

TITLE II
Reserved

CHAPTERS 16 to 21
Reserved

TITLE III
MENTAL HEALTH

CHAPTER 22
STANDARDS FOR SERVICES TO PERSONS WITH MENTAL ILLNESS,
CHRONIC MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL
DISABILITIES, OR BRAIN INJURY

PREAMBLE

Iowa Code section 225C.27 requires the division of mental health, mental retardation, and developmental disabilities to adopt rules to implement the purposes of Iowa Code sections 225C.25 to 225C.28. Those purposes include:

1. Promoting human dignity and protecting the constitutional and statutory rights of persons with mental retardation, developmental disabilities, or chronic mental illness.
2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, or chronic mental illness in the state to the fullest extent possible.
3. Ensuring that the recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa or the Constitution of the United States solely on account of the receipt of the services.

The standards are divided into the following sections:

1. Definitions.
2. Identification of principles which serve as a guide to the provision of services in accordance with the concept of normalization which encompasses the concepts of least restrictive environment and age-appropriate services.
3. The establishment of guidelines related to the delivery of services, including guidelines for personnel providing services, confidentiality, and informed consent.
4. The identification and definition of services which may be utilized to meet the needs of persons with mental retardation, developmental disabilities, or chronic mental illness. These standards include guidelines for the delivery of those services.
5. Procedures governing compliance review proceedings.

The standards represent what the commission believes the service system should strive to achieve. In addition to the concepts contained in the standards, it is the hope of the commission that the service system can be developed in such a way that:

1. People with mental retardation, a developmental disability, or chronic mental illness can be served in their home communities or as near as possible, if they so desire.
2. People with disabilities and their families can be involved in the development, operation, and monitoring of community programs.
3. Community living arrangements can be located in residential neighborhoods where the majority of people are nonhandicapped and the arrangements are similar in size and appearance to other residences in the neighborhood.
4. Services foster relationships with others in the community and support people in regular homes, jobs, and recreational and educational activities.

441—22.1(225C) Definitions.

“Administrative law judge” means an employee of the Iowa department of inspections and appeals who conducts compliance hearings.

“Administrative remedy” or *“administrative review process”* means the procedures of any agency or organization which are designed to provide a person affected by actions of that agency or organization with a mechanism for resolving conflict between the person and the agency or organization.

“Age-appropriate” refers to activities, settings, personal appearance and possessions commensurate with the person’s chronological age.

“Aggrieved party” means a person with mental retardation, a developmental disability, or chronic mental illness who has been receiving services and who believes that those services have not been delivered in accordance with the standards adopted by the commission pursuant to Iowa Code section 225C.27.

“Authorized representative” means the aggrieved party’s legal representative or designee.

“Commission” means the mental health and mental retardation commission.

“Compliance hearing” means the process for determining if services have been delivered in accordance with the guidelines established in the standards in this chapter.

“Department” means the Iowa department of human services.

“Director” refers to the director of the Iowa department of human services.

“Division” means the division of mental health and developmental disabilities of the Iowa department of human services.

“Individualization” means promoting self-expression and differentiation from others.

“Individual program plan” means a written plan for the provision of services to the person and, when appropriate, to the person’s family, that is developed and implemented, using an interdisciplinary process, and which identifies a person’s and, when appropriate, the person’s family’s functional status, strengths and needs, and service activities designed to enable a person to maintain or move toward independent functioning. The plan identifies anticipated outcomes for services and the steps necessary to achieve those outcomes.

“Informed consent” means an agreement by a person, or by the person’s legally authorized representative, to participate in an activity based upon an understanding of:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.
2. A description of the attendant discomforts and risks.
3. A description of the benefits to be expected.
4. A disclosure of appropriate alternative procedures that would be advantageous for the person.

“Interdisciplinary process” means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant, utilizing the skills, competencies, insights, and perspectives provided by the participant’s training and experience, focuses on identifying the strengths and the service needs of the person and the person’s family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team, a single integrated individual program plan to meet the person’s and, when appropriate, the person’s family’s needs.

“Interdisciplinary team” means the group of persons who develop a single, integrated individual program plan to meet the person’s needs for services. (See 22.4(9)“h”(1).)

“Issues of fact” means disputed issues of facts or of the application of state or federal law or policy to the facts of the person’s individual situation.

“Issues of law or policy” means issues of the legality, fairness, equity, or constitutionality of state or federal law or agency policy where the facts and applicability of the law or policy are undisputed.

“Least restrictive environment” means the environment in which the interventions in the lives of people with mental retardation, developmental disabilities, or chronic mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows persons to participate to the fullest extent possible for each person in everyday life and to have control over the decisions that affect them. It is the environment that provides needed supports in such a way that they do not unduly interfere with personal liberty and a person’s access to the normal events of life.

“Level of functioning” means a person’s current physiological and psychological status and current academic, community living, self-care, and vocational skills.

“Mental health problem” means an emotional symptom, situational reaction or problem in living. These are difficulties in adjusting to stress or new situations.

“Normalization” means a process of helping persons, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the principles of age-appropriate services and least restrictive environment.

“Personnel training” means an organized program to prepare all personnel to perform assigned duties competently and maintain and improve the competencies of all personnel.

“Persons with a brain injury” means persons 21 years of age and over with clinically evident brain damage or spinal cord injury resulting from trauma which permanently impairs the individual’s physical or cognitive functions and causes the individual to meet the federal criteria for a person with a developmental disability except for age of onset of the disability.

“Persons with a mental illness” means persons who meet the criteria for a diagnosis of a mental illness as defined in the Diagnostic and Statistical Manual, Third Edition—Revised (DSM III-R). Diagnoses which fall into this category include, but are not limited to, the following: schizophrenia, major depression, manic depressive (bipolar) disorder, adjustment disorder, and personality disorder. Also included are organic disorders such as dementias, substance-induced disorders, and other organic disorders which include physical disorders such as brain tumors. Persons with certain DSM III-R diagnoses as follows are not considered to have a mental illness.

1. Persons with a V Code diagnosis only. This diagnosis includes conditions that are not a mental disorder but are a focus of treatment, such as marital problems, occupational problems, parent-child problems, or other “phase of life” problems.

2. Persons with a psychoactive substance use disorder diagnosis only.

3. Persons with a developmental disorder diagnosis only. This includes mental retardation, autism, and academic disorders.

“Persons with chronic mental illness” means persons 18 and over, with a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment.

Persons with chronic mental illness typically meet at least one of the following criteria:

1. Have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or inpatient hospitalization).

2. Have experienced at least one episode of continuous, structured supportive residential care other than hospitalization.

In addition, these persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:

1. Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history.
2. Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help.
3. Show severe inability to establish or maintain a personal social support system.
4. Require help in basic living skills.
5. Exhibit inappropriate social behavior which results in demand for intervention by the mental health or judicial system.

In atypical instances, a person may vary from the above criteria and could still be considered to be a person with chronic mental illness.

(Adapted from the National Institute of Mental Health's Definition and Guiding Principles for Community Support Systems, revised May 1983)

"Persons with developmental disabilities" means persons with a severe, chronic disability which:

1. Is attributable to mental or physical impairment or a combination of mental and physical impairments.
2. Is manifested before the person attains the age of 22.
3. Is likely to continue indefinitely.
4. Results in substantial functional limitations in three or more of the following areas of life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.
5. Reflects the person's need for a combination and sequence of services which are of lifelong or extended duration.

(Adapted from Public Law 99-527, Developmental Disabilities Act of 1984)

"Persons with mental retardation" means persons who meet the following three conditions:

1. Significantly subaverage intellectual functioning: an intelligence quotient (IQ) of approximately 70 or below on an individually administered IQ test (for infants, a clinical judgment of significantly subaverage intellectual functioning) as defined by the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, American Psychiatric Association.
2. Concurrent deficits or impairments in present adaptive functioning (i.e., the person's effectiveness in meeting the standards expected for the person's age by the person's cultural group) in at least two of the following areas: communication, self-care, home living, social and interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety.
3. The onset is before the age of 18.

(Criteria from "Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV)," 1994 revision, American Psychiatric Association)

"Program" means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:

1. Target populations.
2. The population of specified geographic area(s).
3. A specified purpose.
4. A person.

“Service coordinator” (case manager) means the person responsible for ensuring the development and monitoring of the implementation of the person’s individual program plan.

“Subject of the hearing” means the individual, agency or organization whose actions are the basis of the request for the compliance hearing.

“Work” means any activity that provides goods or services for wages.

441—22.2(225C) Principles. The following are principles identified by the mental health and mental retardation commission to serve as a guide to the delivery of services in accordance with the principle of normalization. It is the belief of the commission that, if services are provided in accordance with these principles, those services will be age-appropriate and delivered in the least restrictive environment. These principles should be implemented in accordance with the person’s strengths, needs and preferences.

22.2(1) Services and settings facilitate physical and social integration with the general society. Factors which may be considered to facilitate integration include, but need not be limited to, access to, use of, and interaction with community professional, social and recreational resources, businesses and public services.

22.2(2) Services and settings promote personal appearance, daily routines and rhythms, forms of address, and rights and privileges consistent with the person’s chronological age and cultural environment. Factors which may be considered in determining age and cultural appropriateness include, but need not be limited to, typical schedules for work or school, mealtimes, leisure activities; freedom of choice and movement; typical dress, personal appearance, and personal possessions; and social and sexual behavior.

22.2(3) Services and settings provide opportunities for interaction in groups of size, composition, and nature which are typical for groups in the community. Factors which may be considered in implementation of this requirement include, but need not be limited to, the number of people in a group, the likelihood of the group’s being seen by the community as different or negative, and appropriate grouping of individuals by age and areas of interest.

22.2(4) Services and settings ensure that the physical and social environments provide expectations, experiences, and challenges appropriate to the person’s developmental level and chronological age and provide the opportunity for personal growth and development. Factors which may be considered in implementing this requirement include, but need not be limited to, use of electrical appliances, cleaning supplies and cooking facilities; appropriate use of protective devices, such as temperature controls on water, alarms, and security systems; use of public transportation; freedom to come and go without supervision; self-administration of medication; and availability of learning opportunities which allow the person to face risks which are a typical part of normal growth and development.

22.2(5) Services and settings promote individualization. Factors which may be considered in implementing this requirement include, but need not be limited to, use of personal belongings; provisions for privacy; allowance for variance in routines and activities; and opportunities for being related to as an individual as opposed to a member of a group.

441—22.3(225C) General guidelines for service delivery. The following are conditions which should be met whenever services are delivered to persons with mental retardation, developmental disabilities, or chronic mental illness.

22.3(1) Services are provided by appropriately and adequately trained personnel.

a. There is a sufficient number of adequately trained and qualified personnel to meet the person’s needs and provide services that meet the requirements of these standards.

b. There are ongoing training opportunities for all persons providing services.

c. Each agency or organization ensures that all personnel receive ongoing training.

d. In addition to the training in the skills and knowledge needed to meet specific service responsibilities, all personnel receive training on the concepts and principles identified in Iowa Code sections 225C.25 to 225C.28 and set forth in this chapter.

22.3(2) Personally identifying information is kept confidential. Information is released or disclosed only in accordance with existing federal and state laws and regulations.

a. When consent of the person or the person's legally authorized representative is required, a release of information form is used which specifies to whom the information shall be released, what is to be released, the reason for the release and how the information is to be used, and the period of time for which the release is in effect. The form is signed and dated by the person or the person's legal guardian.

b. Exceptions to obtaining a signed release of information are permitted only for disclosures permitted or required by law; bona fide medical and psychological emergencies; and provider approval, certification, or licensure purposes. When information is released without a signed consent, there is documentation of what information was released, to whom the information was released, and circumstances prompting the release.

c. Services are not contingent upon the person's decision concerning authorization of release of information unless the information is essential to the provision of services in accordance with the provider's professional code of ethics.

d. All recipients of services or their legal representatives have access to the person's record upon request unless otherwise determined by law.

22.3(3) All persons have the right to informed consent. There is documentation that the person has given informed consent.

441—22.4(225C) Services. The following subrules identify, define, and establish guidelines for the delivery of the services which the commission believes should be available within the service system. These services should be made available to a person based on needs identified through a comprehensive evaluation and diagnosis and in accordance with the person's individual program plan. Any one or grouping of these services may be provided in a variety of settings depending on the abilities and needs of the person.

22.4(1) *Advocacy and education services.* Advocacy and education services are services provided to either individuals or groups to advocate for the rights of persons with a mental illness, mental retardation, developmental disability or brain injury including providing them with legal representation; to provide these persons, their family members or service providers with information about the rights or service needs of these persons and, if appropriate, referral to needed services; to provide consultation to public officials, service providers and other persons concerning the rights and service needs of these persons; and to provide information to the public about the rights and service needs of these persons. These services include:

a. Individual advocacy services, including the services of mental health advocates as defined in Iowa Code section 229.19, in which the goal is to assist the person to exercise the rights to which the person is entitled and remove barriers to meeting the person's needs.

b. Legal services which are activities designed to assist the person in exercising constitutional and legislatively enacted rights and which are provided by or under the supervision of a person currently licensed to practice law in the state of Iowa.

c. Information and referral services which are activities designed to provide facts about resources which are available and to assist the person to access those resources.

d. Consultation services which are activities designed to provide professional assistance and information to individuals, groups, and organizations concerning mental health, mental illness, mental retardation, developmental disabilities, and brain injury in order to increase the providers' effectiveness in carrying out their responsibilities for providing services. These activities are provided to a range of individuals and groups which may include, but need not be limited to, health professionals, schools, courts, public welfare agencies, clergy and parents. Consultation services include the following:

(1) Case consultation, which means advisory activities directed to a service provider, advocate or family member to assist in providing services or support to a specific person. Consultation activities may include assisting the provider, advocate or family member to develop skills necessary to teach self-advocacy and to provide specialized services to a person with a mental illness, mental retardation, a developmental disability or a brain injury.

(2) Program consultation, which means advisory activities directed to a service provider to assist the provider in planning, developing, or implementing services or programs or in solving problems or addressing concerns in the provider's own organization.

(3) Community consultation, which means advisory activities directed to community organizations, planning organizations, and citizens' groups to assist them in the planning and development of services.

e. Public education services which are activities provided to persons to increase awareness and understanding of the causes and nature of conditions, situations, or problems which interfere with the functioning in society of persons with a mental illness, mental retardation, a developmental disability or a brain injury.

22.4(2) Community rehabilitation services. Community rehabilitation services are activities designed to assist the individual to maintain, gain or regain the practical skills needed to live and socialize in the community. Whenever possible, these services should be taught in natural settings where persons without disabilities live, work, learn and socialize. Community rehabilitation services include:

a. Community living skill education services which are:

(1) Social skill services, which include teaching about self-awareness and social responsiveness, and teaching group participation and interpersonal skills.

(2) Communication skill services, which include teaching expressive and receptive skills of verbal and nonverbal language, including reading and writing.

(3) Independent living skill services, which include teaching those skills necessary to sustain oneself in the physical environment and which are essential to the management of one's personal business and property, including self-advocacy skills.

(4) Self-care skill education services, which include teaching those skills necessary for individuals to care for their physical well-being. These activities focus on personal hygiene, general health maintenance, mobility skills, and other activities of daily living.

(5) Leisure time and recreational skill services, which include teaching persons how to utilize leisure time in a satisfying manner, as well as the specific leisure skills needed to participate in recreational activities.

(6) Parenting skill services, which include teaching persons the skills necessary to meet the needs of the person's child or to provide assistance which helps the person to maintain existing skills.

b. Academic services which include:

(1) Basic education services, which include activities that assist the person to acquire general information and skills that establish the basis for subsequent acquisition and application of knowledge. These services are provided under the auspices of an accredited or approved education institution or under the direction of a certified teacher.

(2) Supported education services, which include activities that provide technical or advanced education with supports or supportive services for persons independently engaged in technical or advanced education programs for individuals who, because of their disabilities, need ongoing support services to participate in and complete the training or course of study.

22.4(3) Service coordination services. Service coordination services are activities provided to ensure that the person has received a comprehensive evaluation and diagnosis, to give assistance to the person in obtaining appropriate services and living arrangements, to coordinate the delivery of services, and to provide monitoring to ensure the continued appropriate provision of services and the appropriateness of the living arrangement. This includes:

a. Service coordination services provided in accordance with the following guidelines:

(1) Service coordination services shall be available regardless of whether or not the person is eligible for or receiving other services.

(2) Service coordination services include personal advocacy activities which assist the person to exercise the rights to which the person is entitled and remove barriers to meeting the person's needs.

(3) Service coordination services include outreach, which is a process of systematically reaching into a service area to provide all persons in need with information about services available and how to access them.

(4) Persons providing service coordination services shall meet minimal qualifications which include a bachelor's degree from an accredited college or university in the behavioral sciences, education, health care, human service administration or the social sciences, and one year of postdegree experience in the delivery, planning, coordination or administration of human services; or a high school diploma (or its equivalent) and five years of postdegree experience in the delivery, planning, coordination or administration of human services; or a combination of post-high school experience in the delivery, planning, coordination or administration of human services and post-high school education in the social or behavioral sciences which totals five years. One of the five years must be experience.

Services shall be delivered under the immediate supervision of a person who has at least a bachelor's degree in the behavioral sciences, education, health care, human service administration, or the social sciences, and a minimum of three years of experience in the administration or delivery of human services.

(5) One service coordinator is assigned to each person receiving service coordination services.

(6) The service coordinator assists the person in obtaining a comprehensive evaluation and diagnosis which meets the following requirements:

1. Is adapted to the cultural background, primary language, and ethnic origin of the person.

2. Meets the definitions of diagnosis and evaluation contained in the standard for evaluation services and meets all the requirements of the standard.

3. Identifies the person's level of functioning and provides information necessary to determine the need for services in each of the following areas: community rehabilitation, treatment and vocational.

4. Is completed by persons with education and experience in the area of functioning which is being evaluated.

(7) The service coordinator ensures that there is a social history completed which meets the following requirements:

1. Assesses the social, cultural, and other factors which may affect the person's ability to maintain the current level of functioning or achieve a higher level of functioning. Factors to be assessed include the history of previous living arrangements and services received, relationships with family and other support systems, cultural and ethnic background and religious affiliation, and the person's preferences regarding vocational opportunities and use of leisure time.

2. Is reviewed annually and updated as necessary.

(8) The service coordinator coordinates the development of an individual program plan (IPP) which meets the following requirements:

1. The IPP is developed using an interdisciplinary process. An interdisciplinary team is identified for each person with the composition determined in coordination with the person or the person's legal guardian. The interdisciplinary team includes: the person, the person's legal guardian and the person's family unless the family's participation is contrary to the wishes of the adult person who has not been legally determined to be incompetent, the service coordinator, all current service providers, other persons whose appropriateness may be identified through the comprehensive evaluation and diagnosis or current reevaluation.

2. The person or the person's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by a court.

3. The IPP is based on the findings of the comprehensive evaluation and diagnosis or current annual reevaluation.

4. The IPP is in permanent written form dated and signed by the interdisciplinary team members.

5. The IPP is available to the person and all providers of services.

- (9) The IPP identifies the following:

1. Individualized goals which are general statements of expected accomplishments to be achieved in meeting the needs identified in the comprehensive evaluation and diagnosis or reevaluation.

2. Objectives, which may be prioritized and which are specific, measurable and time-limited statements of outcome or accomplishments which are necessary for progress toward each goal.

3. Specific service(s) or service activities to be provided to achieve the objectives.

4. The person(s) or agency(ies) responsible for providing the service(s).

5. The date of initiation and anticipated duration of services. The IPP includes identification of the method by which persons or agencies furnishing the service provide to the service coordinator written documentation of the services provided and the person's response to those services.

6. The method by which persons or agencies furnishing the service provide to the service coordinator written documentation, and the rationale for any variation from use of the least restrictive environment.

7. The person legally authorized to act on behalf of the person receiving services, when applicable.

8. Services which are needed but not currently available.

9. Recommendations for guardianship or conservatorship, if applicable.

- (10) The service coordinator seeks to determine if service activities identified in the IPP are provided by persons who are appropriately qualified and licensed or certified, when applicable, for the provision of those services. If providers do not appear to meet established qualifications, the service coordinator documents the rationale given for using those providers.

- (11) The service coordinator identifies the appropriate composition of the interdisciplinary team.

- (12) The service coordinator develops a process for assessing, no less than quarterly, the person's progress toward achieving the goals and objectives identified in the IPP.

- (13) The service coordinator coordinates a periodic but at least annual reevaluation and review of the IPP to measure progress and to modify the plan as necessary. The reevaluation and review should meet the following requirements:

1. The reevaluation is conducted by persons with training and skills in the areas being assessed and includes an assessment of the person's current level of functioning and need for services in the following areas: community rehabilitation, treatment and vocational.

2. The interdisciplinary team reviews the current IPP and the findings of the reevaluation.
 3. There is a written report of the review which includes, but need not be limited to, a summary of the results of the reevaluation and the person's progress toward the objectives in the IPP, the need for continued services, any recommendations concerning alternative services or living arrangements, and any recommended change in guardianship or conservatorship status, if applicable.
 4. The written report reflects those involved in the review and is made available to the person or the person's legal guardian.
 - b. Evaluation services, which are activities designed to identify the person's current level of functioning and those barriers to maintaining or achieving a higher level of functioning. These activities provide sufficient information to identify appropriate services, service settings, and living arrangements necessary to assist the person to maintain the current level or achieve a higher level of functioning.
 - (1) Evaluation services focus on the following:
 1. Screening, which is the identification of the possible existence of conditions, situations, or problems which are barriers to a person's ability to function.
 2. Diagnosis, which is the investigation and analysis of the cause or nature of a person's condition, situation, or problem.
 3. Evaluation, which is the determination of the effects of a condition, situation, or problem on a person's level of functioning and the provision of sufficient information to identify the appropriate services, service settings, and living arrangements to assist the person to maintain or achieve a higher level of functioning.
 - (2) Diagnostic and evaluation activities are performed under the direction of a person with at least a master's degree and two years of post-master's degree experience in evaluation and treatment in the appropriate field and licensed or certified when required by Iowa law. All activities are performed by persons with training and skills in the appropriate fields.
 - (3) There is a written summary of all screening, diagnosis, and evaluation activities and finding. The summary includes a description of procedures and tests completed and actions taken on completion of the screening, diagnosis, and evaluation activities.
- 22.4(4) *Personal and environmental supports.*** Personal and environmental supports are supports provided to or on behalf of a person in order to allow the person to live in the most integrated situation possible. These supports include:
- a. Transportation activities, which are activities designed to assist the person to travel from one place to another to obtain services or carry out life's activities and which meet the requirements of Iowa Code chapter 601J, where applicable.
 - b. Personal care and property maintenance activities including respite care, homemaker services, and chore services in which the goal is to support the person in the person's living situation.
 - c. Personal support assistance in the form of financial support, food, clothing, and shelter in which the goal is to support the person in the person's living situation.
- 22.4(5) *Treatment services.*** Treatment services are activities designed to assist the person to maintain or improve physical, emotional and behavioral functioning and to prevent conditions that would present barriers to a person's functioning. Treatment services include physical or physiological treatment and psychotherapeutic treatment.
- a. Physical or physiological treatment means activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body. The activities are provided by or under the supervision of a licensed health care professional.

b. Psychotherapeutic treatment means activities provided to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person's functioning in response to the physical, emotional, and social environment. The activities are provided by or under the supervision of a person who holds a current license when required by Iowa licensure law and who is one of the following:

(1) A psychiatrist, which means a doctor of medicine or osteopathic medicine and surgery who is certified or eligible for certification by the American Board of Psychiatry and Neurology and who is fully licensed to practice medicine in the state of Iowa.

(2) A psychologist, which means a person who is licensed or eligible for licensure to practice psychology in the state of Iowa or who is certified by the Iowa department of education as a school psychologist, or who meets the requirements for eligibility for a license to practice psychology in the state of Iowa as defined in Iowa Code chapter 154B.

(3) A social worker, which means a person who is licensed or eligible for licensure as a social worker in the state of Iowa.

(4) A psychiatric nurse, which means a person who is certified or eligible for certification as a psychiatric mental health nurse practitioner pursuant to the board of nursing rules, 655—Chapter 7.

(5) A mental health counselor, which means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

(6) A doctor of medicine or osteopathic medicine or a person with at least a master's degree or its equivalent with coursework focusing on treatment of mental health problems and mental illness, who has two years of supervised experience in providing mental health services.

(7) A person who has less than a master's degree but at least a bachelor's degree and who has sufficient documented training and experience in treatment of persons with mental health problems and mental illness.

22.4(6) Vocational services. Vocational services are activities designed to assist persons to understand the meaning, value and demands of work; to learn or reestablish skills, attitudes, personal characteristics, and work behaviors; to develop functional capacities; to provide paid employment with supports for individuals who, because of their disability, need ongoing support services to maintain that employment; or to assist persons to identify, obtain, and maintain employment commensurate with their needs and abilities. Vocational services are provided in accordance with the following guidelines:

a. Whenever possible these services are provided in community workplaces in settings which include people who do not have disabilities.

b. Planned rehabilitation activities enable these persons to regain or attain higher levels of vocational functioning.

c. All applicable wage and hour regulations are met.

d. Persons in work programs are paid wages commensurate with the going rate for comparable work and productivity.

441—22.5(225C) Compliance hearing.

22.5(1) *The right to a compliance hearing.*

a. When a hearing is granted. A hearing shall be granted to any person who meets the definition of an "aggrieved party." A hearing will be granted only after it is determined that the aggrieved party has exhausted all other administrative remedies for correction of the situation prompting the request for a hearing.

b. Time limit for request. A request for a compliance hearing shall be made within 30 calendar days of the finalization of the last action of any previous administrative review process. If there is no other administrative remedy, the request for compliance hearing shall be made within 90 calendar days of the occurrence of the situation or condition prompting the request.

c. *Where no hearing is granted.* When upon review, it is determined that the party on whose behalf the hearing is requested does not meet the criteria of an aggrieved party or the request is untimely under these rules, no hearing will be granted.

22.5(2) Opportunity for compliance hearing.

a. *Initiating a request.* The aggrieved party or authorized representative shall notify the division in writing that the person wishes to request a compliance hearing. The request shall be sent to:

Division of Mental Health, Mental Retardation, and Developmental Disabilities

Iowa Department of Human Services

Hoover State Office Building, 5th Floor

Des Moines, Iowa 50319-0114

b. *Filing the request.* The person shall be encouraged to complete the request for a compliance hearing on Form 470-2422, Compliance Hearing Request and Information Sheet, available from the division or from the local offices of the department. When the person is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to a compliance hearing, as long as the desire for a hearing is communicated in writing to the division by the person or the person's authorized representative. A written request for a hearing is filed on the date postmarked on the envelope sent to the division, or on the date the aggrieved party brings the request form to the division.

c. *Withdrawal.* When the aggrieved party desires to voluntarily withdraw the request, a representative of the division shall request the person to sign Form 470-2423, Request for Withdrawal of Request for Compliance Hearing.

22.5(3) Procedural considerations. The division shall submit the request for a hearing to the department of inspections and appeals pursuant to rule 481—10.3(10A). The hearing will be conducted by the department of inspections and appeals pursuant to 481—Chapter 10.

22.5(4) Limitations on persons attending. The hearing shall be limited in attendance to the following persons: aggrieved party, aggrieved party's representative, subject of the hearing, the subject's representative, other persons present for the purpose of offering testimony pertinent to the issues in controversy, and others upon mutual agreement of the parties. The administrative law judge may sequester witnesses during the hearing. Nothing in this rule shall be construed to allow members of the press, news media, or any other citizens' group to attend the hearing without the written consent of the aggrieved party and the subject of the review.

a. *Appeal of proposed decision.* After issuing a proposed decision to the parties, the administrative law judge shall submit it to the director and the division. The proposed decision may be appealed by the aggrieved party. The aggrieved party may appeal the proposed decision to the director within 20 calendar days of the date on which the proposed decision was signed and mailed. When the time limit for filing falls on a holiday or weekend, the time will be extended to the next workday. The day upon which the proposed decision is signed and mailed is the first day of the 20-day period. When the aggrieved party has not appealed the proposed decision, the proposed decision shall become the final decision.

An appeal from or review of the proposed decision shall be on the basis of the record as defined in Iowa Code section 17A.12, subsection 6. The review shall be limited to issues raised prior to that time and specified by the party requesting the review. In cases where there is an appeal from a proposed decision, an opportunity shall be afforded to each party to file exceptions, present briefs, and, with the consent of the director, present oral arguments. A party wishing oral argument shall specifically request it. When granted, all parties shall be notified in advance of the time and place.

b. *Time limit.* A final decision shall be issued within 90 days from the date of request pursuant to subrule 22.5(2) "b." Should the aggrieved party or the subject of the hearing request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time not to exceed 30 days except with the approval of the department of inspections and appeals will be granted and the extra time may be added to the maximum time for the final decision.

c. *Limit of findings.* The findings of fact and conclusions of law in the proposed or final decision may be limited to contested issues of fact or policy.

22.5(5) Accessibility of hearing decisions. Summary reports of all hearing decisions shall be made available to local offices of the department and the public. The information shall be presented in a manner consistent with applicable laws and regulations on confidentiality.

22.5(6) Right of judicial review. The hearing decision shall advise the aggrieved party or the subject of the hearing of the right to judicial review by the district court. Either the division, the aggrieved party or the aggrieved party's authorized representative may apply to the Iowa district court for an order to enforce the decision. The division will apply to the district court only upon the request of the aggrieved party or the aggrieved party's authorized representative.

These rules are intended to implement Iowa Code sections 225C.4, 225C.27 and 225C.29.

[Filed 3/4/88, Notice 11/4/87—published 3/23/88, effective 5/1/88]

[Filed 3/14/89, Notice 9/21/88—published 4/5/89, effective 6/1/89]

[Filed emergency 6/15/92—published 7/8/92, effective 7/1/92]

[Filed 9/3/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]

[Filed 3/10/95, Notice 1/4/95—published 3/29/95, effective 5/3/95*]

CHAPTER 23
MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL
DISABILITIES, AND BRAIN INJURY COMMUNITY SERVICES
Rescinded IAB 5/5/99, effective 7/1/99

*Effective date of definitions of "Division" and "Persons with mental retardation" delayed 70 days by the Administrative Rules Review Committee at its meeting held April 10, 1995.