

**MINUTES OF THE NOVEMBER 2002 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

**Date of meeting:** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, November 12, 2002, in Room 116, State Capitol, Des Moines, Iowa; and a special meeting was held by telephone on November 19, 2002.

**Convened** Chair Rittmer convened the meeting November 12, 2002, at 9:02 a.m.

**Members present:** Senator Sheldon Rittmer, Chair, and Representative Clyde Bradley, Vice Chair; Senators Jeff Angelo, Patricia Harper, John P. Kibbie, and Paul McKinley; Representatives Marcella Frevert, Mark Kuhn and Janet Metcalf. Representative Danny Carroll was not present.

**Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Bruce Carr, Assistant; caucus staff and other interested persons.

**CITY FINANCE COMMITTEE** Stephen Ford represented the committee.

**ARC 2083B** No action on amendments to definitions of "detailed budget" and "program" to comply with GASB-34.

**IOWA FINANCE AUTHORITY** Loyd Ogle and Donna Davis represented the authority.

**ARC 2081B** No questions on establishment of the multifamily preservation loan program in ch 3.

**ARC 2080B** No questions on amendments to remove the multifamily preservation loan program from the housing assistance fund rules in ch 15.

**PERSONNEL DEPARTMENT** Gregg Schochenmaier represented the department.

**ARC 2068B** Amendments to ch 21 implement SF 497. Harper suggested that the system's internal review in the appeal process be clarified. Bradley questioned the emergency filing. Metcalf asked that the committee's disappointment in the use of emergency provisions be conveyed to the department.

**PROFESSIONAL LICENSURE DIVISION** Marge Bledsoe represented the division.

**ARC 2052B** No action on subrule 31.7(3) which postpones the date by which supervision of a student graduating from a mental health counselor program must be provided by a licensed mental health counselor. Bledsoe reported that there is a shortage of licensees in rural areas.

**ARC 2053B** No questions on ch 40 of the chiropractic rules.

**ARC 2065B** No questions on proposed amendments relating to podiatry.

**ARC 2055B** No questions on ch 260 concerning respiratory care practitioners.

**ARC 2054B** Bledsoe identified two provisions in ch 265 which involve scope of practice as it relates to administration of IV therapy and polysomnography testing. Royce indicated that the board of nursing has expressed concerns and added that the meaning of supervision is not clear. Kibbie stated that the rules provide flexibility to county hospitals facing personnel shortages. Royce agreed to seek additional input from the board of nursing, the hospital association, and the medical examiners board.

**Motion to refer** Metcalf moved a referral to the general assembly.

**Motion carried** The motion carried. Rules 265.2 and 265.3 were referred to the general assembly.

**ARC 2056B** No action on rules governing athletic trainers. The physical therapy association has expressed concerns outside the scope of this rule making which will be taken into consideration when the rules relating to practice are reviewed.

**REVENUE AND FINANCE DEPARTMENT** David Casey represented the department.

**ARC 2079B** No questions on amendments relating to income tax.

**ARC 2078B** No questions regarding transfer of investment tax credits to members of a cooperative. Metcalf raised a question about the change from monthly sales tax filing to semimonthly filing for retailers. Casey explained the rationale and indicated that affected parties were contacted prior to publication of the notice. The change encourages electronic funds transfer and is expected to result in savings. Metcalf requested the fact sheet prepared by the department.

**SECRETARY OF STATE** Rob Berntsen represented the office of the secretary of state.

**ARC 2067B** No action on amendments to ch 22 to rescind rules relating to punch card voting.

**TRANSPORTATION DEPARTMENT** Julie Fitzgerald, David Widick, and Stuart Anderson represented the department.

**ARC 2050B** No action on proposed 4.1 to 4.10, public records and fair information practices.

**ARC 2063B** No questions on ch 112, primary road access control.

**ARC 2051B** No action on amendments to ch 163, RISE program.

- NATURAL RESOURCE COMMISSION** Jon Tack, John Phoenix, and Janet Ott represented the commission.
- ARC 2077B Proposed amendments to chs 20, 38, 46, 47, and 50 relate to titling and registration of boats, all-terrain vehicles and snowmobiles. Metcalf asked that the snowmobile association be notified of the proposed changes.
- ARC 2076B No questions on amendments to ch 61 regarding Union Grove State Park.
- ENVIRONMENTAL PROTECTION COMMISSION** Wayne Ferrand, Jon Tack, and Robin Puisner represented the commission. Jim West of the Iowa Grocery Industry Association was also present.
- ARC 2048B No action on amendments relating to wastewater treatment and disposal. Ferrand pointed out a provision in 64.13(2)"b" that will be changed.
- ARC 2062B No questions on updating references to federal effluent and pretreatment standards.
- ARC 2049B Tack reported that consensus with affected parties has been reached and amendments to ch 107 will be filed emergency after notice so that the beverage container deposit rules can be effective prior to the start of the legislative session. West confirmed the support of the Iowa Grocery Industry Association.
- ARC 1989B Puisner reported that the commission received comments suggesting that the county resolution be on an annual basis instead of the proposed biennial period and expressing concern about counties having discretion in their application of the matrix. Members of the committee were in agreement that counties electing to use the matrix should apply it in all cases, and Kuhn noted that consideration of a county's failure to apply the matrix as a rescission of the resolution violates equal protection considerations. Additional comments pertained to floodplains, the department's authority to deny permits, the point at which construction begins, and concern that plans are no longer approved by professional engineers.
- Committee business** Kibbie moved approval of the minutes of the October 2002 meeting. Meeting dates were set for December 10 and 11, 2002, and January 7, 2003. Metcalf requested that a full report of waivers be scheduled.
- HUMAN SERVICES DEPARTMENT** Mary Ellen Imlau, Nancy Freudenberg, Ann Marie Brick, and Sue Stairs represented the department. Other interested parties included Howard County Supervisor Mary Jo Wilhelm; Lynn Ferrell of Polk County Health Services; Deb Westvold of the Iowa State Association of Counties; case management recipients Joe Rush and Steve Andrews; Representative Dave Heaton; Chris Christensen and Rob Shaffner of Broadlawns Medical Center; and Craig Syata of the Iowa Association of Community Providers.
- ARC 2070B No action on proposed amendments to ch 41 regarding assistance for battered aliens.
- ARC 2071B Amendments to ch 65 pertain to food stamp eligibility for those who voluntarily quit employment. Members voiced concern that the amendments do not encourage people to stay employed.
- ARC 2073B No questions on 75.1(36) and 75.1(37).
- ARC 2072B No questions on proposed amendments to ch 78 relating to durable medical equipment and supplies.
- ARC 2060B Freudenberg distributed a fact sheet to clarify rules which enable Medicaid-eligible clients to access necessary and appropriate targeted case management services. Targeted case management serves persons with mental retardation, chronic mental illness, or developmental disabilities. Proposed ch 90 is intended to provide a process for authorization for services, termination of services, and appeals. The department indicated that federal dollars would be at risk without such rules in place. Wilhelm questioned the need for the rules and expressed concern about prior authorization for persons in crisis. Ferrell distributed written comments, questioned the need for the rules and the basis for an emergency filing, and voiced a fear that there would be a cost-shift to the counties. Ferrell asserted that the federal government does not require prior authorization and reported that only four states currently require prior authorization. Rush and Andrews, recipients of targeted case management services, told of their need for the services. Representative Heaton suggested that this is a policy issue that should be considered by the legislature. Shaffner provided information to illustrate the value of case management services. Members urged the department to continue to communicate with counties to reduce their anxieties about the rules. Freudenberg emphasized that the purpose of the rules is to ensure that Iowa's targeted case management services program can withstand an audit by the Inspector General's Office.
- ARC 2074B No questions on amendments to ch 83 regarding applications for HCBS ill and handicapped and mental retardation waivers.
- ARC 2059B No action on proposed amendments to align substance abuse services under the Iowa plan for behavioral health with rules of the department of public health.

## Human Services Department(continued)

ARC 2085B Amendments to ch 110 generated much response from the public, particularly regarding space requirements and numbers of children. These rules will reduce to three the current seven categories of care provided in the home. Under SF 2205, any person caring for more than five children at the same time must be registered with the department. DHS will be providing training for staff and providers.

Motion to delay Expressing concern that the rules would have an unintended effect on grandparents, Bradley moved a 70-day delay.

Motion failed Harper and Angelo explained the legislative history and offered assurance that the legislation was intended to cover all regular providers of child care. These rules are based on the pilot program, and provisions relating to grandparents are the same as those in the current rules.

ARC 2075B The motion to delay did not carry.

ARC 2069B No questions on amendments to ch 113 regarding variances for foster family homes.

ARC 1839B No questions on proposed rescission of the 4.3 percent rate cut for services under the state payment program.

ARC 1840B Amendments relating to offset of debts owed the department are under a 70-day delay. Freudenberg reported that agreement has been reached on some of the provisions, but disagreement regarding time frames remains. No further action was taken.

Special review Subparagraph 79.1(15)"d"(4). regarding provider reimbursements is under a 70-day delay. The department has not resolved differences with HCBS providers. The committee agreed to convene a telephonic meeting to determine whether to impose a session delay on the provision and schedule further review at the December meeting.

HF 2416 required the department to adopt emergency rules regarding supported community living units. The bill also struck from the Code language allowing five-bed facilities. Syata agreed that four was maximum number of persons to be served in an HCBS waiver home, but indicated that the department could make an exception to policy to allow five. The department does not believe it has the authority to make an exception to policy under this legislation. The department indicated that an emergency rule is scheduled to be presented to the council on November 13. Both the department and the Iowa Association of Community Providers agreed that the committee should delay the rule if one is adopted. The committee will have the opportunity to impose a delay at the December meeting.

Adjourned The meeting was adjourned November 12, 2002, at 3:30 p.m.

Convened 11/19/02 Senator Rittmer convened a meeting by telephone on November 19, 2002, at 8:35 a.m.

Members present: Senator Sheldon Rittmer, Chair, and Representative Clyde Bradley, Vice Chair; Senators Jeff Angelo, Patricia Harper, and John P. Kibbie; Representatives Danny Carroll, Marcella Frevert and Janet Metcalf. Senator Paul McKinley and Representative Mark Kuhn were not present.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Nancy Freudenberg, Sue Stairs, and Cathy Anderson represented DHS; Sue Lerdal represented the legislative fiscal bureau; and Craig Syata represented the Iowa Association of Community Providers.

Special review Subparagraph 79.1(15)"d"(4) is under a 70-day delay. Freudenberg reported that the department will present a compromise amendment at the December meeting.

As floor leader of HF 2416, Carroll emphasized that the intent of the legislature was that the department use the employment cost index, not the CPI or the lower of the two, as the basis for determining the annual adjustment of the HCBS provider reimbursement rate. Syata concurred with Carroll's representation of the intent of the bill.

Motion to delay Carroll moved a session delay on 79.1(15)"d"(4).

Motion carried The roll was called. The eight members present supported the motion. Subparagraph 79.1(15)"d"(4) was delayed until adjournment of the 2003 Session of the General Assembly. Further review will take place at the December 10, 2002, ARRC meeting.


Carroll asked to be involved in rule makings under HF 2416.


Adjourned The meeting was adjourned at 8:46 a.m.

Respectfully submitted,

  
Kathleen K. Bates

APPROVED:

  
Chair Sheldon Rittmer

  
Vice Chair Clyde Bradley