

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to improvement projects in nursing homes.

The Human Services Department hereby amends Chapter 81, "Nursing Facilities," 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, 2022 HF 2578.

Purpose and Summary

2022 Iowa Acts, House File 2578, reduced to \$750,000 the cost that an improvement project to an existing licensed and certified nursing facility must exceed for the project to meet the definition of "major renovations."

The previous amount was \$1.5 million. This rule making lowers the threshold to the \$750,000 amount. These amendments also include HVAC projects as qualifying projects. Calculation of Medicaid utilization rates is also established as part of this rule making.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as ARC 6767C.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Human Services Department on February 9, 2023.

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 IAC 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 April 1, 2023.

The following rule-making action is adopted:

ITEM 1. Amend rule ~~441—81.1(249A)~~, definition of “Major renovations,” as follows:

“*Major renovations*” means new construction or facility improvements to an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds ~~\$1.5 million~~ \$750,000. The ~~\$1.5 million~~ \$750,000 threshold shall be calculated based on the total depreciable asset value of new construction or facility improvements placed into service during a two-year period ending on the date the last asset was placed into service. When the property costs of an asset have been included in a facility’s financial and statistical report that has already been used in a biennial rebasing, the costs of that asset shall not be considered in determining whether the facility meets the ~~\$1.5 million~~ \$750,000 threshold.

ITEM 2. Amend subparagraph ~~81.6(16)“h”(2)~~ as follows:

(2) Eligible projects. To qualify for either the capital cost per diem instant relief add-on or the enhanced non-direct care rate component limit, a facility must have undertaken a complete replacement, new construction, or major renovations for the purpose of:

1. Rectification of a violation of Life Safety Code requirements; or
2. Development of home- and community-based waiver program services; or
3. Improving infection control by replacing or enhancing an HVAC system, as defined in Iowa Code section 105.2.

ITEM 3. Amend subparagraph ~~81.6(16)“h”(3)~~ as follows:

(3) Additional requirements for all requests. To qualify for additional reimbursement, a facility with an eligible project must also meet the following requirements:

1. ~~The facility has Medicaid utilization at or above 40 percent for the two-month period before the request for additional reimbursement is submitted. Medicaid utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total licensed bed capacity as reported on the facility’s most current financial and statistical report.~~ Medicaid patient day utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total patient days as reported on the facility’s most current financial and statistical report. Medicaid hospice patient days shall be counted toward the total nursing facility Medicaid patient days.

2. to 4. No change.



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:

The 89th Legislative session updated law to reduce the cost of an improvement project from \$1.5 million to \$750,000.00 to quality for the (RIIF) program. Medicaid utilization and HVAC projects were also changed from previous legislation.

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

HF 2578

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

This rule change will allow more nursing facility providers to possibly qualify for RIIF funds for quality improvement projects.

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

N/A

5. What are the likely areas of public comment?

Positive comments from the nursing facility providers.

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

N/A



Administrative Rule Fiscal Impact Statement

Date: 11/28/22

Agency: Human Services

IAC citation: 441 IAC 81

Agency contact: Jessica McBride

Summary of the rule:

The 89th Legislative session updated law to reduce the cost of an improvement project from \$1.5 million to \$750,000.00 to qualify for the infrastructure program. Medicaid utilization and HVAC projects were also changed from previous legislation.

Fill in this box if the impact meets these criteria:

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

Brief explanation:

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

This rule reduces the threshold of an improvement project from \$1.5 million to \$750,000. This rule also includes HVAC projects as a qualifying project and also defines how Medicaid utilization is calculated for qualifying projects. Although this rule change will allow more providers to qualify, there is no fiscal impact to the state as this amount is appropriated annually from the general fund and these changes will not impact the overall funding pool.

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:

Funding for these projects is an annual amount appropriated from the general fund.

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 23)</u>	<u>Year 2 (FY 24)</u>
Revenue by each source:		
General fund	800,000.00	800,000.00
Federal funds		
Other (specify):		
TOTAL REVENUE	800,000.00	800,000.00
Expenditures:		
General fund	800,000.00	800,000.00
Federal funds		
Other (specify):		
TOTAL EXPENDITURES	800,000.00	800,000.00
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:

HF 2578

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding is an annual amount appropriated from the general fund

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 rule change will allow more nursing facility providers to possibly qualify for funds for quality improvement projects.

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 11/29/2022, JB 11/30/22

Telephone number: 515-281-6017