

HUMAN SERVICES DEPARTMENT[441]

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

Adopted and Filed Emergency

Rule making related to emergency child care rules.

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

The Department of Health and Human Services is proposing to file emergency rules that will assist in more families accessing child care assistance and provide higher payment rates for child care providers. The proposed rules:

- Increase income eligibility levels from 145% to 155% of federal poverty levels based on family size.
- Increase the maximum provider reimbursement rate ceilings to allow providers to receive additional payments.
- Revise the work requirement time from 28 hours per week to 32 hours per week when the income eligibility level is above 145% of the federal poverty level. If the family includes a special needs child the parent must be employed for 28 hours per week rather than 32 hours per week.

Reason for Adoption of Rule Making Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption is in the public's interest to allow more families to access child care assistance and for providers to receive increased rates.

In compliance with Iowa Code section 17A.4(3)"a," the Administrative Rules Review Committee at its March 13, 2023, meeting reviewed the Department's determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b) the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on March 13, 2023, because additional families will be eligible for child care assistance, allowing the parents to remain in the work force, return to the work force or continue a course of full-time studies and

providers will receive higher reimbursement rates. All of these situations provide benefits to the families and the economy.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 9, 2023, subject to review and approval by the Administrative Rules Review Committee at their March 13, 2023, meeting.

Fiscal Impact

The fiscal cost of the proposed rule changes is estimated to cost approximately \$19.5 million dollars annually without consideration of the changes proposed in items two and three. The fiscal impact of the changes in items two and three cannot be determined sufficiently, except that the changes would have a modest cost reduction effect. Additional costs of these rule changes can be absorbed in the current Child Care Assistance budget with the balance of federal Child Care Development Fund (CCDF) funds. There are incidental IT costs and field costs to the state general fund for implementing the proposed rule changes. These costs can be recovered by shifting general fund costs to the CCDF for an overall net zero impact to the state general fund.

Jobs Impact

This amendment raises the ceiling for child care providers which 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_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 13, 2023.

The following rule-making action is adopted:

Please see attached.

Emergency Rules for Chapter 170

Item 1. Amend **subparagraph 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. ~~445~~ 155 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" exceeds the amounts in subparagraph (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 subparagraph (1) and (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 **subparagraph 170.2(2)“b”(2)** as follows:

(2) The parent is employed 28 or more hours per week or an average of 28 or more hours per week during the month- and income is 145 percent of the federal poverty level, or below. For the parent whose income is between 146-155 percent of the federal poverty level, the parent must be employed 32 or more hours per week or an average of 32 or more hours per week. If the family includes a child with special needs, the parent must be employed for 28 or more hours per week or an average of 28 or more hours per week in the aggregate, during the month. If the family includes a child with special needs, the parent must be employed for 28 or more hours per week or an average of 28 or more hours per week in the aggregate, during the month. Child care services may be provided for the hours of employment and for actual travel time between the child care location and the place of employment. If the parent works a shift consisting of at least six hours of employment between the hours of 8 p.m. and 6 a.m. and needs to sleep during daytime hours, child care services may also be provided to allow the parent to sleep during daytime hours.

Item 3. Amend **subparagraph 170.2(2)“b”(8)** as follows:

(8) The parent is employed and participating in academic or vocational training 28 or more hours per week or an average of 28 or more hours per week in the aggregate, during the month- and income is 145 percent of the federal poverty level, or below. For the parent whose income is between 146 and 155 percent of the federal poverty level, the parent must be employed and participating in academic or vocational training for 32 or more hours per week or an average of 32 or more hours per week. If the family includes a child with special needs, the parent must be employed for 28 or more hours per week or an average of 28 or more hours per week in the aggregate, during the month. Child care services may be provided for the hours of employment, the hours of participation in academic or vocational training and for actual travel time between the child care location and the place of employment or training. All of the requirements relating to academic or vocational training found at subparagraph 170.2(2)“b”(1), except for the requirement to be enrolled full-time, apply to the part-time training in this subparagraph.

Item 4. Amend **subparagraph 170.4(7)"a"** as follows:

Table 1								
Half-Day Rate Ceilings for (Licensed Center)								
Age Group	No Quality Rating		Quality Rating 1 or 2		Quality Rating 3 or 4		Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$19.30	\$51.94	\$20.50	\$51.94	\$21.50	\$51.94	\$23.21	\$51.94
	<u>\$23.21</u>		<u>\$23.21</u>		<u>\$23.21</u>		<u>\$24.05</u>	
Preschool	\$17.00	\$30.43	\$18.00	\$30.43	\$18.98	\$30.43	\$20.00	\$30.43
	<u>\$18.98</u>		<u>\$19.50</u>		<u>\$20.00</u>		<u>\$21.00</u>	
School Age	\$13.50	\$30.34	\$14.75	\$30.34	\$15.00	\$30.34	\$16.00	\$30.34
	<u>\$15.00</u>		<u>\$15.50</u>		<u>\$16.00</u>		<u>\$17.00</u>	

Table 2								
Half-Day Rate Ceilings for (Child Development Home A or B)								
Age Group	No Quality Rating		Quality Rating 1 or 2		Quality Rating 3 or 4		Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$12.98	\$19.47	\$13.50	\$20.25	\$13.75	\$20.63	\$14.00	\$21.00
	<u>\$14.00</u>	<u>\$21.00</u>	<u>\$14.00</u>	<u>\$21.00</u>	<u>\$14.00</u>	<u>\$21.00</u>	<u>\$15.00</u>	<u>\$22.50</u>
Preschool	\$12.50	\$18.75	\$12.75	\$19.13	\$13.00	\$19.50	\$13.75	\$20.63
	<u>\$12.75</u>	<u>\$19.13</u>	<u>\$13.00</u>	<u>\$19.50</u>	<u>\$13.75</u>	<u>\$20.63</u>	<u>\$15.00</u>	<u>\$22.50</u>

School Age	\$10.82	\$16.23	\$11.25	\$16.88	\$12.00	\$18.00	\$12.50	\$18.75
	<u>\$11.25</u>	<u>\$16.88</u>	<u>\$12.50</u>	<u>\$18.75</u>	<u>\$13.00</u>	<u>\$19.50</u>	<u>\$13.50</u>	<u>\$20.25</u>

Table 3								
Half-Day Rate Ceilings for (Child Development Home C)								
Age Group	No Quality Rating		Quality Rating 1 or 2		Quality Rating 3 or 4		Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$14.00	\$21.00	\$14.50	\$21.75	\$15.00	\$22.50	\$15.25	\$22.88
	<u>\$15.25</u>	<u>\$22.88</u>	<u>\$15.25</u>	<u>\$22.88</u>	<u>\$15.25</u>	<u>\$22.88</u>	<u>\$16.25</u>	<u>\$24.38</u>
Preschool	\$13.75	\$20.63	\$14.50	\$21.75	\$14.75	\$22.13	\$15.00	\$22.50
	<u>\$15.00</u>	<u>\$22.50</u>	<u>\$15.00</u>	<u>\$22.50</u>	<u>\$15.00</u>	<u>\$22.50</u>	<u>\$16.00</u>	<u>\$24.00</u>
School Age	\$11.25	\$16.88	\$12.50	\$18.75	\$13.00	\$19.50	\$14.50	\$21.75
	<u>\$13.00</u>	<u>\$19.50</u>	<u>\$13.75</u>	<u>\$20.63</u>	<u>\$14.50</u>	<u>\$21.75</u>	<u>\$15.00</u>	<u>\$22.50</u>



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist Mark Adams	Telephone Number 281-5688	Email Address Madams4@dhs.state.ia.us
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1. Give a brief purpose and summary of the rulemaking:
 - Increase income eligibility levels from 145% to 155% of federal poverty levels based on family size.
 - Increase the maximum provider reimbursement rate ceilings to allow providers to receive additional payments.
 - Revise the work requirement time from 28 hours per week to 32 hours per week for families above the 145% of FPL. If the family has a special needs child the parent must be employed 28 hours per week.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
Iowa Code 234.6
3. Describe who this rulemaking will positively or adversely impact.
More families will be eligible for child care services. Providers will be paid more for the CCA children in their care.
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: February 6, 2023

Agency: Human Services

IAC citation: 441 IAC 170

Agency contact: Mark Adams

Summary of the rule:

1. Increase family eligibility level from 145% FPL to 155% FPL.
2. Increase work hours from 28 to 32 per week for FPL above 145%.
3. Work hours remain at 28 hours per week if there is a special needs child in the family.
4. Increase maximum provider reimbursement rate ceilings .

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 fiscal cost of the proposed rule changes is estimated to cost \$19.56 million dollars annually without consideration of the changes proposed in Items 2 and 3 above. The fiscal impact of the changes in Items 2 and 3 cannot be determined sufficiently, except that the changes would have a modest cost reduction effect.

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:

Item 1, which raises the FPL eligibility level from 145% to 155%, is estimated to have an annual cost of \$8.7million dollars annually.

Items 2 and 3, which change the mimimum employment hours for eligibility from 28 to 32 hours per week, is assumed to have a minimum cost saving effect, but the degree of the cost savings cannot be sufficiently determined.

Item 4, which increases provider rates and the maximum ceiling that providers could be eligible for is estimated to have a cost of \$10,800,000. annually.

Describe how estimates were derived:

SFY23 - $16.7\% \times [\$8,700,000 \text{ (Item 1)} + \$10,800,000 \text{ (Item 4)}] + 33\% \times \$65,344 \text{ (Item 1)} = \$3,271,781$

SFY24 - $[\$8,761,121 \text{ (Item 1)} + \$10,800,000 \text{ (Item 4)}] + 67\% \times \$4,223 = \$19,563,926$

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	9,660.00	28,231.00
Federal funds	3,262,121.00	19,535,695.00
Other (specify):		
TOTAL REVENUE	<u>3,271,781.00</u>	<u>19,563,926.00</u>
Expenditures:		
General fund	9,660.00	28,231.00
Federal funds	3,262,121.00	19,535,695.00
Other (specify):		
TOTAL EXPENDITURES	<u>3,271,781.00</u>	<u>19,563,926.00</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:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Additional costs can be absorbed in the current Child Care Assistance budget with the balance of federal Child Care Development Fund (CCDF) funds. There are incidental IT and Field costs to the State General Fund for implementing the proposed rules changes. These costs to the state can be recovered by shifting current General Fund cost to CCDF for an overall net zero impact to the State 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:

The increase in the FPL and the provider rates created with this rule package 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 02/22/2023, JB 2/22/23

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