

441—76.3(249A) Time limit for decision. Applications shall be investigated by the county department of human services. A determination of approval, conditional eligibility, or denial shall be made as soon as possible, but no later than 30 days following the date of filing the application unless one or more of the following conditions exist.

76.3(1) The application is being processed for eligibility under the medically needy coverage group as defined in 441—subrule 75.1(35). Applicants for medically needy shall receive a written notice of approval, conditional eligibility, or denial as soon as possible, but no later than 45 days from the date the application was filed.

76.3(2) An application on the client's behalf for supplemental security income benefits is pending.

76.3(3) The application is pending due to completion of the requirement in 441—subrule 75.1(7).

76.3(4) The application is pending due to nonreceipt of information which is beyond the control of the client or department.

76.3(5) The application is pending due to the disability determination process performed through the department.

76.3(6) Unusual circumstances exist which prevent a decision from being made within the specified time limit. Unusual circumstances include those situations where the county office and the applicant have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit has expired or because of emergency situations such as fire, flood, or other conditions beyond the administrative control of the department.

441—76.4(249A) Notification of decision. The applicant or recipient will be notified in writing of the decision of the local office regarding the applicant's or recipient's eligibility for Medicaid. If the applicant or recipient has been determined to be ineligible an explanation of the reason will be provided.

76.4(1) The recipient shall be given a timely and adequate written notice as provided in 441—subrule 7.7(1) when any decision or action is being taken by the local office which adversely affects Medicaid eligibility or the amount of benefits.

76.4(2) Timely notice may be dispensed with but adequate notice shall be sent, no later than the effective date of action, when one or more of the conditions in 441—subrule 7.7(2) are met.

76.4(3) A written notice of decision shall be issued to the applicant the next working day following a determination of eligibility, conditional eligibility or ineligibility.

441—76.5(249A) Effective date.

76.5(1) Three-month retroactive eligibility.

a. Medical assistance benefits shall be available for all or any of the three months preceding the month in which the application is filed to persons who meet both of the following conditions:

(1) Have medical bills for covered services which were received during the three-month retroactive period.

(2) Would have been eligible for medical assistance benefits in the month services were received, if application for medical assistance had been made in that month.

b. The applicant need not be eligible in the month of application to be eligible in any of the three months prior to the month of application.

c. Retroactive medical assistance benefits shall be made available when an application has been made on behalf of a deceased person if the conditions in paragraph "a" are met.

d. Persons receiving only supplemental security income benefits who wish to make application for Medicaid benefits for three months preceding the month of application shall complete Form MA-2124-0, Supplementary Information—Medicaid Application—Retroactive Medicaid Eligibility.

e. Rescinded IAB 10/8/97, effective 12/1/97.

76.5(2) First day of month.

a. For persons approved for the family medical assistance-related programs, medical assistance benefits shall be effective on the first day of a month when eligibility was established anytime during the month.

b. For persons approved for supplemental security income, programs related to supplemental security income, or state supplementary assistance, medical assistance benefits shall be effective on the first day of a month when the individual was resource eligible as of the first moment of the first day of the month and met all other eligibility criteria at any time during the month.

c. When a request is made to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first of the month in which the request was made.

d. When a request is made to add a person to the eligible group who previously was excluded, in accordance with the provisions of rule 441—75.59(249A), assistance shall be effective no earlier than the first of the month following the month in which the request was made.

76.5(3) Care prior to approval. No payment shall be made for medical care received prior to the effective date of approval.

441—76.6(249A) Certification for services. The department of human services shall issue a Medical Assistance Eligibility Card, Form 470-1911, to persons who have been determined to be eligible for the benefits provided under the Medicaid program unless one of the following situations exists:

76.6(1) Pregnant woman. The eligible person is a pregnant woman determined presumptively eligible in accordance with 441—subrule 75.1(30). These persons shall be issued a Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580 or 470-2580(S), by the department.

76.6(2) IowaCare. A person who is enrolled in the IowaCare program shall be issued an IowaCare Medical Card, Form 470-4164.

441—76.7(249A) Reinvestigation. Reinvestigation shall be made as often as circumstances indicate but in no instance shall the period of time between reinvestigations exceed 12 months.

76.7(1) The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility within five working days from the date a written request is issued. The recipient shall give written permission for the release of information when the recipient is unable to furnish information needed to establish eligibility. Failure to supply the information or refusal to authorize the county office to secure information from other sources shall serve as a basis for cancellation of Medicaid.

76.7(2) Eligibility criteria for persons whose eligibility for Medicaid is related to the family medical assistance program shall be reviewed according to policies found in rule 441—75.52(249A).

76.7(3) Persons whose eligibility for Medicaid is related to supplemental security income shall complete Form 470-3118 or 470-3118(S), Medicaid Review, as part of the reinvestigation process when requested to do so by the county office.

76.7(4) The review for foster children or children in subsidized adoption shall be completed on Form 470-2914, Foster Care and Subsidized Adoption Medicaid Review, according to the time schedule of the family medical assistance program or supplemental security income program for disabled children, as applicable.

76.7(5) Women eligible for family planning services only shall complete Form 470-4071, Family Planning Medicaid Review, as part of the reinvestigation process. Form 470-4071 shall be issued at least 30 days before the end of the eligibility period. The woman must submit the completed review form before the end of the eligibility period to any department local office or location specified in paragraph 76.1(1)“d.” Women who fail to submit Form 470-4071 before the end of the eligibility period must reapply as directed in rule 441—76.1(249A).

441—76.8(249A) Investigation by quality control or the food stamp investigation section of the department of inspections and appeals. The recipient or applicant shall cooperate with the department when the recipient’s case is selected by quality control or the food stamp investigation section of the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to do so shall serve as a basis for cancellation of assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

441—76.9(249A) Member lock-in. In order to promote high quality health care and to prevent harmful practices such as duplication of medical services, drug abuse or overuse, and possible drug interactions, recipients that utilize medical assistance services or items at a frequency or in an amount which is considered to be overuse of services as defined in subrule 76.9(7) may be restricted (locked-in) to receive services from a designated provider(s).

76.9(1) A lock-in or restriction shall be imposed for a minimum of 24 months with longer restrictions determined on an individual basis.

76.9(2) Provider selection. The member may select the provider(s) from which services will be received. The designated providers will be identified on the department’s eligibility verification system (ELVS). Only prescriptions written or approved by the designated primary physician(s) will be reimbursed. Other providers of the restricted service will be reimbursed only under circumstances specified in subrule 76.9(3).

76.9(3) Payment will be made to provider(s) other than the designated (lock-in) provider(s) in the following instances:

a. Emergency care is required and the designated provider is not available. Emergency care is defined as care necessary to sustain life or prevent a condition which could cause physical disability.

b. The designated provider requires consultation with another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 76.9(5).

c. The designated provider refers the recipient to another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 76.9(5).

76.9(4) When the recipient fails to choose a provider(s) within 30 days of the request, the division of medical services will select the provider(s) based on previously utilized provider(s) and reasonable access for the recipient.

76.9(5) Recipients may change designated provider(s) when a change is warranted, such as when the recipient has moved, the provider no longer participates, or the provider refuses to see the patient. The worker for the recipient shall make the determination when the recipient has demonstrated that a change is warranted. Recipients may add additional providers to the original designation with approval of a health professional employed by the department for this purpose.

76.9(6) When lock-in is imposed on a recipient, timely and adequate notice shall be sent and an opportunity for a hearing given in accordance with 441—Chapter 7.

76.9(7) Overuse of services is defined as receipt of treatments, drugs, medical supplies or other Medicaid benefits from one or multiple providers of service in an amount, duration, or scope in excess of that which would reasonably be expected to result in a medical or health benefit to the patient.

a. Determination of overuse of service shall be based on utilization data generated by the Surveillance and Utilization Review Subsystem of the Medicaid Management Information System. The system employs an exception reporting technique to identify the recipients most likely to be program overutilizers by reporting cases in which the utilization exceeds the statistical average.

b. In addition to referrals from the Surveillance and Utilization Review Subsystem described in paragraph “*a.*” referrals for utilization review shall be made when utilization data generated by the Medicaid Management Information System reflects that utilization of Medicaid recipient outpatient visits to physicians, advanced registered nurse practitioners, federally qualified health centers, rural health centers, other clinics, and emergency rooms exceeds 24 visits in any 12-month period. This utilization review shall not apply to Medicaid recipients who are enrolled in the MediPASS program or a health maintenance organization, or who are children under 21 years of age or residents of a nursing facility. For the purposes of this paragraph, the term “physician” does not include a psychiatrist.

c. An investigation process of Medicaid recipients determined in paragraphs “*a.*” or “*b.*” to be subject to a review of overutilization shall be conducted to determine if actual overutilization exists by verifying that the information reported by the computer system is valid and is also unusual based on professional medical judgment. Medical judgments shall be made by physicians, pharmacists, nurses and other health professionals either employed by, under contract to, or consultants for the department. These medical judgments shall be made by the health professionals on the basis of the body of knowledge each has acquired which meets the standards necessary for licensure or certification under the Iowa licensing statutes for the particular health discipline.

441—76.10(249A) Applicant and recipient responsibilities.

76.10(1) An applicant or recipient eligible for Medicaid because of income and resource policies related to the supplemental security income (SSI) program, except for actual recipients of SSI, shall timely report any changes in the following circumstances to the department:

- a.* Income from all sources.
- b.* Resources.
- c.* Membership of the household.
- d.* Recovery from disability.
- e.* Mailing or living address.
- f.* Health insurance premiums or coverage.
- g.* Medicare premiums or coverage.
- h.* Receipt of social security number.
- i.* Gross income of the community spouse or dependent children, parents or siblings of the institutionalized or community spouse living with a community spouse when a diversion is made to the community spouse or family. (See definitions in rule 441—75.25(249A).)
- j.* Income and resources of parents and spouses when income and resources are used in determining Medicaid eligibility, client participation or spenddown.
- k.* Residence in a medical institution for other than respite care for more than 15 days for home and community-based recipients.

76.10(2) An applicant or recipient eligible for Medicaid because of the family medical assistance program (FMAP) income and resource policies shall report changes in accordance with 441—paragraphs 75.52(4) “*c.*” through “*e.*” After assistance has been approved, changes occurring during the month are effective the first day of the next calendar month, provided the notification requirements at rule 441—76.4(249A) can be met.

76.10(3) A report shall be considered timely when received in the local office within ten days from the date the change is known to the recipient or authorized representative and within five days from the date the change is known to the applicant or authorized representative.

76.10(4) When a change is not timely reported, any incorrect program expenditures shall be subject to recovery from the recipient.

76.10(5) Effective date of change. When a request is made to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first day of the month in which the request was made unless otherwise specified at rule 441—76.5(249A). After assistance has been approved, changes reported during the month shall be effective the first day of the next calendar month, unless:

- a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1).
- b. The certification has expired for persons receiving assistance under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).
- c. Rescinded IAB 10/31/01, effective 1/1/02.

441—76.11(249A) Automatic redetermination. Whenever a Medicaid recipient no longer meets the eligibility requirements of the current coverage group, an automatic redetermination of eligibility for other Medicaid coverage groups shall be made. If the reason for ineligibility under the initial coverage group pertained to a condition of eligibility which applies to all coverage groups, such as failure to cooperate, no further redetermination shall be required. When the redetermination is completed, the recipient shall be notified of the decision in writing. The redetermination process shall be completed as follows:

76.11(1) Information received by the tenth of the month. If information that creates ineligibility under the current coverage group is received in the county office by the tenth of the month, the redetermination process shall be completed by the end of that month unless the provisions of subrule 76.11(3) apply. The effective date of cancellation for the current coverage group shall be the first day of the month following the month the information is received.

76.11(2) Information received after the tenth of the month. If information that creates ineligibility under the current coverage group is received in the county office after the tenth of the month, the redetermination process shall be completed by the end of the following month unless the provisions of subrule 76.11(3) apply. The effective date of cancellation for the current coverage group shall be the first day of the second month following the month the information is received.

76.11(3) Change in federal law. If a change in federal law affects the eligibility of large numbers of Medicaid recipients and the Secretary of Health and Human Services has extended the redetermination time limits, in accordance with 42 CFR Sec. 435.1003 as amended to January 13, 1997, the redetermination process shall be completed within the extended time limit and the effective date of cancellation for the current coverage group shall be no later than the first day of the month following the month in which the extended time limit expires.

76.11(4) Referral for HAWK-I program. When the only coverage group under which a child will qualify for Medicaid is the medically needy program with a spenddown as provided in 441—subrule 75.1(35), a referral to the Hawk-I program shall be made in accordance with 441—subrule 86.4(4) as part of the automatic redetermination process when it appears the child is otherwise eligible.

441—76.12(249A) Recovery.

76.12(1) Definitions.

“*Administrative overpayment*” means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

“Agency error” means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the county office.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

“Client” means a current or former applicant or recipient of Medicaid.

“Client error” means medical assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.10(249A).

“Department” means the department of human services.

76.12(2) Amount subject to recovery. The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client. The incorrect expenditures may result from client or agency error, or administrative overpayment.

76.12(3) Notification. All clients shall be promptly notified when it is determined that assistance was incorrectly expended. Notification shall include for whom assistance was paid; the time period during which assistance was incorrectly paid; the amount of assistance subject to recovery; and the reason for the incorrect expenditure.

76.12(4) Source of recovery. Recovery shall be made from the client or from parents of children under age 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

76.12(5) Repayment. The repayment of incorrectly expended Medicaid funds shall be made to the department.

However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an intermediate care facility for the mentally retarded, or mental health institute enrolled as an inpatient psychiatric facility may be made by the client to the facility. The department shall then recover the funds from the facility through a vendor adjustment.

76.12(6) Appeals. The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

76.12(7) Estate recovery. Medical assistance is subject to recovery from the estate of a Medicaid member, the estate of the member’s surviving spouse, or the estate of the member’s surviving child as provided in this subrule. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.5(2)“d.” The classification of the debt is defined at Iowa Code section 633.425(7).

a. Definition of estate. For the purpose of this subrule, the “estate” of a Medicaid member, a surviving spouse, or a surviving child shall include all real property, personal property, or any other asset in which the member, spouse, or surviving child had any legal title or interest at the time of death, or at the time a child reaches the age of 21, to the extent of that interest. An estate includes, but is not limited to, interest in jointly held property, retained life estates, and interests in trusts.

b. Debt due for member 55 years of age or older. Receipt of medical assistance when a member is 55 years of age or older creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994.

c. Debt due for member under the age of 55 in a medical institution.

(1) Receipt of medical assistance creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994, when the member:

1. Is under the age of 55; and
2. Is a resident of a nursing facility, an intermediate care facility for the mentally retarded, or a mental health institute; and
3. Cannot reasonably be expected to be discharged and return home.

(2) If the member is discharged from the facility and returns home before staying six consecutive months, no debt will be assessed for medical assistance payments made on the member's behalf for the time in the institution.

(3) If the member remains in the facility for six consecutive months or longer or dies before staying six consecutive months, the department shall presume that the member cannot or could not reasonably be expected to be discharged and return home and a debt due shall be established. The department shall notify the member of the presumption and the establishment of a debt due.

d. Request for a determination of ability to return home. Upon receipt of a notice of the establishment of a debt due based on the presumption that the member cannot return home, the member or someone acting on the member's behalf may request that the department determine whether the member can or could reasonably have been expected to return home.

(1) When a written request is made within 30 days of the notice that a debt due will be established, no debt due shall be established until the department has made a decision on the member's ability to return home. If the determination is that there is or was no ability to return home, a debt due shall be established for all medical assistance as of the date of entry into the institution.

(2) When a written request is made more than 30 days after the notice that a debt due will be established, a debt due will be established for medical assistance provided before the request even if the determination is that the member can or could have returned home.

e. Determination of ability to return home. When the member or someone acting on the member's behalf requests that the department determine if the member can or could have returned home, the determination shall be made by the Iowa Medicaid enterprise (IME) medical services unit.

(1) The IME medical services unit cannot make a determination until the member has been in an institution at least six months or after the death of the member, whichever is earlier. The IME medical services unit will notify the member or the member's representative and the department of the determination.

(2) If the determination is that the member can or could return home, the IME medical services unit shall establish the date the return is expected or could have been expected to occur.

(3) If the determination is that the member cannot or could not return home, a debt due will be established unless the member or the member's representative asks for a reconsideration of the decision. The IME medical services unit will notify the member or the member's representative and the department of the reconsideration decision.

(4) If the reconsideration decision is that the member cannot or could not return home, a debt due will be established against the member unless the decision is appealed pursuant to 441—Chapter 7. The appeal decision will determine the final outcome for the establishment of a debt due and the period when the debt is established.

f. Debt collection.

(1) A nursing facility participating in the medical assistance program shall notify the IME revenue collection unit upon the death of a member residing in the facility by submitting Form 470-4331, Estate Recovery Program Nursing Home Referral.

(2) Upon receipt of Form 470-4331 or a report of a member's death through other means, the IME revenue collection unit will use Form 470-4339, Medical Assistance Debt Response, to request a statement of the member's assets from the member's personal representative. The representative shall sign and return Form 470-4339 indicating whether assets remain and, if so, what the assets are and what higher priority expenses exist. EXCEPTION: The procedures in this subparagraph are not necessary when a probate estate has been opened, because probate procedures provide for an inventory, an accounting, and a final report of the estate.

g. Waiving the collection of the debt.

(1) The department shall waive the collection of the debt created under this subrule from the estate of the member to the extent that collection of the debt would result in either of the following:

1. Reduction in the amount received from the member's estate by a surviving spouse or by a surviving child who is under the age of 21, blind, or permanently and totally disabled at the time of the member's death.

2. Creation of an undue hardship for the person seeking a waiver of estate recovery. Undue hardship exists when total household income is less than 200 percent of the poverty level for a household of the same size, total household resources do not exceed \$10,000, and application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered. For this purpose, "income" and "resources" shall be defined as under the family medical assistance program.

(2) To apply for a waiver of estate recovery due to undue hardship, the person shall provide a written statement and supporting verification to the department within 30 days of the notice of estate recovery pursuant to Iowa Code section 633.425.

(3) The department shall determine whether undue hardship exists on a case-by-case basis. Appeals of adverse decisions regarding an undue hardship determination may be filed in accordance with 441—Chapter 7.

h. Amount waived. If collection of all or part of a debt is waived pursuant to paragraph "g," to the extent that the person received the member's estate, the amount waived shall be a debt due from the following:

(1) The estate of the member's surviving spouse, upon the death of the spouse.

(2) The estate of the member's surviving child who is blind or has a disability, upon the death of the child.

(3) A surviving child who was under 21 years of age at the time of the member's death, when the child reaches the age of 21.

(4) The estate of a surviving child who was under 21 years of age at the time of the member's death, if the child dies before reaching the age of 21.

(5) The hardship waiver recipient, when the hardship no longer exists.

(6) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient.

i. Impact of asset disregard on debt due. The estate of a member who is eligible for medical assistance under 441—subrule 75.5(5) shall not be subject to a claim for medical assistance paid on the member's behalf up to the amount of the assets disregarded by asset disregard. Medical assistance paid on behalf of the member before these conditions shall be recovered from the estate, regardless of the member's having purchased precertified or approved insurance.

j. Interest on debt. Interest shall accrue on a debt due under this subrule at the rate provided pursuant to Iowa Code section 535.3, beginning six months after the death of a Medicaid member, the surviving spouse, or the surviving child, or upon the child's reaching the age of 21.

k. Reimbursement to county. If a county reimburses the department for medical assistance provided under this subrule and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in Iowa Code Supplement chapter 633C, the department shall reimburse the county on a proportionate basis.

441—76.13(249A) Health insurance data match program.

76.13(1) Agreement required. Any insurance carrier providing a health benefit plan in Iowa subject to regulation by the Iowa commissioner of insurance shall enter into and maintain an agreement with the department to provide the data necessary to enable the department to match insureds against medical assistance recipients and identify third-party payers for medical assistance recipients.

a. A carrier that is providing a health insurance benefit plan in Iowa as of July 1, 2004, shall enter into an agreement in accordance with subrule 76.13(2) by August 1, 2004, to provide data as described in paragraph 76.13(1) "b" beginning September 1, 2004.

b. The data provided shall include the data necessary to enable the department to match insureds and identify third-party payers for the two-year period before the provision of the data.

76.13(2) Agreement form. The agreement required by subrule 76.13(1) shall be in substantially the following form:

DATA USE AGREEMENT

(For use by Iowa Department of Human Services receiving insurance data matching files)
Agreement for Use of Insurance Carrier Data Containing Individual-Specific Information

Pursuant to 42 U.S.C. § 1396a(a)(25)(A) and 42 CFR 433.138 and 433.139, the Iowa Department of Human Services is required to take all reasonable measures to ascertain the legal liability of third parties to pay for care and services available under the Iowa Medical Assistance program administered by the Department pursuant to Iowa Code chapter 249A (also known as Medicaid or Title XIX). Where third-party liability exists, the Department must either reject claims for payment and return them to the provider of care and services for a determination of the amount of third-party liability or must seek reimbursement from the third party after payment of claims.

Pursuant to 2004 Iowa Acts, Senate File 2298, sections 119(1) "c" and 153, the Department of Human Services and insurance carriers providing health benefit plans in Iowa are required to enter into a health insurance data match program to match insureds against Medical Assistance recipients for purposes of identifying third-party payers for Medical Assistance recipients.

To provide the Department of Human Services with the information necessary to identify third-party payers by matching Iowa Medical Assistance recipients against individuals insured by _____, and to ensure the integrity, security, and confidentiality of the information provided, the Department of Human Services and _____ agree to the following terms and conditions:

1. This Agreement is by and between _____, hereinafter termed "Carrier," and the Iowa Department of Human Services, hereinafter termed "User."

2. This Agreement addresses the conditions under which the Carrier will disclose and the User will obtain and use the Carrier data files specified in Paragraph 8. The terms of this Agreement can be changed only by a written modification to this Agreement or by the parties adopting a new agreement. The parties agree further that communication regarding this Agreement shall be through the Iowa Department of Human Services Custodian identified in Paragraph 4 and the Carrier Point of Contact identified in Paragraph 5 or that individual's signatory to this Agreement as shown in Paragraph 16, or those individuals' successors.

3. The parties mutually agree that the Carrier retains all ownership rights to the data file(s) referred to in this Agreement, and that the User does not obtain any right, title, or ownership interest in the data files furnished by the Carrier.

4. The parties mutually agree that the following named individual is designated as “Custodian” of the files on behalf of the User and shall be responsible for the observance of all conditions of use and for establishment and maintenance of security arrangements as specified in this Agreement to prevent unauthorized use. The User agrees to notify the Carrier within 15 business days of any change of custodianship.

Iowa Department of Human Services Custodian

(Name of Custodian)

(State Medicaid Agency)

(Street Address)

(City/State/ZIP Code)

(Telephone number including area code)

(E-mail address, if applicable)

5. The parties mutually agree that the following named individual will be designated as the Carrier “point-of-contact” for the Agreement.

(Name of Contact)

(Title)

(Street Address)

(City/State/ZIP Code)

(Telephone number including area code and E-mail address, if applicable)

6. The Carrier agrees to provide a full data match file beginning September 1, 2004, and a full data match or a submission of changes on a monthly basis thereafter. If the Carrier chooses to submit the changes on a monthly basis, the Carrier shall provide a full replacement data match file on a quarterly basis. The data file will include data for the most recent 24-month period. The content of the data file shall be limited to Iowa resident insureds as defined by the Iowa Medical Assistance program and shall reveal, to the extent that Carrier’s records include the information, the data described in Paragraph 8. The Carrier will transmit the data file to User in a medium and by a date as mutually agreed upon. The data file will contain an identifier indicating “full file” or “replacement file.”

7. The User represents, and in furnishing the data files specified in Paragraph 8 the Carrier relies upon such representation, that such data files will be used solely for the purpose of matching insureds against Medical Assistance recipients and identifying third-party payers for Medical Assistance recipients, as required or permitted by state or federal law. The User represents further that the User shall not disclose, release, reveal, show, sell, rent, lease, loan, or otherwise grant access to the data covered by this Agreement to any third party except as required to match insureds against Medical Assistance recipients and identify third-party payers for Medical Assistance recipients, including the identification of third-party payers to providers of Medicaid services for billing purposes. The parties further agree that they shall adhere to the privacy obligations as set forth in Exhibit B, attached hereto and incorporated by reference. The User agrees that, within the User organization, access to the data covered by this Agreement shall be limited to the minimum number of individuals necessary to achieve the purpose stated in this paragraph and to those individuals on a need-to-know basis only.

8. The following Carrier data files are covered under this Agreement:

- Transaction code sets, previously established pursuant to prior agreement between User and Carrier, in place upon execution of this Agreement, if applicable, or
- Standard transaction code sets as defined in Exhibit A: Data Element List, attached hereto and incorporated by reference.

9. The parties mutually agree that the User will retain the files described in Paragraph 8 for 30 days. The User will destroy the files within 30 days of receipt.

10. The User agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it. The User acknowledges that the use of unsecured telecommunications, including the Internet, to transmit individually identifiable or deducible information derived from the files specified in Paragraph 8 is prohibited. Further, the User agrees that the data must not be physically moved or transmitted in any way from the Medicaid Management Information System (MMIS) without written approval from the Carrier.

11. The parties mutually agree that the following specified attachments are part of this Agreement:

- Exhibit A: Data Element List
- Exhibit B: Privacy Obligations

12. The User agrees that, in the event the Carrier determines or has a reasonable belief that the User has made or may have made disclosure of the aforesaid files that is not authorized by this Agreement or other written authorization from the appropriate System Manager or the person designated in Paragraph 16 of this Agreement, the Carrier in its sole discretion may require the User to:

- Promptly investigate and report to the Carrier the User's determinations regarding any alleged or actual unauthorized disclosure;
- Promptly resolve any problems identified by the investigation;
- If requested by the Carrier, submit a formal response to an allegation of unauthorized disclosure;
- If requested by the Carrier, submit a corrective action plan with steps designed to prevent any future unauthorized disclosures; and
- If requested by the Carrier, return data files to the Carrier.

The User understands that, as a result of the Carrier's determination or reasonable belief that unauthorized disclosures have taken place, the Carrier may refuse to release further data to the User for a period of time to be determined by the Carrier.

13. By signing this Agreement, the User agrees to abide by all provisions set out in this Agreement for protection of the data files specified in Paragraph 8.

14. On behalf of the User, the undersigned individual hereby attests that the individual is authorized to enter into this Agreement and agrees to all the terms specified herein.

(Name and Title of Individual - Typed or Printed)

(State Medicaid Agency)

(Street Address)

(City/State/ZIP Code)

(Telephone number, including area code and E-mail address, if applicable)

(Signature) (Date)

15. The Custodian, as named in Paragraph 4, hereby acknowledges appointment as Custodian of the aforesaid files on behalf of the User, and agrees as an employee of the User to comply with all of the provisions of this Agreement on behalf of the User.

Iowa Department of Human Services

(Typed or Printed Name of Custodian)

(Signature)

(Date)

16. On behalf of the Carrier, the undersigned individual hereby attests that the individual is authorized to enter into this Agreement and agrees to all the terms specified herein.

(Typed or Printed Name and Title of _____ Representative)

(Signature) (Date)

17. The Carrier and the User will enter into a trading partner agreement as required by HIPAA.

Exhibit A: Data Element List

The first three fields are not maintained on the TPL Resource file. This data is pulled from the Recipient Eligibility file. Therefore, the field types and lengths represent how they are stored on the Eligibility file, not the TPL Resource file. Field length information as supplied by the Carrier is acceptable.

- Dependent Social Security Number (alphanumeric, 9 characters, if available)
- Dependent Name:
 1. First (alphanumeric)
 2. Last (alphanumeric)
 3. Middle (alphanumeric)
- Dependent Date of Birth (This field is 8 characters long.)
- Member Identification Number
- Carrier Code (alphanumeric, 5 characters, as assigned by User—required only once per submission)
- Coverage Type (alphanumeric)
 - 06 Medical
 - 12 Medicare supplement
 - 15 Dental
 - 19 Pharmacy
 - 20 Vision
- Policy Holder Social Security Number (alphanumeric, 9 characters, if available to Carrier)
- Policy Holder Name (alphanumeric, 30 characters)
- Group Number (alphanumeric, 30 characters, optional)
- Group/Employer Name and Address (alphanumeric, 32 characters, optional)
- Coverage Begin Date (YYYYMMDD, stored as century date)
- Coverage End Date (YYYYMMDD, stored as century date)
- Dependent Relationship to Member/Insured (alphanumeric, as available to Carrier)
 - 1 Self
 - 3 Other
 - 4 Parent
 - 5 Spouse
 - 8 Grandparent
 - 9 Dependent

NOTE: All alphanumeric fields are left-justified and blank-filled. All numeric fields are right-justified and zero-filled.

Exhibit B: Privacy Obligations

The parties agree that the provisions of Exhibit B (“Exhibit”), in addition to the confidentiality provisions set forth in the main body of the Agreement to which this Exhibit is attached, shall apply to all information that constitutes PHI, as defined below.

A. Definitions

For purposes of this Exhibit:

“*Agreement*” means the Data Use Agreement under which User will have access to PHI and to which this Exhibit is attached and herein incorporated by reference.

“*Carrier*” means [_____].

“*Designated Record Set*” means any item, collection, or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for Carrier.

“*Individual*” means the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with the Privacy Rule.

“*PHI*” means all protected health information, as that term is defined in 45 CFR 160.103, regardless of form, that is created or received by User from or on behalf of Carrier.

“*Privacy Rule*” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

“*User*” means the Iowa Department of Human Services.

Terms used but not otherwise defined in this Exhibit shall have the same meaning as in the Privacy Rule.

B. Obligations and Activities of User

1. User agrees not to use or disclose PHI other than as permitted or required by this Agreement or by law.

2. User agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as permitted or required by this Agreement or by law.

3. User agrees to mitigate, to the extent practicable, any harmful effect that is known to User of a use or disclosure of PHI by User in violation of the requirements of this Agreement.

4. User agrees to promptly report to Carrier any use or disclosure of PHI not permitted or required by this Agreement or by law of which the User becomes aware.

5. User agrees to ensure that any agent, including a subcontractor, to whom User provides PHI, agrees to the same restrictions and conditions that apply through this Agreement to User with respect to such information.

6. With respect to PHI contained in a Designated Record Set, User agrees to provide, within seven days after a request by Carrier, access to such PHI to Carrier or, as directed by Carrier, to an individual in order to meet the requirements of the Privacy Rule.

7. With respect to PHI contained in a Designated Record Set, User agrees to promptly make any amendment to such PHI that Carrier directs.

8. User agrees to make all PHI and all internal practices, books and records, including policies and procedures relating to the use and disclosure of PHI, available to Carrier or to the Secretary of the Department of Health and Human Services (“Secretary”), upon the request or at the direction of Carrier or the Secretary, for purposes of the Secretary’s determination of Carrier’s compliance with the Privacy Rule.

9. User agrees to document disclosures of PHI and information related to such disclosures to the extent required for Carrier to respond to a request by an individual for an accounting of disclosures of PHI for purposes other than treatment, payment, or health care operations, pursuant to 45 CFR 164.528, and to provide the information contained in such documentation to Carrier or to the individual requesting the accounting within seven days after a request for such information.

C. Permitted Uses and Disclosures by User

1. Except as otherwise limited in this Agreement, User may disclose PHI to perform functions, activities or services for, or on behalf of, Carrier as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Carrier or the minimum necessary policies and procedures of Carrier.

2. Except as otherwise limited in this Agreement, User may use PHI for its proper management and administration or to carry out its legal responsibilities, provided that, in the case of any disclosures for such purposes that are not required by law, User shall obtain reasonable assurances from the person to whom the disclosure is made that the disclosed PHI will remain confidential and used and disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person agrees to notify User of any instances of which the person becomes aware in which the confidentiality of PHI has been breached.

3. User may use PHI to provide data aggregation services to Carrier as permitted by the Privacy Rule.

D. Obligations of Carrier

1. Carrier shall notify User of any limitations in Carrier's notice of privacy practices to the extent that such limitation may affect User's use or disclosure of PHI.

2. Carrier shall notify User of any changes in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such changes may affect User's use or disclosure of PHI.

3. Carrier shall notify User of any restriction to the use or disclosure of PHI that Carrier has agreed to for an individual, to the extent that such restriction may affect User's use or disclosure of PHI.

E. Remedy for Breach

Notwithstanding any provision of this Agreement to the contrary, upon Carrier's knowledge of a material breach by User of any obligation set forth in this Exhibit, Carrier shall provide an opportunity for User to cure the breach or end the violation and shall report the violation to the Secretary of the Department of Health and Human Services if the cure is either not feasible or has not occurred within the time specified by Carrier.

F. Miscellaneous

1. Regulatory references. A reference in this Exhibit to the Privacy Rule or a section in the Privacy Rule means that rule or section as amended from time to time.

2. Compliance with law. In connection with its performance under this Agreement, User shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about individuals.

3. Survival. The respective rights and obligations of User and Carrier under the provisions of this Exhibit shall survive the termination of this Agreement.

4. Interpretation. Any ambiguity in the provisions of this Agreement shall be resolved to permit Carrier to comply with the Privacy Rule.

These rules are intended to implement Iowa Code sections 249.3, 249.4, 249A.4 and 249A.5.

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