

TITLE XV
INDIVIDUAL AND FAMILY SUPPORT AND PROTECTIVE SERVICES

CHAPTER 170
 CHILD CARE SERVICES

[Prior to 7/1/83, Social Services[770] Ch 132]
 [Previously appeared as Ch 132—renumbered IAB 2/29/84]
 [Prior to 2/11/87, Human Services[498]]

PREAMBLE

The intent of this chapter is to establish requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training; or employed or looking for employment; or for a limited period of time, absent due to hospitalization, physical or mental illness, or death; or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered group child care home, a registered family child care home, the home of a relative, the child's own home, a nonregistered family child care home, or in a facility exempt from licensing or registration.

441—170.1(234) Definitions.

“Child care” means a service that provides child care in the absence of parents for a portion of the day, but less than 24 hours. Child care supplements parental care by providing care and protection for children who need care in or outside their homes for part of the day. Child care provides experiences for each child's social, emotional, intellectual, and physical development. Child care may involve comprehensive child development care or it may include special services for a child with special needs. Components of this service shall include supervision, food services, program and activities, and may include transportation.

“Child with protective needs” means a child who has a case plan that identifies protective child care as a required service and who is a member of a family with one of the following:

1. A confirmed case of child abuse.
2. Episodes of family or domestic violence or substance abuse which place the child at risk of abuse or neglect and have resulted in a service referral to family preservation or family-centered services.

“Child with special needs” means a child with one or more of the following conditions:

1. The child has been diagnosed by a physician or by a person endorsed for service as a school psychologist by the Iowa department of education to have a developmental disability which substantially limits one or more major life activities, and the child requires professional treatment, assistance in self-care, or the purchase of special adaptive equipment.
2. The child has been determined by a qualified mental retardation professional to have a condition which impairs the child's intellectual and social functioning.
3. The child has been diagnosed by a mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child's age, or which significantly interferes with the child's intellectual, social, or personal adjustment.

“Client” means a current or former recipient of the child care assistance program.

“Client error” means and may result from:

1. False or misleading statements, oral or written, regarding the client's income, resources, or other circumstances which affect eligibility or the amount of assistance received;
2. Failure to timely report changes in income, resources, or other circumstances which affect eligibility or the amount of assistance received;

3. Failure to timely report the receipt of child care units in excess of the number approved by the department;

4. Failure to comply with the need for service requirements.

“Department” means the Iowa department of human services.

“Food services” means the preparation and serving of nutritionally balanced meals and snacks.

“In-home” means care which is provided within the child’s own home.

“Migrant seasonal farm worker” means a person to whom all of the following conditions apply:

1. The person performs seasonal agricultural work which requires travel so that the person is unable to return to the person’s permanent residence within the same day.

2. Most of the person’s income is derived from seasonal agricultural work performed during the months of July through October. Most shall mean the simple majority of the income.

3. The person generally performs seasonal agricultural work in Iowa during the months of July through October.

“Overpayment” means any benefit or payment received in an amount greater than the amount the client or provider is entitled to receive.

“Parent” means the parent or the person who serves in the capacity of the parent of the child receiving child care assistance services.

“Program and activities” means the daily schedule of experiences in a child care setting.

“Provider” means a licensed child care center, a registered group child care home, a registered family child care home, a relative who provides care in the relative’s own home solely for a related child (relative care), a caretaker who provides care for a child in the child’s home (in-home), a nonregistered child care home, or a child care facility which is exempt from licensing or registration.

“Provider error” means and may result from:

1. Presentation for payment of any false or fraudulent claim for services or merchandise;

2. Submittal of false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled;

3. Failure to report the receipt of a child care assistance payment in excess of that approved by the department;

4. Charging the department an amount for services rendered over and above what is charged private pay clients for the same services.

“Recoupment” means the repayment of an overpayment by a payment from the client or provider or both.

“Relative” means an adult aged 18 or older who is a grandparent, aunt or uncle to the child being provided child care.

“Supervision” means the care, protection, and guidance of a child.

“Transportation” means the movement of children in a four or more wheeled vehicle designed to carry passengers, such as a car, van, or bus, between home and facility.

“Unit of service” means a half day which shall be up to 5 hours of service per 24-hour period.

“Vocational training” means a training plan which includes a specific goal, that is, high school completion, improved English skills, development of specific academic or vocational skills.

1. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, and a postsecondary education, up to and including a baccalaureate degree program.

2. Training may be approved for college programs which lead to an associate of arts degree.

3. Training shall be on a full-time basis. The training facility shall define what is considered as full time. Part-time plans may be approved only if the number of credit hours to complete training is less than full-time status, the required prerequisite credits or remedial course work is less than full-time status, or training is not offered on a full-time basis.

441—170.2(234) Eligibility.

170.2(1) Financial. Financial eligibility shall be determined according to rule 441—130.3 (234,239B).

For migrant seasonal farm workers, the monthly gross income shall be determined by calculating the total amount of income earned in a 12-month period preceding the date of application and dividing the total amount by 12.

170.2(2) General eligibility requirements. In addition to meeting financial requirements, the child needing services must meet age requirements and each parent in the household must have at least one need for service. When funds are insufficient, families applying for services must meet the specific requirements found in subrule 170.2(3) of the priority group for which applications are being taken. Families approved when applications are being taken for priority groups are not required to meet the requirements in paragraph 170.2(2)“b” except at review or redetermination. Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients are eligible for child care assistance notwithstanding waiting lists for child care services.

a. Age. Child care shall be provided only to children up to age 13, unless they are children with special needs in which case child care shall be provided up to age 19. Children who are part of the family investment program who are 13 years of age and older may be eligible for child care assistance benefits if there are special circumstances surrounding the child in need of child care. The child’s parent or guardian shall submit a request for an exception to the supervisor of the county department office.

b. Need for service. Each parent in the household shall meet one or more of the following requirements:

(1) The parent is in academic or vocational training. Child care provided while the parent participates in postsecondary education leading up to and including a baccalaureate degree program or vocational training shall be limited to a 24-month lifetime limit. A month is defined as a fiscal month or part thereof and shall generally have starting and ending dates that fall within two calendar months but shall only count as one month. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the 24-month limit.

Payment shall not be approved for the following:

1. When labor market statistics for a local area indicate low employment potential. Exceptions may be made when the client has a job offer prior to entering the training or if a client is willing to relocate after training to an area where there is employment potential. Clients willing to relocate must provide documentation from the department of workforce development, private employment agencies, or employers that jobs paying at least minimum wage for which training is being requested are available in the locale specified by the client.

2. Jobs paying less than minimum wage.

3. College coursework for a client who possesses a baccalaureate degree unless the coursework is to obtain a teaching certificate or complete continuing education units.

4. The course or training is one that the client has previously completed.

5. When the client was previously unable to maintain the cumulative grade point average required by the training or academic facility in the same training for which application is now being made. This does not apply to parents under the age of 18 who are enrolled in high school completion activities.

PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training shall count toward the 24-month lifetime limit.

(2) The parent is employed 28 or more hours per week, or an average of 28 or more hours per week during the month. Child care services may be provided for the hours of employment of a single parent or the coinciding hours of employment of both parents in a two-parent home, and for actual travel time between home, child care facility, and place of employment.

(3) The parent needs child care as part of a protective service plan to prevent or alleviate child abuse or neglect.

(4) The person who normally cares for the child is absent from the home due to inpatient hospitalization or outpatient treatment for chemotherapy, radiation or dialysis because of physical illness, mental illness, or death. Care under this paragraph is limited to a maximum of one month, unless extenuating circumstances are justified and approved after case review by the regional administrator.

(5) The parent is looking for employment. Child care for job search shall be limited to only those hours the parent is actually looking for employment including travel time. A job search plan shall be approved by the department and limited to a maximum of 30 working days in a 12-month period. Child care in two-parent families may be provided only during the coinciding hours of both parents' looking for employment, or during one parent's employment and one parent's looking for employment. Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation.

EXCEPTION: Additional hours may be paid for job search for PROMISE JOBS recipients if approved by the PROMISE JOBS worker.

(6) The person is participating in activities approved under the PROMISE JOBS program and there is a need for child care services.

(7) The family is part of the family investment program and there is a need for child care.

If a parent in a family investment program household remains in the home, child care assistance can be paid if that parent receives Supplemental Security Income.

170.2(3) Priority for service. Funds available for child care services shall first be used to continue services to families currently receiving child care services and to families with protective child care needs. As funds are determined available, families shall be served on a statewide basis from a region-wide waiting list based on the following schedule in descending order of prioritization. Recipients of the family investment program, or those whose earned income was taken into account in determining the needs of family investment program recipients, are eligible for child care notwithstanding waiting lists for child care services. Applications for child care services shall be taken only for the priority groupings for which funds have been determined available.

a. Families with an income at or below 100 percent of the federal poverty level whose members are employed at least 28 hours per week, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

b. Rescinded IAB 7/6/94, effective 7/1/94.

c. Parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training program or in an education program.

d. Families with an income of more than 100 percent but not more than 140 percent of the federal poverty guidelines whose members are employed at least 28 hours per week.

e. Families with an income at or below 175 percent of the federal poverty guidelines whose members are employed at least 28 hours per week with a special needs child as a member of the family.

f. Rescinded IAB 7/6/94, effective 7/1/94.

g. Rescinded IAB 9/9/98, effective 11/1/98.

170.2(4) Prioritization within child care subsidized programs. Rescinded IAB 6/30/99, effective 7/1/99.

441—170.3(234) Goals. Appropriate goals for child care services are those described in 441—sub-rule 130.7(1), paragraphs "a," "c," and "d."

441—170.4(234) Elements of service provision.

170.4(1) Case plan. The case plan shall be developed by the department service worker and contain information described in 441—subrule 130.7(2), when the child meets the need for service under 170.2(2)“b”(3).

170.4(2) Fees. Fees are assessed and collected in accordance with rule 441—130.4(234).

170.4(3) Method of provision. The department shall issue the Child Care Certificate, Form 470-2959, to the client to select a child care provider. Parents shall be allowed to exercise their choice for in-home care, except when the parent meets the need for service under subparagraph 170.2(2)“b”(3), as long as the conditions in paragraph 170.4(7)“d” are met. When the child meets the need for service under 170.2(2)“b”(3), parents shall be allowed to exercise their choice of licensed or registered child care provider except when the department service worker determines it is not in the best interest of the child.

The department shall make payment for child care provided to eligible families when the Child Care Certificate, Form 470-2959, has been completed and signed by the parent, the provider, and the department worker, and when the provider meets the applicable requirements set forth below.

a. Licensed child care center. A child care center shall be licensed by the department to meet the requirements set forth in 441—Chapter 109 and shall have a current Certificate of License, Form SS-1203-3.

b. Registered group child care home. A group child care home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current Certificate of Registration, Form 470-3498.

c. Registered family child care home. A family child care home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current Certificate of Registration, Form 470-3498.

d. Relative care. An adult relative who provides care in the relative’s own home solely for a related child may receive payment for child care services when selected by the parent.

e. In-home care. The adult caretaker selected by the parent to provide care in the child’s own home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers. Form 470-2890 shall be signed by the provider and returned to the department within 15 days before payment may be made. Signature on the form certifies the provider’s understanding of and compliance with the conditions and requirements for nonregistered providers that include: minimum health and safety requirements, limits on the number of children for whom care may be provided, unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order, and conditions that warrant nonpayment.

f. Nonregistered family child care home. The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers. Form 470-2890 shall be signed by the provider and returned to the department within 15 days before payment may be made. Signature on the form certifies the provider’s understanding of and compliance with the conditions and requirements for nonregistered providers that include: minimum health and safety requirements, limits on the number of children for whom care may be provided, unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order, and conditions that warrant nonpayment.

g. Exempt facilities. Child care facilities which are exempt from licensing or registration as defined in Iowa Code section 237A.1 may receive payment for child care services when selected by a parent.

h. Record checks for nonregistered family child care homes. If a nonregistered child care provider, including a relative, wishes to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form 470-0643, Request for Child Abuse Information, and Form 595-1489, State of Iowa Non-Law Enforcement Record Check Request, Form A, for the provider as though the provider either is being considered for registration or is registered to provide child care, for anyone having access to a child when the child is alone, and anyone living in the home. The county office worker or the PROMISE JOBS worker shall provide the individual with the necessary forms. The provider shall return the forms to the county office or PROMISE JOBS worker for submittal to the division of adult, children and family services.

If there is a record of founded child abuse naming a nonregistered child care provider, anyone having access to a child when the child is alone, or any individual living in the home of the nonregistered child care provider as being a perpetrator of child abuse, or a criminal conviction for any of the same individuals, the division shall notify the regional office to perform an evaluation following the process defined at 441—subrule 110.7(3) or rule 441—110.31(237A). If any of the individuals would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The regional administrator or designee shall notify the applicant, and a copy of that notification shall be forwarded to the county attorney, the county office, and the PROMISE JOBS worker, if applicable. A person who continues to provide child care in violation of this law is subject to penalty and injunction under Iowa Code chapter 237A.

170.4(4) Components of service program. Every child eligible for child care services shall receive supervision, food services, and program and activities, and may receive transportation.

170.4(5) Levels of service according to age. Rescinded IAB 9/30/92, effective 10/1/92.

170.4(6) Provider's individual program plan. An individual program plan shall be developed by the child care provider for each child within 30 days after placement when the need for service was established under 170.2(3)"d." The program plan shall be supportive of the service worker's case plan. The program plan shall contain goals, objectives, services to be provided, and time frames for review.

170.4(7) Payment.

a. Rate of payment. The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)"d," shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider's declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider's declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child's service worker that the child needing services has been assessed by a qualified professional and meets the definition for "child with special needs," and a description of the child's special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

| Age Group | Day Care Center | Registered Family Home | Registered Group Home | Nonregistered Family Home |
|--------------------|-----------------|------------------------|-----------------------|---------------------------|
| Infant and Toddler | \$12.45 | \$10.00 | \$9.00 | \$8.19 |
| Preschool | \$10.50 | \$ 9.00 | \$8.55 | \$7.19 |
| School Age | \$ 9.00 | \$ 9.00 | \$8.33 | \$7.36 |

| Age Group | Day Care Center | Registered Family Home | Registered Group Home | Nonregistered Family Home |
|--------------------|-----------------|------------------------|-----------------------|---------------------------|
| Infant and Toddler | \$48.00 | \$15.75 | \$12.38 | \$10.24 |
| Preschool | \$28.13 | \$14.63 | \$12.38 | \$ 8.99 |
| School Age | \$28.04 | \$13.50 | \$11.25 | \$ 9.20 |

The following definitions apply in the use of the rate tables:

(1) "Child care center" shall mean those providers as defined in 170.4(3) "a" and "g"; "registered family child care home" shall mean those providers as defined in 170.4(3) "c"; "registered group child care home" shall mean those providers as defined in 170.4(3) "b"; and "nonregistered family child care home" shall mean those providers as defined in 170.4(3) "d" and "f."

(2) Under age group, "infant and toddler" shall mean age two weeks to two years; "preschool" shall mean two years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

b. Payment for days of absence. Payment may be made to a child care provider defined in subrule 170.4(3) for an individual child not in attendance at a child care facility not to exceed four days per calendar month providing that the child is regularly scheduled on those days and the provider also charges a private individual for days of absence.

c. Payment for multiple children in a family. When a provider reduces the charges for the second and any subsequent children in a family with multiple children whose care is unsubsidized, the rate of payment made by the department for a family with multiple children shall be similarly reduced.

d. Payment for in-home care. Payment may be made for in-home care when there are three or more children in a family who require child care services. The rate of payment for in-home care shall be the minimum wage amount.

e. Limitations on payment. Payment shall not be made for therapeutic services that are provided in the care setting and include, but are not limited to, services such as speech, hearing, physical and other therapies, individual or group counseling, therapeutic recreation, and crisis intervention.

f. Review of the calculation of the rate of payment. Maximum rate ceilings are not appealable. A provider who is in disagreement with the calculation of the half-day rate as set forth in 170.4(7) "a" may request a review. The procedure for review is as follows:

(1) Within 15 calendar days of notification of the rate in question, the provider shall send a written request for review to the human services area administrator. The request shall identify the specific rate in question and the methodology used to calculate the rate. A written response from the human services area administrator shall be provided within 15 calendar days of receipt of the request for review.

(2) When dissatisfied with the response, the provider may, within 15 calendar days of the response, request a review by the chief of the bureau of individual and family support services. The provider shall submit the original request, the response received, and any additional information desired to the bureau chief. The bureau chief shall render a decision in writing within 15 calendar days of receipt of the request.

(3) The provider may appeal the decision to the director of the department or the director's designee within 15 calendar days of the decision. The director or director's designee shall issue the final department decision within 15 calendar days of receipt of the request.

441—170.5(234) Adverse service actions. Services may be denied, terminated, or reduced according to rule 441—130.5(234). The department may refuse to enter into or may revoke the Child Care Certificate, Form 470-2959, if a hazard to the safety and well-being of a child is found by the department of human services, and the provider cannot or refuses to correct the hazards; or if the provider has submitted claims for payment for which the provider is not entitled.

441—170.6(234) Appeals. Notice of adverse actions and the right of appeal shall be given in accordance with 441—Chapter 7.

441—170.7(234) Transitional child care. Rescinded IAB 7/6/94, effective 7/1/94.

441—170.8(234) Allocation of funds. The department shall allocate funds for child care services to the regional offices of the department to ensure that the current need and projected growth in services to families currently receiving child care services and to families with protective child care needs are met. The funds for nonprotective child care services shall be allocated based on the expenditures of the regional office proportional to the total state expenditures for nonprotective child care services. The funds for protective child care services shall be allocated based on historical data, with 60 percent of the total allocation to the regional office based on the number of founded child abuse cases in the region proportional to the total number of founded child abuse cases in the state, and 40 percent of the total allocation to the regional office based on the number of child abuse reports in the region proportional to the total number of child abuse reports in the state. The department may redistribute any unobligated funds from the original allocation to the regional offices based on the number of children living in the region whose family income is at or below 100 percent of the federal poverty guidelines.

The regional office of the department shall manage the child care funds allocated to the region and shall distribute the allocation among the counties within the region based on, but not limited to, the factors used to allocate funds to the regional offices. The regional office may redistribute any unobligated funds from the original allocation to the county offices to ensure that the current need and projected growth in services to families currently receiving child care services and to families with protective child care needs are met.

441—170.9(234) Child care assistance overpayments. All client or provider child care assistance overpayments shall be subject to recoupment.

170.9(1) Notification and appeals. All clients or providers shall be notified by the department of inspections and appeals, as described at 441—subrule 7.5(9), when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. The county office shall provide additional information regarding the computation of the overpayment upon the client's or provider's request. The client or provider may appeal the computation of the overpayment and any action to recover the overpayment in accordance with 441—subrule 7.5(9).

170.9(2) Determination of overpayments. All overpayments due to client or provider error or due to benefits or payments issued pending an appeal decision shall be recouped. Overpayments shall be computed as if the information had been acted upon timely.

170.9(3) Benefits or payments issued pending appeal decision. Recoupment of overpayments resulting from benefits or payments issued pending a decision on an appeal hearing shall not occur until after a final appeal decision is issued affirming the department.

170.9(4) Failure to cooperate. Failure by the client to cooperate in the investigation of alleged overpayments shall result in ineligibility for the months in question and the overpayment shall be the total amount of assistance received during those months. Failure by the provider to cooperate in the investigation of alleged overpayments shall result in payments being recouped for the months in question.

170.9(5) *Source of recoupment.* The client or provider may choose to make a lump sum payment or make periodic installment payments as agreed to on Form 470-3627 or Form 470-3628. Failure to negotiate an approved payment agreement may result in further collection action as outlined in 441—Chapter 11.

170.9(6) *Procedures for recoupment.*

a. Referral. When the county office determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

b. When financial circumstances change, the department of inspections and appeals has the authority to revise the recoupment plan.

c. Recoupment for client error overpayments shall be made from the parent, or the person who serves in the capacity of the parent, who received child care assistance at the time the overpayment occurred. When both parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.

170.9(7) *Suspension and waiver.* Recoupment will be suspended on nonfraud overpayments when the amount of the overpayment is less than \$35. Recoupment will be waived on nonfraud overpayments of less than \$35 which have been held in suspense for three years.

These rules are intended to implement Iowa Code section 234.6(6)“a.”

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