
LEGAL UPDATE

Legal Services Division



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COUNCIL ON HUMAN SERVICES MEETING — AUGUST 18, 2020

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Date and Location. The Department of Human Services (DHS), Council on Human Services (Council) met via a Zoom meeting on August 18, 2020. The meeting was originally scheduled for August 12, 2020, but was postponed due to power outages following the severe derecho storm on August 10, 2020.

Amendments to the Administrative Rules Presented for Adoption. Ms. Nancy Freudenberg, Bureau Chief, Bureau of Policy Coordination for DHS, presented two rules for adoption by the Council. Both of the following rules presented for adoption were approved by the Council:

1. Amendments to Iowa Administrative Code, Chapter 75, "Conditions of Eligibility." The proposed rule is amended to adjust the federal poverty level (FPL) increments used to assess premiums for applicants and recipients with income over 150 percent of the FPL under the Medicaid for Employed People with Disabilities program. Iowa Code section 249A.3(2)(a)(1)(b) requires that the maximum premium payable by an individual whose income exceeds 150 percent of the official poverty guidelines shall be commensurate with the cost of state employees' group health insurance in this state. The average cost to the state for state employees' health insurance for a single person is \$829 effective January 1, 2020. Therefore, the maximum premium cannot be above that amount. The new premium scale updates the increase in the maximum premium allowed to reflect the increase in the cost of state employees' health insurance by adding an additional premium tier (1,550 percent of the FPL and above equals the \$829 premium).

2. Amendments to Iowa Administrative Code, 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" (Pharmacy Scope of Practice Rules). The Board of Pharmacy, in collaboration with the Department of Public Health (DPH), developed statewide protocols for pharmacists ordering and dispensing naloxone and nicotine replacement therapy tobacco cessation products, as well as pharmacists ordering and administering vaccines. In order to allow these expanded pharmacist practice protocols under Medicaid, the following changes are proposed:

- Adds "pharmacist" as a provider type eligible to enroll in the Medicaid program.
- Clarifies qualified prescriber and prescription requirements based on the pharmacist expanded practice standards.
- Amends the section related to pharmacies administering influenza vaccine to children to include all Medicaid covered vaccines for children and adds the administration of adult vaccines, pursuant to 657 IAC 39 and the statewide protocols. Also adds Medicaid verification and reporting requirements. The changes enable pharmacists to take advantage of the expanded practice standards while clarifying the Medicaid verification and reporting requirements for vaccines.

• Amends the section related to the basis of reimbursement for vaccines related to pharmacies. All billing and reimbursement of vaccines, regardless of provider type, will be through the Healthcare Common Procedure Coding System to ensure consistency among providers as well as a coordinated Medicaid immunization record for the member.

Noticed Rules. Ms. Freudenberg noticed two rules to the Council. Once noticed, the Council has 30 days to research the following noticed rules, and the public has 30 days to provide comment.

1. Amendments to Iowa Administrative Code (Contracting Rules), Chapter 80, "Procedure and Method of Payment," Chapter 133, "IV-A Emergency Assistance Program," Chapter 172, "Family Centered Child Welfare Services," Chapter 175, "Abuse Of Children," and Chapter 186, "Community Care." The Family First Act reforms the federal child welfare financing streams. Title IV-E and Title IV-B of the Social Security Act provide services to families who are at risk of entering the child welfare system. A core expectation under the Family First Act is that states must employ evidence-based interventions demonstrated to effectively strengthen and preserve connections between children and their families. The primary focus of these services is to prevent removal of a child and placement into foster care. These changes will positively affect the child welfare contractors who successfully bid on contracts as the evidence-based interventions provide clear expectations to fidelity of models used in service provisions.

2. Amendments to Iowa Administrative Code, Chapter 202, "Foster Care Placement and Services." The Family First Act and 2019 Iowa Acts, ch. 126 (HF 644), require protocols to ensure children being placed in out-of-home settings are not inappropriately misdiagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmentally delayed conditions. The proposed rule requires information in case permanency plans for children entering or already in foster care to include efforts to retain existing medical and mental health care providers as well as activities to evaluate service needs.

Director's Report. Ms. Kelly Garcia, DHS Director and Acting Director of the DPH, was unable to attend the meeting because of the ongoing emergency response related to the derecho storm. Mr. Matt Highland, spokesperson for DHS, presented information on the director's behalf. DHS is working on pandemic assistance and emergency resources for individuals affected by the derecho storm. DHS is working to provide food assistance for displaced refugees and homeowners. In addition, he reported that 26 youths who tested positive for COVID-19 at the Eldora State Training School have recovered. There are no current COVID-19 cases at any of the state-controlled institutions.

Public Hearing on the Department of Human Services Update to the FY 2021-2022 Budget — Recommendations and Legislative Package. Ms. Peggy Huppert, Executive Director, National Alliance on Mental Illness – Iowa, presented a request for stable and predictable ongoing funding for Iowa's Mental Health and Disability Services (MH/DS) regions and mental health and substance use providers. She stated that MH/DS regions are struggling with the provision of core services. Thirty-seven services were mandated in the adult core and children's system legislation with no additional state dollars or the ability to increase the property tax levy to pay for them.

Mr. Branden Hagen, representing the Iowa Health Care Association, Iowa Center for Assisted Living, and Iowa Center for Home Care, presented the following requests:

1. Continue to narrow the Medicaid funding gap for skilled nursing facilities.
2. Increase the rate floors for specific services provided under the home and community-based services waiver for assisted living programs.
3. Eliminate the 14.8 percent rollback for FY 2019-2020 and any additional negative inflation to fully fund the low payment utilization rate for certified home health agencies.
4. Identify and deploy resources necessary to address COVID-19 impacts on long-term care.

Council Materials. Materials provided to the Council can be found at:

dhs.iowa.gov/sites/default/files/8_12_20_Meeting_Materials.pdf?080520201437

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