The health home must conduct interventions as indicated based on the member's level of risk.

(5) The health home must communicate with the member, authorized representative, and the member's family and caregivers in a culturally appropriate manner for the purposes of assessment of care decisions, including the identification of authorized representatives.

(6) The health home must monitor, arrange, and evaluate appropriate evidence-based and evidence-informed preventive services.

(7) The health home must coordinate or provide access to the following services:

1. Mental health.
2. Oral health.
3. Long-term care.
4. Chronic disease management.
5. Recovery services and social health services available in the community.
6. Behavior modification interventions aimed at supporting health management, including but not limited to obesity counseling, tobacco cessation, and health coaching.
7. Comprehensive transitional care from inpatient to other settings, including appropriate follow-up.
8. Crisis services.

(8) The health home must assess social, educational, housing, transportation, and vocational needs that may contribute to disease and present as barriers to self-management.

(9) The health home must coordinate with community-based case managers, case managers, and service coordinators for members who receive service coordination activities.

(10) The health home must maintain a system and written standards and protocols for tracking member referrals.

*c. Enhanced access.* The health home must provide enhanced access for members and member caregivers, including access to health home services 24 hours per day, seven days per week. The health home must use email, text messaging, patient portals and other technology to communicate with members based on the member's preferred method of communication.

*d. Emphasis on quality and safety.* The health home must emphasize quality and safety in the delivery of health home services.

(1) The health home must have an ongoing quality improvement plan to address gaps and identify opportunities for improvement.

(2) The health home must participate in ongoing process improvement on clinical indicators and overall cost-effectiveness.

(3) The health home must demonstrate continuing development of fundamental health home functionality through an assessment process applied by the department.

(4) The health home must have strong, engaged organizational leadership that is personally committed to and capable of:

1. Leading the health home through the transformation process and sustaining transformed practice, and
2. Participating in learning activities including in-person sessions, webinars, and regularly scheduled meetings.

(5) The health home must participate in or convene ad hoc or scheduled meetings with lead entities and the department to plan and discuss implementation of goals and objectives for practice transformation, with ongoing consideration of the unique practice needs for adult members with a serious ~~emotional disturbance~~ mental illness and child members with a serious emotional disturbance and those members' families.

(6) The health home must participate in Centers for Medicare and Medicaid Services (CMS)- and department-required evaluation activities.

(7) The health home must submit information as requested by the department.

(8) The health home must maintain compliance with all of the terms and conditions of the integrated health home or chronic condition health home provider agreement.

(9) The health home must use an interoperable patient registry and certified electronic health record within a timeline approved by the lead entity or the department to input clinical information, track and measure care of members, automate care reminders, and produce exception reports for care planning.

(10) The health home must complete web-based member enrollment, disenrollment, members' consent to release to information, and health risk questionnaires for all members.

(11) The health home must use a certified electronic health record to support clinical decision-making within the practice workflow and establish a plan to meaningfully use health information in accordance with the federal law.

(12) The health home must implement state-required disease management programs based on population-specific disease burdens. The health home may choose to identify and operate additional disease management programs at any time.

*e. Case management.* The integrated health home must provide case management services as defined in and required by 441—Chapter 90 to eligible members in an integrated health home. Requirements in 441—Chapter 90 are the minimum criteria for intensive care management for members enrolled in the 1915(i) Habilitation Program or the 1915(c) Children's Mental Health Waiver.

*f. Policies and procedures.* The health home must have policies and processes in place to ensure compliance with federal and state requirements, including but not limited to statutes, rules and regulations, and sub-regulatory guidance. The health home must maintain documentation of its policies and processes and make those policies and processes readily available to any state or federal officials upon request.

*g. Report on quality measures.* A health home must collect and report quality data to the lead entity and the department as specified by the department.

*h. Health home termination.* If the health home intends to stop providing health home services, the health home must provide notice of termination a minimum of 60 days prior to the date of termination by submitting Form 470-5465, Provider Request to Terminate Enrollment, to the department. The health home must notify members of termination 60 days prior to the termination date and provide for a seamless transition of enrollees to other health home providers.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 16. Adopt the following **new** implementation sentence in rule **441—77.51(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 17. Adopt the following **new** implementation sentence in rule **441—77.52(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 18. Amend rule **441—78.12(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2010 Iowa Acts, chapter 1192, section 31~~.

ITEM 19. Adopt the following **new** implementation sentence in rule **441—78.13(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 20. Amend subrule **78.27(1)**, definitions of "Care coordinator" and "Integrated health home," as follows:

*"Care coordinator"* means the professional who assists members in care coordination as described in paragraph ~~78.53(1)*"b."*~~ 78.53(2)*"b."*

*"Integrated health home* services*"* means the provision of services to enrolled members as described in subrule ~~78.53(1)~~ 78.53(2).

ITEM 21. Amend rule **441—78.47(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2000 Iowa Acts, chapter 1228, section 9~~.

ITEM 22. Amend rule **441—78.52(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2005 Iowa Acts, chapter 167, section 13, and chapter 117, section 3~~.

ITEM 23. Rescind rule 441—78.53(249A) and adopt the following **new** rule in lieu thereof:

**441—78.53(249A) Health home services.**

**78.53(1)** *Definitions.*

*"Chronic condition"* means, for purposes of this rule, one of the conditions outlined in subparagraph 78.53(3)*"a"*(1).

*"Chronic condition health home"* means a health home that meets the criteria in 441—subrule 77.47(2).

*"Health home"* means a chronic condition health home or an integrated health home.

*"Integrated health home"* means a health home that meets the criteria in 441—subrule 77.47(3).

*"~~Patient~~ Person-centered care plan"* means a care plan created through the person-centered planning process, directed by the member or the member's guardian or representative, for a member receiving non-intensive care management or chronic condition health home services, to identify the member's strengths, capabilities, preferences, needs, goals, and desired outcomes.

*"Person-centered service plan"* or *"service plan"* means a service plan (1) created through the person-centered planning process in accordance with subrule 78.27(4), rule 441—83.127(249A) and 441—paragraph 90.4(1)*"b"*; (2) directed by the member or the member's guardian or representative; (3) for a member receiving intensive care management services; and (4) for the purposes of identifying the member's strengths, capabilities, preferences, needs, and desired outcomes.

**78.53(2)** *Covered services.* A health home provides team-based, whole-person, ~~patient~~ person-centered, coordinated care for all aspects of the member's life and for transitions of care that the member may experience. A health home provides the following core services:

*a. Comprehensive care management.* Comprehensive care management is the initial and ongoing assessment and care management services aimed at the integration of primary, behavioral and specialty healthcare, and community support services, using a comprehensive person-centered care plan or service plan that addresses all clinical and non-clinical needs and promotes wellness and management of chronic conditions in pursuit of optimal health outcomes.

*b. Care coordination.* Care coordination includes assisting members with medication adherence, appointments, referral scheduling, understanding health insurance coverage, reminders, transition of care, wellness education, health support, lifestyle modification, and behavior changes. The health home must work with providers to coordinate, direct, and ensure results are communicated back to the health home.

*c. Health promotion.* Health promotion includes the education and engagement of a member in making decisions that promote health management, improved disease outcomes, disease prevention, safety and an overall healthy lifestyle.

*d. Comprehensive transitional care.* Comprehensive transitional care is the facilitation of services for the member that provides support when the member is transitioning between levels of care (nursing facility, hospital, rehabilitation facility, community-based group home, family, self-care, or another health home).

*e. Individual and family support.* Individual and family support services include communication with the member and the member's family and caregivers to maintain and promote quality of life, with particular focus on community living options. Support will be provided in a culturally appropriate manner.

*f. Referral to community and social support services.* Referral to community and social support services includes coordinating or providing recovery services and social health services available in

the community, including resources for understanding eligibility for various health care programs, disability benefits, and identifying housing programs.

**78.53(3)** *Member eligibility for health home services.*

*a. Chronic condition health home member eligibility criteria.*

(1) To be eligible for chronic condition health home services, the member must have one of the following chronic conditions and be at risk of having a second chronic condition:

1. A mental health disorder.
2. A substance use disorder.
3. Asthma.
4. Diabetes.
5. Heart disease.
6. Being overweight, as evidenced by:

- Having a body mass index (BMI) over 25 for an adult, or
- Weighing over the 85th percentile for the pediatric population.

7. Hypertension.
8. Chronic obstructive pulmonary disease.
9. Chronic pain.

(2) "At risk" means a documented family history of a verified heritable condition described above, a diagnosed medical condition with an established comorbidity to a condition described above, or a verified environmental exposure to an agent or condition known to be the cause of a condition from the conditions described above.

*b. Integrated health home eligible member criteria.* To be eligible for integrated health home services, the member must have a serious mental illness or serious emotional disturbance, as such terms are defined in 441—subrule 77.47(1).

**78.53(4)** *Member identification and enrollment.*

*a.* Eligible members are identified through a referral from the department, lead entity, primary care provider, hospital, other providers, ~~or~~ the member, <u>or the member's authorized representative</u>.

*b.* The health home confirms eligibility for health home services by obtaining assessment documentation from the member's licensed mental health professional or the patient tiering assignment tool (PTAT).

*c.* The health home must explain to the member, in a format easily understood by the member, how the team works together with the member at the center to improve the member's care as well as all team member roles and responsibilities.

*d.* The health home must advise members of their ability and the process to opt out of health home services at any time.

*e.* Eligible members must agree to participate in the health home program, and the health home must document the member's agreement in the member's record before submitting an enrollment request. A member cannot be in more than one health home at the same time.

*f.* The health home must assess the member's continued eligibility for health home services on an annual basis to ensure the member remains eligible to participate in the program.

**78.53(5)** *Health home documentation.* A health home must maintain adequate supporting documentation in readily reviewable form to ensure all state and federal requirements related to health home services have been met. All health home services must be documented in accordance with rule 441—79.3(249A). At a minimum, the health home must document the following:

*a. Eligibility.* Eligibility documentation includes but is not limited to the following:

(1) How the member presented to the health home, including the referral.

(2) Identified needs and plan to assess for eligibility.

(3) Documentation that the member is eligible for health home services. If a member is not eligible, the health home must document the plan to support the member.

(4) Qualifying diagnosis that makes the member eligible for health home services.

(5) Member agreement and understanding of the program.

(6) Enrollment request.

(7) Enrollment with the health home.

(8) Plan to complete the comprehensive assessment.

(9) Documentation of continued eligibility ~~and member's agreement to continue participation in the program, obtained on an annual basis~~. shall be reviewed annually and maintained in the member's service record.

*b. Comprehensive assessment.* The comprehensive assessment must include all aspects of a member's life and satisfy the following requirements:

(1) The comprehensive assessment must be completed within 30 days of enrollment, and at least every 365 days, or more frequently when the member's needs or circumstances change significantly or at the request of the member or member's support.

(2) The comprehensive assessment for members enrolled to receive non-intensive care management or enrolled in the chronic condition health home must include:

1. Assessment of the member's current and historical information provided by the member, the lead entity, and other health care providers that support the member;

2. Assessment of physical and behavioral health needs, medication reconciliation, functional limitations, and appropriate screenings;

3. Assessment of the member's social environment so that the plan of care incorporates areas of needs, strengths, preferences, and risk factors; and

4. Assessment of the member's readiness for self-management using screenings and assessments with standardized tools.

(3) The comprehensive assessment for members enrolled to receive intensive care management must be in a format designated by the department and must include:

1. The member's relevant history, including the findings from the independent evaluation of eligibility, medical records, an objective evaluation of functional ability, and any other records or information needed to complete the comprehensive assessment.

2. The member's physical, cognitive, and behavioral health care and support needs; strengths and preferences; available service and housing options; and if unpaid caregivers will be relied upon to implement any elements of the person-centered service plan, a caregiver assessment.

3. Documentation that no state plan HCBS is provided that would otherwise be available to the member through other Medicaid services or other federally funded programs.

4. For members receiving state plan HCBS and HCBS approved under 441—Chapter 83, documentation that HCBS provided through the state plan and waiver are not duplicative.

*c. Person-centered service plan and ~~patient~~ person-centered care plan.*

(1) For members receiving non-intensive care management or enrolled in the chronic condition health home, documentation must include a ~~patient~~ person-centered care plan that meets the requirements as defined in subrule 78.53(1) and the health home state plan amendment.

(2) For members receiving intensive care management, documentation must include a service plan that meets the requirements of rule 441—78.27(249A) or 441—83.127(249A) and 441—paragraph 90.4(1)*"b."*

(3) Documentation must reflect an update of the plan no less often than every 365 days and when significant changes occur in the member's support needs, situation, condition, or circumstances.

*d. Core services.* Documentation must reflect monthly provision of one of the six core health home services as outlined in subrule 78.53(2).~~, based on the member's identified needs in the member's patient-centered care plan or person-centered service plan.~~

*e. Intensive health home services.* A health home must provide documentation to justify provision of more intensive health home services, including documentation that the member is enrolled to receive services through the HCBS habilitation or the HCBS children's mental health waiver programs.

*f. Continuity of care.*

(1) The health home must maintain a continuity of care document in each enrolled member's record and provide this document to the department, the lead entity, and the member's treating providers upon request.

(2) The continuity of care document must include, at a minimum, all aspects of the member's medical and behavioral health needs, treatment plan, and medication list.

*g. Disenrollment.* Members are able to opt out of health home services at any time. The health home must document a member's request to disenroll from health home services, the reason for disenrollment, how the member's needs will be supported after disenrollment, and that the health home has advised the member of the ability to re-enroll if circumstances change.

**78.53(6)** *Payment.*

*a.* Payment will be made for health home services when:

(1) The member is eligible for Medicaid and enrolled in the health home for the month of service, and

(2) The health home provides at least one of the six core health home services described in subrule 78.53(2) during the month, and

(3) The health home maintains the documentation outlined in paragraph 78.53(5)*"e."*

*b.* A unit of service is one member month.

*c.* The health home must report the informational only code in addition to the billing procedure code and modifier for one or more of the core services provided to the member during the month on the claim for payment.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 24. Amend rule **441—78.54(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2012 Iowa Acts, Senate File 2158~~.

ITEM 25. Amend rule **441—78.55(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2015 Iowa Acts, Senate File 505, division V, section 12(23)~~.

ITEM 26. Adopt the following **new** implementation sentence in rule **441—78.56(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 27. Amend subparagraph **79.3(2)"d"(40)** as follows:

(40) Health home services:

1. Member's eligibility.

2. Comprehensive assessment.

~~1.~~ 3. Comprehensive care management plan for members receiving chronic condition health home services, or comprehensive person-centered care plan or service plan for members receiving integrated health home services.

~~2.~~ 4. Care coordination and health promotion plan.

~~3.~~ 5. Comprehensive transitional care plan, including appropriate follow-up~~, from inpatient to other settings~~ if relevant.

6. Continuity of care document.

~~4.~~ 7. Documentation of member and family support (including authorized representatives).

~~5.~~ 8. Documentation of referral to community and social support services, if relevant.

9. Service notes or narratives.

10. Other documentation as applicable, including as outlined in 441—subrule 78.53(5).

ITEM 28. Adopt the following **new** implementation sentence in rule **441—79.7(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 29. Amend rule **441—79.9(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2014 Iowa Acts, Senate File 2320~~.

ITEM 30. Amend paragraph **79.14(2)"c"** as follows:

*c.* With the application ~~form~~ <u>Form 470-5273</u>, or as a supplement to a previously submitted application, providers of health home services ~~shall~~ <u>must</u> submit Form 470-5100, Health Home Provider Agreement<u>, or Form 470-5160, Integrated Health Home Provider Agreement</u>.

Iowa Department of Human Services

# Information on Proposed Rules

| Name of Program Specialist | Telephone Number | Email Address |
|---|---|---|
| LeAnn Moskowitz | 515-321-8922 | lmoskow@dhs.state.ia.us |

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

   The purpose of the proposed rules is to adopt the CMS approved changes to the Health Home programs as outlined in SPA IA 20-011 for the Integrated Health Homes and IA 20-012 for the Chronic Condition Health Homes. These SPAs respond to the deficiencies identified in the Office of Inspector General (OIG) 2019 Audit of the Health Home (HH) Programs for the period of State Fiscal Year (SFY) 2013 through SFY 2016. The proposed rules add greater clarification around operationalization of the HH programs and overall quality improvement.

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

   Iowa Code 249A.4

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

   This rule will positively impact the Health Home Programs by clarifying the standards and qualifications for Health Home program eligibility and program implementation.

   This rule may adversely impact those Health Home Programs who have not been in compliance with the standards and requirements for Health Home program operation.

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?

   Likely areas of public comment include:
   - Disagreement with the requirement for the Integrated Health Home to have proof that a child has a mental health diagnosis and functional impairment to have a qualifying Serious Emotional Disturbance prior to enrollment in the Integrated Health Home. The Department has clarified this requirement through an IL and trainings that the diagnosis and FI must come from a Licensed Mental Health Professional within the last 365 days and must be updated on an annual basis.
   - Disagreement with the documentation requirements as too labor intensive. The Department has clarified this requirement through an IL and trainings since 2019 and continue to educate Health Home Providers. This rule provides additional guidance and clarification.

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 known impact on private sector jobs as a result of the proposed rules.

## Administrative Rule Fiscal Impact Statement

Date: 12/14/2021

**Agency:** Human Services

**IAC citation:** 441 IAC 77, 78, 79

**Agency contact:** LeAnn Moskowitz

**Summary of the rule:**

The purpose of the proposed rules is to adopt the CMS approved changes to the Health Home programs as outlined in SPA IA 20-011 for the Integrated Health Homes and IA 20-012 for the Chronic Condition Health Homes. These SPAs respond to the deficiencies identified in the Office of Inspector General (OIG) 2019 Audit of the Health Home (HH) Programs for the period of State Fiscal Year (SFY) 2013 through SFY 2016. The proposed rules add greater clarification around operationalization of the HH programs and overall quality improvement.

There is no fiscal impact of these 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:***

This rule adopts the CMS approved changes to the Health Home programs. These changes are consistent with current policy so do not impact the Health Home (HH) budget or reimbursement rates.

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

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

***Assumptions:***

***Describe how estimates were derived:***

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

| | Year 1 (FY 2022) | Year 2 (FY 2023) |
|---|---|---|
| **Revenue by each source:** | | |
| General fund | | |
| Federal funds | | |
| Other (specify): | | |
| **TOTAL REVENUE** | 0 | 0 |
| **Expenditures:** | | |
| General fund | | |
| Federal funds | | |
| Other (specify): | | |
| **TOTAL EXPENDITURES** | 0 | 0 |
| **NET IMPACT** | 0 | 0 |

☒ This rule is required by state law or federal mandate.
*Please identify the state or federal law:*
Identify provided change fiscal persons:
To adopt the CMS approved changes to the Health Home programs outlined in SPA IA 20-011 for the Integrated Health Homes and IA 20-012 for the Chronic Condition Health Homes

☒ Funding has been provided for the rule change.
*Please identify the amount provided and the funding source:*
Expenditures will be absorbed within the Medical Assistance appropriation

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

***Fiscal impact to persons affected by the rule:***
There is no fiscal impact to persons affected by this rule.

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***
There is no fiscal impact to counties or other local governments.

| | | |
|---|---|---|
| Agency representative preparing estimate: | Soraya Miller | JH 12/14/21 |
| Telephone number: | 515-281-6017 | |

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rule making related to child care assistance programs.**

The Human Services Department hereby amends Chapter 170, "Child Care Services," Iowa Administrative Code.

**Legal Authority for Rule Making**

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

**State or Federal Law Implemented**

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

**Purpose and Summary**

This rule making implements the new CCA graduated eligibility phase-out program provided for in Iowa Code section234.6 This new program provides CCA for families with income above 225 percent of the federal poverty level (FPL) (current CCA Plus program) and up to 250 percent of the FPL. For families with special needs children, the income level limit is 275 percent of the FPL.

This rule making revises the CCA family fee chart to update the annual FPL changes.

**Public Comment and Changes to Rule Making**

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 23, 2022, as ARC 6209C.

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 April 14, 2022.

**Fiscal Impact**

As a result of the new CCA exit child care program, it is estimated that seven children will be added each month beginning July 1, 2022 . The average cost per child for CCA Plus is estimated at $414 for SFY23. The resulting average number of children per month for each year as calculated in a regression chart and the annual costs are as follows. SFY23: 45.5 average number served x $414 x 12 = $226,044; SFY24: 129.5 average number served x $414 x 12 = $643,356. There is currently an estimated federal Child Care and Development Fund balance of $67.2 million at the end of SFY22. Based on current Department estimated revenues and expenditures for Child Care, the cost for implementing the changes would be funded through SFY26, without increasing state general funds. This estimate is subject to change depending on the cost of additional Child Care policy changes that could be enacted.

## 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 July 1, 2022.

The following rule-making action is adopted:

Please see attached.

Adopt the Following Rules:

ITEM 1. Amend paragraph **170.2(1)"a"** as follows:

*a. Income limits.*

(1) For initial eligibility, an applicant family's nonexempt gross monthly income as established in paragraph 170.2(1)*"c"* cannot exceed the amounts in this subparagraph.

1. 145 percent of the federal poverty level applicable to the family size for children needing basic care; or
2. 200 percent of the federal poverty level applicable to the family size for children needing special-needs care; or
3. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph "1" or "2."

(2) For ongoing eligibility, at the time of a family's annual eligibility redetermination as described in subrule 170.3(5), if the family's nonexempt gross monthly income as established in paragraph 170.2(1)*"c"* ~~cannot~~ exceeds the amounts in subparagraph 170.2(1)*"a"*(1), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts in this subparagraph.

1. 225 percent of the federal poverty level applicable to the family size for children needing basic care or special-needs care; or
2. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph "1."

(3) For ongoing eligibility, at the time of a family's annual eligibility redetermination as described in subrule 170.3(5), if the family's nonexempt gross monthly income as established in paragraph 170.2(1)*"c"* exceeds the amounts in subparagraphs 170.2(1)*"a"*(1) and 170.2(1)*"a"*(2), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts in this subparagraph.

1. 250 percent of the federal poverty level applicable to the family size for children needing basic care; or
2. 275 percent of the federal poverty level applicable to the family size for children needing special-needs care.

ITEM 2. Amend subrule 170.4(2) as follows:

**170.4(2)** *Fees.* Fees for services received shall be charged to clients according to the schedules in this subrule, except that fees shall not be charged to clients receiving services without regard to income. ~~The~~ For families whose eligibility is established in subparagraphs 170.2(1)*"a"*(1) and 170.2(1)*"a"*(2), the fee is a per-unit charge that is applied to the child in the family who receives the largest number of units of service. The fee shall be charged for only one child in the family, regardless of how many children receive assistance. For families whose eligibility is established in subparagraph 170.2(1)*"a"*(3), the fee is a percentage of the cost of child care for each child in the family who receives service.

*a. Sliding fee schedule.*

(1) ~~The~~ For families whose eligibility is established in subparagraphs 170.2(1)*"a"*(1) and 170.2(1)*"a"*(2), the fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2021~~ 2022:

**Please use the fee charts published in ARC 6209C**

(2) To use the chart:

1. Find the family size used in determining income eligibility for service.
2. Move across the monthly income table to the column headed by that number.
3. Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fees in the last three columns of that row.
4. Choose the fee that corresponds to the number of children in the family who receive child care assistance.

(3) For families whose eligibility is established in subparagraph 170.2(1)*"a"*(3), the fee schedule shown in the following tables is effective for eligibility determinations made on or after July 1, 2022:

**Insert Charts from 6209C**

(4) To use the tables:

1. Determine which table to use for each child in the family by whether the child needs basic or special needs care.

2. Find the family size used in determining income eligibility for service.

3. Move across the monthly income table to the column headed by that number.

4. Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fee for that eligible child in the last column of that row.

5. Repeat for each eligible child in the family.

*b.* and *c.* No change.

ITEM 3. Amend paragraph **170.4(7)"a"** as follows:

*a. Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)*"d,"* shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider's declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider's declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider type and age group as shown in the tables below. To be eligible for the special needs rate, the provider must submit documentation to the child's service worker that the child needing services has been assessed by a qualified professional and meets the definition for "child with special needs," and a description of the child's special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

The following definitions apply in the use of the rate tables:

(1) "Licensed center" shall mean those providers as defined in 170.4(3)*"a."* "Child development home A/B" or "child development home C" shall mean those providers as defined in 170.4(3)*"b."* "Child care home (not registered)" shall mean those providers as defined in 441—Chapter 120.

(2) Under age group, "infant and toddler" shall mean age two weeks to three years; "preschool" shall mean three years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

(3) "No ~~QRS~~ Quality Rating" shall mean a provider who ~~is not participating in the quality rating system~~ does not have a current quality rating.

(4) A provider who is rated under the quality rating system shall be paid according to the corresponding ~~QRS~~ quality rating payment level in the tables above only during the period the rating is valid as defined in 441—Chapter 118. If the provider's ~~QRS~~ quality rating expires, the provider shall be paid according to the "No ~~QRS~~ Quality Rating" payment level. Programs whose quality rating has expired shall not receive backdated payments once a new rating is awarded.

(5) For a provider rated " ~~QRS~~ Quality Rating 1" through " ~~QRS~~ Quality Rating 4," if the rating period expires before a new ~~QRS~~ quality level is approved, the provider will be paid according to the "No ~~QRS~~ Quality Rating" payment level until the new ~~QRS~~ quality level is approved.

(6) For a provider rated " ~~QRS~~ Quality Rating 5," if a renewal application is received before the current rating period expires, the provider will continue to be paid according to the " ~~QRS~~ Quality Rating 5" payment level until a decision is made on the provider's application.

(7) " ~~QRS~~ Quality Rating 1 or 2" shall mean a provider who has achieved a rating of Level 1 or Level 2 under the quality rating system.

(8) " ~~QRS~~ Quality Rating 3 or 4" shall mean a provider who has achieved a rating of Level 3 or Level 4 under the quality rating system.

(9) " ~~QRS~~ Quality Rating 5" shall mean a provider who has achieved a rating of Level 5 under the quality rating system.

Iowa Department of Human Services

# Information on Proposed Rules

| Name of Program Specialist | Telephone Number | Email Address |
|---|---|---|
| Mark Adams | 281-5688 | Madams4@dhs.state.ia.us |

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

   Revise 441 IAC 170.2 and 170.4 to create the new CCA Exit child care program. This new program begins for families with income above 225% FPL (Current CCA Plus program) and goes to 250% FPL (275% FPL for special needs children). Also, revise the CCA family fee chart to update annual federal poverty level changes.

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

   Iowa Code 234.6

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

   More families will remain eligible for child care services.

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

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

5. What are the likely areas of public comment?

   None expected.

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

   No.

# Administrative Rule Fiscal Impact Statement

Date: January 10, 2022

**Agency:** Human Services

**IAC citation:** 441 IAC 170

**Agency contact:** Mark Adams

**Summary of the rule:**

Revises 441 IAC 170.2 and 170.4 to create the new CCA Exit child care program. This new program begins for families with income above 225% FPL (Current CCA Plus program) and goes to 250% FPL (275% FPL for special needs children). Also, revise the CCA family fee chart to update annual federal poverty level 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.

*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 for the CCA family fee chart update.

As a result of the new CCA exit child care program, it is estimated that 7 children will be added each month beginning 7/1/22. The average cost per child for CCA Plus is estimated at $414 for SFY23. The resulting average number of children per month for each year as calculated in a regression chart and the annual costs are shown below.

***Describe how estimates were derived:***

SFY23: 45.5 average number served x $414 x 12 = $226,044
SFY24: 129.5 average number served x $414 x 12 = $643,356

| *Estimated Impact to the State by Fiscal Year* | | |
|---|---|---|
| | **Year 1 (FY 23)** | **Year 2 (FY 24)** |
| **Revenue by each source:** | | |
| General fund | | |
| Federal funds | 226,044.00 | 643,356.00 |
| Other (specify): | | |
| **TOTAL REVENUE** | 226,044.00 | 643,356.00 |
| **Expenditures:** | | |
| General fund | | |
| Federal funds | 226,044.00 | 643,356.00 |
| Other (specify): | | |
| **TOTAL EXPENDITURES** | 226,044.00 | 643,356.00 |
| **NET IMPACT** | 0.00 | 0.00 |

☒ This rule is required by state law or federal mandate.

*Please identify the state or federal law:*

Identify provided change fiscal persons:

2021 Iowa Acts Chapter 178 (HF 302)

☒ Funding has been provided for the rule change.

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

There is currently an estimated federal CCDF balance of $67.2 million at the end of SFY22. Based on current DHS estimated revenues and expenditures for Child Care, the cost for implementing the changes in this bill would be funded through SFY26 without increasing state general funds. Subject to change depending on the cost of additional Child Care policy changes that could be enacted.

☐ 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:***

The new program created with this rule will make it possible for more families to retain child care assistance.

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

None expected.

Agency representative preparing estimate: Francis Thurman JH 01/25/22

Telephone number: 515-281-6855