

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to provider reimbursement rates

The Human Services Department hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is 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

As part of the 2021 Legislative Session, 2021 Iowa Acts, House File 891, appropriated funds to increase specific provider reimbursement rates. The amendments to Chapter 78, 79 and 83 do the following:

- Increase the reimbursement rates and upper rate limits for providers of Home- and Community-Based Service (HCBS) Waiver and HCBS Habilitation services beginning July 1, 2021, by 3.55 percent over the rates in effect on June 30, 2021.
- Increase the monthly caps on the total monthly cost of HCBS waiver services and Habilitation.
- Increase the monthly cap on HCBS Supported Employment and the annual cap on Intellectual Disability Waiver Respite services.
- Increase annual or lifetime limitations for home and vehicle modifications and specialized medical equipment.
- Increase air ambulance rates to \$550 beginning July 1, 2021.

In addition, the proposed amendments to Chapter 79:

- Add the inflation factor limitation.
- Implement the fee schedule rate in effect July 1, 2021, for air ambulance providers. 2021 Iowa Acts, House File 891, appropriates funds to increase air ambulance rates to \$550 per one-way trip.
- Implement the home health agency low utilization payment adjustment (LUPA) rate increase. This rate is applied when there are three or fewer visits provided in a 30-day period.
- Increase psychiatric medical institutions for children (PMIC) provider-specific fee schedule rate percentages over the rates in effect June 30, 2021. House File 891 appropriated \$3.9 million to increase non-State-owned PMIC provider rates over the rates in effect June 30, 2021.

These rules were published as emergency rules under 5896C on September 9, 2021. On the same date the rules were also published for comments under 5903C.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as ARC 5903C.

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 December 9, 2021.

Fiscal Impact

The targeted HCBS and Habilitation increases were calculated assuming both the regular FMAP and COVID increased FMAP. The legislature opted for the COVID increased FMAP scenario for both sets of services. These are the only adjustments where the legislature agreed to base the increase on the COVID increased FMAP. All other adjustments are based on the regular FMAP. The FMAP is estimated at 65.14% in SFY22 and 62.01% in SFY23. During the 2021 Legislative Session, HF891 appropriated funds to increase specific provider's reimbursement rates.

Jobs Impact

These rules may have a positive influence on private-sector jobs and employment opportunities in Iowa.

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 1, 2022.

The following rule-making action is adopted:

See attached.

Adopt the Following Rules.

ITEM 1. Amend subparagraph **78.27(10)“f”(2)** as follows:

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed ~~\$3,059.29~~ \$3,167.89 per month.

ITEM 2. Amend paragraph **78.34(9)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,366.64~~ \$6,592.66 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 3. Amend paragraph **78.41(2)“i”** as follows:

i. Payment for respite services shall not exceed ~~\$7,334.62~~ \$7,595 per the member’s waiver year.

ITEM 4. Amend paragraph **78.43(5)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,366.64~~ \$6,592.66 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 5. Amend paragraph **78.43(8)“c”** as follows:

c. Payment of up to ~~\$6,366.64~~ \$6,592.66 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service. ~~Each month within the 12-month period, the service worker shall encumber an amount within the monthly dollar cap allowed for the member until the amount of the equipment cost is reached.~~

ITEM 6. Amend paragraph **78.46(2)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,366.64~~ \$6,592.66 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 7. Amend paragraph **78.46(4)“c”** as follows:

c. Payment of up to ~~\$6,366.64~~ \$6,592.66 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service.

ITEM 8. Adopt the following **new** paragraph **79.1(1)“i”**:

i. *Inflation factor.* When the department’s reimbursement methodology for any provider includes an inflation factor, this inflation factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 2002.

ITEM 9. Amend subrule **79.1(2)**, provider categories of “Ambulance,” “HCBS waiver service providers,” “Home- and community-based habilitation services,” “Home health agencies” and “Psychiatric medical institutions for children,” as follows:

Please use fee schedule from ARC 5896C published September 8, 2021.

ITEM 10. Amend paragraph **83.2(2)“b,”** table, as follows:

<u>Skilled level of care</u>	<u>Nursing level of care</u>	<u>ICF/ID</u>
\$2,792.65 <u>\$2,891.79</u>	\$959.50 <u>\$993.56</u>	\$3,742.93 <u>\$3,875.80</u>

ITEM 11. Amend paragraph **83.42(2)“b”** as follows:

b. The total monthly cost of the AIDS/HIV waiver services shall not exceed the established aggregate monthly cost for level of care. The monthly cost of AIDS/HIV waiver services cannot exceed the established limit of ~~\$1,876.80~~ \$1,943.43.

ITEM 12. Amend paragraph **83.102(2)“b”** as follows:

b. The total cost of physical disability waiver services, excluding the cost of home and vehicle modifications, shall not exceed ~~\$705.84~~ \$730.90 per month.

ITEM 13. Amend paragraph **83.122(6)“b”** as follows:

b. The total cost of children’s mental health waiver services needed to meet the member’s needs, excluding the cost of environmental modifications, adaptive devices and therapeutic resources, may not exceed ~~\$2,006.34~~ \$2,077.57 per month.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Robert Aiken	Telephone Number 515-669-8002	Email Address raiken@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

IAC 441-Chapter 25 is amended to make changes created by 2021 Iowa Acts (SF 619) to Iowa Code 225C and 331. SF619 created a general fund standing appropriation to DHS for distribution to the mental health and disability services regions through performance-based contracts and created a regional incentive fund. DHS will make quarterly regional service system payments to an MHDS region's combined account. Regional finance rules are amended to describe the requirement and process for the regions to certify with DHS the amount of the ending fund balance for the previous fiscal year. Ending balance limitations and supplemental payment withholdings are defined as prescribed in SF 619. These rules implement criteria and reporting instructions for eligible financial encumbrances. Revisions are made to the emergency regional incentive fund rules to include linkages to performance-based contract criteria. These rules outline requirements and goals for performance-based contracts between DHS and the MHDS regions.

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

SF 619 (89 GA), Division XXV, Section 106

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

This rulemaking is aligning with the provisions in SF619.

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

No, this rule does not contain a waiver provision because it is required by Iowa Code

5. What are the likely areas of public comment?

The legislation was largely supported by the MHDS regions and other stakeholders as it provides a significant amount of state funding and removes the MHDS property tax levy over two years. Public comments may include:

- Regional CEOs have expressed that the legislated fund balance limitation for 5.0% in FY25 and thereafter is too low. MHDS advocates would agree.
- The rules define allowable encumbrance and there may be dissenting comments regarding what expenditures are allowed to be encumbered.

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

No, these rules do not have an impact on private-sector jobs and employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: October 29, 2021

Agency: Human Services

IAC citation: 441 IAC 25.13

Agency contact: Robert Aiken

Summary of the rule:

IAC 441-Chapter 25 is amended to make changes created by 2021 Iowa Acts (SF 619) to Iowa Code 225C and 331. SF619 created a general fund standing appropriation to DHS for distribution to the mental health and disability services regions through performance-based contracts and created a regional incentive fund. DHS will make quarterly regional service system payments to an MHDS region's combined account. Regional finance rules are amended to describe the requirement and process for the regions to certify with DHS the amount of the ending fund balance for the previous fiscal year. Ending balance limitations and supplemental payment withholdings are defined as prescribed in SF 619. These rules implement criteria and reporting instructions for eligible financial encumbrances. Revisions are made to the emergency regional incentive fund rules to include linkages to performance-based contract criteria. These rules outline requirements and goals for performance-based contracts between DHS and the MHDS regions.

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.](#)

SF619 (89 GA) creates a mental health and disability services regional service fund in the office of the treasurer of state under the authority of the department. Money in this fund for a fiscal year are appropriated to the department and shall be distributed to each region on a per capita basis in accordance with 225C.7A. Payments will be made by DHS to the MHDS Region on a quarterly basis.

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:

Payments from the mental health and disability services regional services fund will be based on the per capita funding levels authorized in SF619.

SF619 also appropriated \$3M to the regional incentive fund for SFY22. Future incentive fund revenues cannot be estimated at this time due to the uncertainty of future county fund balances and the amounts that counties will be required to send back to the Fund.

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

MHDS Regions will receive additional state funding from the regional services fund and the regional incentive fund.

Agency representative preparing estimate: Soraya Miller JH 11/11/21

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to contracting out department staff and property at state institutions and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 2, "Contracting out Department of Human Services Employees and Property," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.4.

Purpose and Summary

The department is updating the administrative rules for entering into contracts with department employees in a service program or for the use of buildings and grounds of state institutions. This will allow the proposed rules to come into alignment with current practices and will also eliminate outdated definitions.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 January 18, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

Item 1. Amend 441—2.1(23A,225C) Definitions as follows:

“*Division*” includes the divisions of mental health and ~~developmental disabilities~~; disability services and adult, children and family services.

“*Lessee*” means a nonprofit provider of services or other approved activity or other nonprofit entity as defined by Iowa Code chapter 504A that has been permitted to lease space in certain buildings or grounds on one or more of the mental health institutes, state ~~hospital-schools-resource centers~~, the Iowa Juvenile Home at Toledo, Iowa, or the State Training School at Eldora, Iowa, or the Civil Commitment Unit for Sexual Offenders at Cherokee, Iowa from the department.

“*State institutions*” (also referred to as campuses), for the purposes of this chapter, include: the Glenwood and Woodward state ~~hospital-schools-resource centers~~; the Cherokee, ~~Clarinda~~, Independence, and ~~Mt. Pleasant~~ mental health institutions; the Iowa Juvenile Home in Toledo; and the State Training School in Eldora and the Civil Commitment Unit for Sexual Offenders in Cherokee, Iowa.

“*Superintendents*” are the administrators of these state institutions as defined by Iowa Code chapter 218 as well as those administrators appointed by the director of the department of human services pursuant to Iowa Code chapters 233A ~~and 233B~~ at the ~~Iowa Juvenile Home in Toledo and the State Training School in Eldora.~~

Item 2. Amend 441—2.5(1) Referral to contract manager. as follows:

Referral to contract manager. A campus superintendent or designee may show available space to a potential lessee but has no authority to approve any leasing arrangements or to commit buildings or grounds to potential lessees. Superintendents shall notify the contract manager if contacted by a potential lessee. If space is available or expected to be available on the campus, the superintendent shall direct all entities interested in pursuing lease arrangements to ~~write the~~ contact the contract manager in the department’s central office.

Item 3. Amend 441—2.5(3) Evaluation of proposals. as follows:

The contract manager, in collaboration with the respective division administrator and the respective superintendents, shall evaluate all proposals to determine if they meet the general principles identified above. The contract manager division administrator in collaboration with the respective superintendent(s) shall recommend whether to proceed with the leasing process to the director or designee. The contract manager shall notify the potential lessee in writing of the director’s or designee’s decision and, if applicable, identify the reasons for denial. All decisions are considered final and binding and are not subject to appeal.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Eric W. DeTemmerman, MHA	Telephone Number 515-725-2237	Email Address edetemm@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
To bring Chapter 2 into alignment with current practices and eliminate outdated terms.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Per Iowa law (Iowa Code 17A.7(2)), all state agencies are required to do a periodic and comprehensive review of all of the agency's rules every five years. The previous review period was 7/1/2012-6/30/17. The current review period is 7/1/17-6/30/22.
3. Describe who this rulemaking will positively or adversely impact.
The changes noted above are largely for accuracy purposes and have very little impact upon operations. As such, there will be little impact, positive or negative.
4. Does this rule contain a waiver provision? If not, why?
No
5. What are the likely areas of public comment?
There is no anticipated public comment.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No impact



Administrative Rule Fiscal Impact Statement

Date: November 8, 2021

Agency: Human Services
IAC citation: 441 IAC
Agency contact: Eric Detemmerman

Summary of the rule:

This rule package revises outdated language and updates practices in IAC 441-2

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

The changes noted are largely for accuracy purposes and have very little impact upon operations.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2022)</u>	<u>Year 2 (FY 2023)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

Fiscal impact to persons affected by the rule:

None anticipated.

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

None anticipated.

Agency representative preparing estimate: Lanny Nihart

JH 11/11/21

Telephone number: 515-281-7822

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to alternative diagnostic facilities and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 34, "Alternative Diagnostic Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.14.

Purpose and Summary

The department is revising outdated language used when a person is being assessed for admission to a state mental health institution on a voluntary basis. Language is being replaced with more current, person-centered language to be consistent with best practices for persons with mental illnesses.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 January 18, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

Item 1. Amend 441—34.1(225C) **Definitions** as follows. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

“*Alternative diagnostic facility*” means any organization or individual designated by the county board of supervisors to implement the preliminary diagnostic evaluation policy (Iowa Code section 225C.14) when a county is not served by a community mental health center capable of the diagnostic evaluations. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any organization or individual able to furnish the requisite skills and to meet the standards set forth in this chapter by the ~~mental health and mental retardation commission~~ Mental Health and Disability Services Commission.

“*Mental health professional*” means ~~a person who:~~

- ~~— 1. Holds at least a master’s degree in a mental health field, including, but not limited to, psychology, counseling and guidance, nursing and social work; or is a doctor of medicine (M.D.) or doctor of osteopathic medicine and surgery (D.O.); and~~
- ~~— 2. Holds a current Iowa license when required by Iowa licensure law; and~~
- ~~— 3. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals and in providing appropriate mental health services for those individuals.~~ an individual who has either of the following qualifications:

a. The individual meets all of the following requirements:

(1) The individual holds at least a master’s degree in a mental health field, including but not limited to psychology, counseling and guidance, nursing, and social work, or is an advanced registered nurse practitioner, a physician assistant, or a physician and surgeon or an osteopathic physician and surgeon.

(2) The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

(3) The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law and is a psychiatrist, an advanced registered nurse practitioner who holds national certification in psychiatric mental health care and is licensed by the board of nursing, a physician assistant practicing under the supervision of a psychiatrist, or an individual who holds a doctorate degree in psychology and is licensed by the board of psychology.

Item 2. Amend 441—34.2(2) as follows:

Assist the court and, insofar as possible, provide or designate a physician or mental health professional to perform a prehearing examination of a respondent required under Iowa Code section 229.8, subsection 3, paragraph “b.”

Item 3. Amend 441—34.3(7) as follows:

The facility shall comply with procedures for uniform reporting of statistical data as established by the ~~division of mental health, mental retardation, and developmental disabilities~~ Division of Mental Health and Disability Services.

Item 4. Amend 441— 34.3(8) as follows:

The facility shall comply with the standards for the maintenance and operation of public and private facilities offering services to ~~mentally ill persons~~ with mental illness as adopted by the Mental Health and ~~mental retardation commission~~ Disability Services Commission.



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Derek Hess, J.D., Ph.D.	Telephone Number 515-281-4778	Email Address dhess@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Revising outdated language and proposing more current, person-centered language to be consistent with best practices for persons with mental illness.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Per Iowa Code 17A.7(2), all state agencies are required to do a periodic and comprehensive review of all of the agency's rules every five years.
3. Describe who this rulemaking will positively or adversely impact.
It will positively impact the people being served by being consistent with best practices for persons with mental illness. It has no adverse impact.
4. Does this rule contain a waiver provision? If not, why?
No. Changes are to revise outdated language to be current with existing Iowa Code
5. What are the likely areas of public comment?
There is no anticipated public comment.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No.



Administrative Rule Fiscal Impact Statement

Date: November 8, 2021

Agency: Human Services
IAC citation: 441 IAC Chapter 34
Agency contact: Derek Hess

Summary of the rule:

The rule package revises outdated language to IAC 441-34 and proposes more current, person-centered language to be consistent with best practices for persons with mental illness.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

Changes are to revise outdated language to be current with existing Iowa Code.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2022)</u>	<u>Year 2 (FY 2023)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

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

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

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

Fiscal impact to persons affected by the rule:

None anticipated.

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

None anticipated.

Agency representative preparing estimate: Lanny Nihart JH 11/11/21
 Telephone number: 515-281-7822

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to minimum occupancy limitation for nursing facilities and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The current rule requires patient days in nursing facilities for purposes of the calculation of per diem for administrative, environmental and property expenses shall be the greater of actual patient days or 85% of the licensed capacity of the facility. The minimum occupancy limitation is being decreased to 70% because of the concerns providers will continue to experience a decrease in nursing facility occupancy due to the public health emergency. The cost reports for 2022 fiscal year ending (FYE) will be used in the rebase for state fiscal year (SFY) 2024 rates.

Fiscal Impact

These rules are for SFY24 and 2025 and the cost report data is not yet available. Therefore, the fiscal impact cannot be determined. There will be no impact in SFY22 or SFY23.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 4, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Please see attached.

ITEM 1. Amend rule **441—81.6(16)a(1)** as follows:

Non-state-owned nursing facilities. Effective December 1, 2009, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days as determined in subrule 81.6(7) or 85 percent of the licensed capacity of the facility, whichever is greater. For the reimbursement period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days as determined in subrule 81.6(7) or 70 percent of the licensed capacity of the facility, whichever is greater. Patient days for purposes of the computation of all other expenses shall be inpatient days as determined in subrule 81.6(7)

ITEM 2. Amend rule **441—81.6(16)h(9)1** as follows:

Effective December 1, 2009, total patient days shall be determined using the most current submitted financial and statistical report or using the estimated total patient days as reported in the request for the add-on. For purposes of calculating the add-on, total patient days shall be the greater of the estimated annual total patient days or 85 percent of the facility's estimated licensed capacity. For the period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days or the minimum occupancy of 70 percent of the licensed capacity of the facility, whichever is greater.

ITEM 3. Amend rule ~~441—81.6(16)h(12)1.~~ as follows:

Reconciliation of capital cost per diem instant relief add-on. During the period in which the capital cost per diem instant relief add-on is granted, the Iowa Medicaid enterprise shall recalculate the amount of the add-on based on actual allowable costs and patient days reported on the facility's submitted annual financial and statistical report. A separate reconciliation shall be performed for each cost report period in which the capital cost per diem instant relief add-on was paid. The facility shall submit with the annual financial and statistical report a separate schedule reporting total patient days per calendar quarter and a current depreciation schedule identifying the assets related to the add-on. For the period beginning July 1, 2023, and ending June 30, 2025, patient days for purposes of the computation of administrative, environmental, and property expenses for non-state-owned facilities shall be inpatient days or the minimum occupancy of 70 percent of the licensed capacity of the facility, whichever is greater.



Administrative Rule Transmittal

Subject of Rule Making Changes to the 85% minimum occupancy to 70% for period ending 2022		
Administrative Code Chapters Affected 441-IAC CH 81.6(16)a(1), 81.6(16)h(9)1., 81.6(16)h(12)1.	Iowa Code <u>Section</u> or Bill Giving Rule Making Authority HF 891	
Program Specialist Jessica McBride	Date Initiated 6/18/2021	Desired Effective Date 7/1/2021

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 Julie A. Shaw*	Date 11/15/21
Deputy Director Signature Jean Slaybaugh--approved	Date 11/12/21

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

*NOTE, AG AND PRIOR APPROVALS NOT RECEIVED PRIOR TO FISCAL IMPACT STATEMENT COMPLETION. IF SIGNIFICANT CHANGES ARE MADE, FISCAL WOULD NEED TO BE SENT THE FINAL VERSION TO SEE IF IT WOULD IMPACT FISCAL STATEMENT AND REVIEW TO ENSURE ADDITIONAL CHANGES ARE NOT REQUIRED-JAS 11.15.21



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Jessica McBride	Telephone Number 515-201-4157	Email Address jmcbrid@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:

Currently, the minimum occupancy limitation is 85% and will be adjusted to 70% for the rebase period beginning July 1, 2023 (SFY 2024). Iowa Administrative Code (IAC) 441-81.6 requires that patient days for purposes of the calculation of per diem administrative, environmental, and property expenses shall be the greater of actual patient days or 85% of the licensed capacity of the facility. The minimum occupancy limitation is being decreased to 70% because of the concerns that providers will continue to experience a decrease in nursing facility occupancy due to the PHE. The cost reports for 2022 FYE will be used in the rebase for SFY 2024.

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

HF 891.

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

There will be nursing facilities that experience both, a positive outcome and some with a negative outcome due to this change.

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

Yes, it does have waiver provision.

5. What are the likely areas of public comment?

Unsure of public comment outcome. Majority of the nursing facilities will experience a positive outcome.

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

No impact.



Administrative Rule Fiscal Impact Statement

Date: 9/22/21

Agency: Human Services
IAC citation: 441 IAC 441-IAC CH 81.6(16)a(1), 81.6(16)h(9)1., 81.6(16)h(12)1
Agency contact: Jessica McBride/Andy Johnson

Summary of the rule:

Iowa Administrative Code (IAC) 441-81.6 requires that patient days for purposes of the calculation of per diem administrative, environmental, and property expenses shall be the greater of actual patient days or 85% of the licensed capacity of the facility. The minimum occupancy limitation is being decreased to 70% because of the concerns that providers will continue to experience a decrease in nursing facility occupancy due to the PHE. The cost reports for 2022 FYE will be used in the rebase for SFY 2024.

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 minimum occupancy limitation is being decreased from 85% to 70% to accommodate facilities for variations in lost occupancy attributed to the public health emergency. For the period, July 1, 2023 through June 30, 2025 (SFY24 and SFY25), planned nursing facility rebasing will use cost reports from year ending 2022. The computation of administrative, environmental, and property expenses for non-state-owned facilities shall use inpatient days or the minimum occupancy of 70 percent of the licensed capacity of the facility, whichever is greater. These rules are for SFY 2024 and 2025 and the cost report data is not yet available; therefore, the fiscal impact cannot be determined. There will be no impact in SFY22 or SFY23.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 22)</u>	<u>Year 2 (FY 23)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	<u>0.00</u>	<u>0.00</u>
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>
NET IMPACT	<u>0.00</u>	<u>0.00</u>

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

2021 session HF 891

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:

This change will not be effective until SFY24.

Fiscal impact to persons affected by the rule:

The fiscal impact is unknown.

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

None anticipated.

Agency representative preparing estimate: Soraya Miller

JH 11/11/21

Telephone number: 515-281-6017

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to Iowa Juvenile Home and providing an opportunity for public comment.

The Human Services Department hereby proposes to amend Chapter 101, "Iowa Juvenile Home," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 218.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 218.4.

Purpose and Summary

The department is eliminating chapter 101 in its entirety as the Iowa Juvenile Home is closed. Administrative rules on this children's institution are no longer needed.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 January 18, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Item 1 Rescind TITLE XI CHILDREN’S INSTITUTIONS, CHAPTER 101- IOWA JUVENILE HOME



Iowa Department of Human Services

Information on Proposed Rules

Name of Program Specialist Eric W. DeTemmerman, MHA	Telephone Number 515-725-2237	Email Address edetemm@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
Chapter 101 is obsolete. Chapter 101 in its entirety should be eliminated. Iowa Juvenile Home is closed
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Per Iowa Code 17A.7(2), all state agencies are required to do a periodic and comprehensive review of all of the agency's rules every five years.
3. Describe who this rulemaking will positively or adversely impact.
The change noted is to eliminate a Chapter that is no longer relevant. Iowa Juvenile Home is closed.
4. Does this rule contain a waiver provision? If not, why?
No.
5. What are the likely areas of public comment?
No anticipated public comment.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.)
No new employment impact.



Administrative Rule Fiscal Impact Statement

Date: November 8, 2021

Agency: Human Services
IAC citation: 441 IAC
Agency contact: Eric W. DeTemmerman, MHA

Summary of the rule:

This rule package eliminates IAC 441-101 Iowa Juvenile Home as the facility has closed and is no longer in operation.

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 change noted is to eliminate a Chapter that is no longer relevant. Iowa Juvenile Home is closed.

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

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

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2022)</u>	<u>Year 2 (FY 2023)</u>
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	0.00	0.00

This rule is required by state law or federal mandate.

Please identify the state or federal law:

Identify provided change fiscal persons:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

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

Fiscal impact to persons affected by the rule:

None anticipated.

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

None anticipated.

Agency representative preparing estimate: Lanny Nihart

JH 11/11/21

Telephone number: 515-281-7822

DHS Council on Human Services Meeting Dates

2022

January 13th
February 10th
March 10th
April 14th
May 12th
June 9th
July 14th (Public Hearing)
August 11th
September 8th (Budget hearing)
October 13th
November 10th
December 8th

Meetings will be held the second Thursday of each month from 10:00 a.m. – 12:00 p.m.