



IOWA ADMINISTRATIVE BULLETIN

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Pages 915 to 1048

CONTENTS IN THIS ISSUE

Pages 926 to 1045 include **ARC 6608C** to **ARC 6635C**

AGENDA

Administrative rules review committee 919

ALL AGENCIES

Agency identification numbers 924
Citation of administrative rules 917
Schedule for rule making 918

ECONOMIC DEVELOPMENT

AUTHORITY[261]

Filed, Sports tourism
program—marketing fund,
infrastructure fund, amend
chs 214, 215; adopt ch 216 **ARC 6612C** 977

EDITORIAL NOTE

Revenue Department[701] chapters
renumbered 1046

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Notice, Air quality, 20.2, 22.100, 23.1,
25.1(9), 28.1 **ARC 6631C** 926
Notice, Beverage container deposits,
107.1 107.5, 107.7 to 107.9, 107.11 to
107.14 **ARC 6632C** 932

HUMAN SERVICES DEPARTMENT[441]

Notice, Medical and remedial
services—acute psychiatric intensive
care, 78.3(8), 79.1(5)“i” **ARC 6619C** 939
Notice, Collections—five-year review of
rules, amendments to ch 95 **ARC 6621C** 942

Notice, Information and
records—five-year review of rules,
96.1(3)“a,” 96.3(2)“b” **ARC 6620C** 947
Notice, Collection services
center—five-year review of rules,
97.2, 97.5, 97.6 **ARC 6622C** 948
Filed, Disability services management,
amendments to ch 25 **ARC 6613C** 983
Filed, Facility participation, 54.1 to 54.3,
54.5 to 54.8 **ARC 6623C** 997
Filed, Home- and community-based
habilitation services—eligibility,
78.27(2) **ARC 6624C** 1000
Filed, Reimbursement of providers of
medical and health services—cost
report reviews, 79.1 **ARC 6625C** 1003
Filed, PROMISE JOBS program,
amendments to ch 93 **ARC 6634C** 1010
Filed, Child care centers; child
development homes; child care homes,
109.4(2), 109.6, 109.7, 109.10, 109.11,
110.9(4), 110.15(1)“c,” 120.9(2)
ARC 6626C 1026
Filed, Residential facilities for children
with an intellectual disability or brain
injury—five-year review of rules, 116.2
ARC 6627C 1030
Filed, Record check
evaluations—documentation, 119.3(1)
ARC 6628C 1032
Filed, Child care expansion programs,
rescind ch 168 **ARC 6635C** 1033

INSPECTIONS AND APPEALS

DEPARTMENT[481]

- Notice, Foster care facility inspections; confidential records, amend ch 5; rescind ch 40 **ARC 6609C** 950
- Notice, Dependent adult abuse—five-year review of rules, 52.1 to 52.4, 52.7, 52.8 **ARC 6633C** 952

IOWA FINANCE AUTHORITY[265]

- Notice, Four percent qualified allocation plan, 12.1(1), 12.2(1) **ARC 6618C** 957

LOTTERY AUTHORITY, IOWA[531]

- Filed, Licensing—five-year review of rules, 12.1, 12.4, 12.12 to 12.15 **ARC 6608C** 1034

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Notice, Grant programs—conflicts of interest, electronic filing, filing deadlines, amendments to chs 23, 27, 30, 33, 35 **ARC 6630C** 958

NATURAL RESOURCES DEPARTMENT[561]

- Notice, Groundwater hazard documentation, 9.1(4), 9.2 **ARC 6629C** 963

PUBLIC HEARINGS

- Summarized list 922

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

- Notice, Penalties; uniform requirements; pari-mutuel wagering, simulcasting and advance deposit wagering; prohibited areas; devices; methods of transfer or deposits; sports wagering; fantasy sports contests, amendments to chs 4, 5, 8, 10 to 14 **ARC 6610C** 966

REVENUE DEPARTMENT[701]

- Editorial Note: chapters renumbered 1046
- Interest Rates 973
- Notice, Exemptions; computation of tax; sales and use tax on construction activities; foods for human consumption, prescription drugs, insulin, hypodermic syringes, diabetic testing materials, prosthetic, orthotic or orthopedic devices, rescind chs 14, 19, 287; amend chs 209, 219 **ARC 6611C** 973

TRANSPORTATION DEPARTMENT[761]

- Filed, Contested cases, 13.4, 13.7, 13.12(3) **ARC 6614C** 1038
- Filed, Persons with disabilities parking permits, amendments to ch 411 **ARC 6615C** 1039
- Filed, Driver’s licenses for active duty military service members and veterans, 605.10 **ARC 6617C** 1041
- Filed, Airport registration; special certificates for aircraft, amendments to chs 720, 750 **ARC 6616C** 1043

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2022

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 22 '21	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22
Jan. 5	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	**May 11**	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	May 27	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	**June 22**	July 13	Aug. 17	Nov. 14
May 11	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 27	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	**Aug. 17**	Sep. 7	Oct. 12	Jan. 9 '23
July 8	July 27	Aug. 16	Aug. 31	Sep. 2	Sep. 21	Oct. 26	Jan. 23 '23
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '23
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '23
Aug. 17	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 6 '23
Sep. 2	Sep. 21	Oct. 11	Oct. 26	**Oct. 26**	Nov. 16	Dec. 21	Mar. 20 '23
Sep. 16	Oct. 5	Oct. 25	Nov. 9	**Nov. 9**	Nov. 30	Jan. 4 '23	Apr. 3 '23
Sep. 30	Oct. 19	Nov. 8	Nov. 23	Nov. 25	Dec. 14	Jan. 18 '23	Apr. 17 '23
Oct. 14	Nov. 2	Nov. 22	Dec. 7	**Dec. 7**	Dec. 28	Feb. 1 '23	May 1 '23
Oct. 26	Nov. 16	Dec. 6	Dec. 21	**Dec. 21**	Jan. 11 '23	Feb. 15 '23	May 15 '23
Nov. 9	Nov. 30	Dec. 20	Jan. 4 '23	**Jan. 4 '23**	Jan. 25 '23	Mar. 1 '23	May 29 '23
Nov. 25	Dec. 14	Jan. 3 '23	Jan. 18 '23	Jan. 20 '23	Feb. 8 '23	Mar. 15 '23	June 12 '23
Dec. 7	Dec. 28	Jan. 17 '23	Feb. 1 '23	Feb. 3 '23	Feb. 22 '23	Mar. 29 '23	June 26 '23
Dec. 21	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, November 9, 2022	November 30, 2022
12	Friday, November 25, 2022	December 14, 2022
13	Wednesday, December 7, 2022	December 28, 2022

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, November 15, 2022, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

- Description of organization—scope, application, amendments to ch 1 Notice **ARC 6602C** 10/19/22
- State banks—terms, applications, electronic activities, 2.2, 2.3, 2.5, 2.7(4), 2.18 Notice **ARC 6603C** 10/19/22
- General definition of "bank," 8.9 Notice **ARC 6604C** 10/19/22
- Legal lending limits, 9.3(3)"a" Notice **ARC 6605C** 10/19/22

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

- Health care award program, amendments to ch 26 Notice **ARC 6598C** 10/19/22

CORRECTIONS DEPARTMENT[201]

- Physician assistants, 45.2(1)"e," 50.15, 50.16(5), 50.24(5)"a," 51.13, 51.14(4), 51.20(5)"a" Notice **ARC 6607C** 10/19/22

ECONOMIC DEVELOPMENT AUTHORITY[261]

- STEM BEST, targeted small business certification—program appropriations, physician assistants, amendments to ch 15 Notice **ARC 6594C** 10/19/22
- Endow Iowa tax credits, amendments to ch 47 Notice **ARC 6592C** 10/19/22
- Brownfield and grayfield redevelopment—tax credits, amendments to ch 65 Notice **ARC 6593C** 10/19/22
- Sports tourism program—marketing fund, infrastructure fund, amend chs 214, 215; adopt ch 216 Filed **ARC 6612C** 11/2/22

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Air quality, 20.2, 22.100, 23.1, 25.1(9), 28.1 Notice **ARC 6631C** 11/2/22
- Beverage container deposits, 107.1 107.5, 107.7 to 107.9, 107.11 to 107.14 Notice **ARC 6632C** 11/2/22

HUMAN SERVICES DEPARTMENT[441]

- Disability services management, amendments to ch 25 Filed **ARC 6613C** 11/2/22
- Facility participation, 54.1 to 54.3, 54.5 to 54.8 Filed **ARC 6623C** 11/2/22
- Medical and remedial services—acute psychiatric intensive care, 78.3(8), 79.1(5)"i" Notice **ARC 6619C** 11/2/22
- Home- and community-based habilitation services—eligibility, 78.27(2) Filed **ARC 6624C** 11/2/22
- Reimbursement of providers of medical and health services—cost report reviews, 79.1 Filed **ARC 6625C** 11/2/22
- PROMISE JOBS program, amendments to ch 93 Filed **ARC 6634C** 11/2/22
- Collections—five-year review of rules, amendments to ch 95 Notice **ARC 6621C** 11/2/22
- Information and records—five-year review of rules, 96.1(3)"a," 96.3(2)"b" Notice **ARC 6620C** 11/2/22
- Collection services center—five-year review of rules, 97.2, 97.5, 97.6 Notice **ARC 6622C** 11/2/22
- Child care centers; child development homes; child care homes, 109.4(2), 109.6, 109.7, 109.10, 109.11, 110.9(4), 110.15(1)"c," 120.9(2) Filed **ARC 6626C** 11/2/22
- Residential facilities for children with an intellectual disability or brain injury—five-year review of rules, 116.2 Filed **ARC 6627C** 11/2/22
- Record check evaluations—documentation, 119.3(1) Filed **ARC 6628C** 11/2/22
- Child care expansion programs, rescind ch 168 Filed **ARC 6635C** 11/2/22

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Foster care facility inspections; confidential records, amend ch 5; rescind ch 40 Notice **ARC 6609C** 11/2/22
- Dependent adult abuse—five-year review of rules, 52.1 to 52.4, 52.7, 52.8 Notice **ARC 6633C** 11/2/22

IOWA FINANCE AUTHORITY[265]

- Four percent qualified allocation plan, 12.1(1), 12.2(1) Notice **ARC 6618C** 11/2/22

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Child labor—power-driven bakery machines, pizza dough roller exception, 32.8(10) Notice **ARC 6600C** 10/19/22
- Physician assistants, amendments to chs 155, 169, 173, 174, 176, 177 Notice **ARC 6599C** 10/19/22

LOTTERY AUTHORITY, IOWA[531]

Licensing—five-year review of rules, 12.1, 12.4, 12.12 to 12.15 Filed **ARC 6608C**..... 11/2/22

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]*umbrella*

Grant programs—conflicts of interest, electronic filing, filing deadlines, amendments to chs 23, 27, 30, 33, 35 Notice **ARC 6630C**..... 11/2/22

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard documentation, 9.1(4), 9.2 Notice **ARC 6629C** 11/2/22

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]*umbrella*

Massage therapists—mandatory reporter training, 131.8(4), 133.3(2) Notice **ARC 6597C** 10/19/22

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]*umbrella*

Penalties; uniform requirements; pari-mutuel wagering, simulcasting and advance deposit wagering; prohibited areas; devices; methods of transfer or deposits; sports wagering; fantasy sports contests, amendments to chs 4, 5, 8, 10 to 14 Notice **ARC 6610C**..... 11/2/22

REVENUE DEPARTMENT[701]

Exemptions; computation of tax; sales and use tax on construction activities; foods for human consumption, prescription drugs, insulin, hypodermic syringes, diabetic testing materials, prosthetic, orthotic or orthopedic devices, rescind chs 14, 19, 287; amend chs 209, 219 Notice **ARC 6611C**..... 11/2/22
Property assessment appeal board, 71.21, 126.1 to 126.11 Notice **ARC 6601C** 10/19/22

TRANSPORTATION DEPARTMENT[761]

Contested cases, 13.4, 13.7, 13.12(3) Filed **ARC 6614C** 11/2/22
Persons with disabilities parking permits, amendments to ch 411 Filed **ARC 6615C** 11/2/22
Driver's licenses for active duty military service members and veterans, 605.10 Filed **ARC 6617C**..... 11/2/22
Airport registration; special certificates for aircraft, amendments to chs 720, 750 Filed **ARC 6616C** 11/2/22

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]*umbrella*

Gathering lines—renewable natural gas facilities, 10.1, 10.3(1) Notice **ARC 6595C** 10/19/22
Equipment distribution program—purpose, application process, eligibility, 37.1, 37.4 Notice **ARC 6596C** 10/19/22

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance—overpayments, voluntary shared work, maximum number of benefit weeks, misconduct, salary guidelines, contested cases, appeals, amendments to chs 23, 24, 26 Notice **ARC 6606C**..... 10/19/22

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

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Osage, Iowa 50461

Senator Julian Garrett
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Senator Jesse Green
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Senator Robert Hogg
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Representative Megan Jones
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Sioux Rapids, Iowa 50585

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Rockwell City, Iowa 50579

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Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

CORRECTIONS DEPARTMENT[201]

Physician assistants, 45.2(1)“e,”
50.15, 50.16(5), 50.24(5)“a,”
51.13, 51.14(4), 51.20(5)“a”
IAB 10/19/22 ARC 6607C

Via conference call
Contact Michael Savala
Email: michael.savala@iowa.gov

November 10, 2022
9 to 10 a.m.
(If requested)

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 20.2, 22.100, 23.1,
25.1(9), 28.1
IAB 11/2/22 ARC 6631C

Via video/conference call
Contact Jessica Reese McIntyre
Email: jessica.reesemcintyre@dnr.iowa.gov

December 5, 2022
1 to 2 p.m.

Beverage container deposits,
107.1 107.5, 107.7 to 107.9,
107.11 to 107.14
IAB 11/2/22 ARC 6632C

Via video/conference call
Contact Amie Davidson
Email: bottlebill@dnr.iowa.gov

November 22, 2022
1 to 2 p.m.

NATURAL RESOURCE COMMISSION[571]

Grant programs—conflicts of
interest, electronic filing, filing
deadlines, amendments to chs
23, 27, 30, 33, 35
IAB 11/2/22 ARC 6630C

Via video/conference call
Contact Michelle Wilson
Email: michelle.wilson@dnr.iowa.gov

November 22, 2022
12 noon to 1 p.m.

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard
documentation, 9.1(4), 9.2
IAB 11/2/22 ARC 6629C

Via video/conference call
Contact Noah Poppelreiter
Email: noah.poppelreiter@dnr.iowa.gov
A Zoom meeting registration link will be
provided prior to the hearing

November 22, 2022
12 noon to 1 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Massage therapists—mandatory
reporter training,
131.8(4), 133.3(2)
IAB 10/19/22 ARC 6597C

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

November 8, 2022
8 to 9 a.m.

RACING AND GAMING COMMISSION[491]

Penalties; uniform requirements;
pari-mutuel wagering,
simulcasting and advance
deposit wagering; prohibited
areas; devices; methods of
transfer or deposits; sports
wagering; fantasy sports
contests, amendments to chs 4,
5, 8, 10 to 14
IAB 11/2/22 ARC 6610C

Commission Office, Suite 100
1300 Des Moines St.
Des Moines, Iowa

November 22, 2022
10 a.m.

REVENUE DEPARTMENT[701]

Exemptions; computation of tax; sales and use tax on construction activities; foods for human consumption, prescription drugs, insulin, hypodermic syringes, diabetic testing materials, prosthetic, orthotic or orthopedic devices, rescind chs 14, 19, 287; amend chs 209, 219
IAB 11/2/22 **ARC 6611C**

Room 1 NW
Hoover State Office Bldg.
Des Moines, Iowa

November 22, 2022
1 to 2 p.m.
(If requested)

UTILITIES DIVISION[199]

Gathering lines—renewable natural gas facilities, 10.1, 10.3(1)
IAB 10/19/22 **ARC 6595C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 16, 2022
1:30 to 3:30 p.m.

Equipment distribution program—purpose, application process, eligibility, 37.1, 37.4
IAB 10/19/22 **ARC 6596C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 16, 2022
9 to 11 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
 OMBUDSMAN[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 HUMAN SERVICES DEPARTMENT[441]
 INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 6631C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rule making related to federal air quality standards
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 20, “Scope of Title—Definitions,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” and Chapter 28, “Ambient Air Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.133 and 455B.134.

Purpose and Summary

This rule making proposes to adopt several new mandatory federal air quality standards. These proposed amendments are identical to the federal regulations, and the amendments do not impose any regulations on Iowa businesses not already required by federal law. Additionally, the adoption of these proposed amendments will ensure that Iowa’s administrative rules are consistent with federal regulations and not any more stringent.

More specifically, the proposed amendments adopt updated federal new source performance standards (NSPS) and air toxics standards, also known as National Emissions Standards for Hazardous Air Pollutants (NESHAP). These standards apply whether they are adopted into state regulation or not; however, by incorporating these terms into the administrative rules, the Department of Natural Resources (Department) can continue to be a delegated authority under the Clean Air Act (CAA). This allows the Department, rather than the U.S. Environmental Protection Agency (EPA), to be the primary compliance and implementation agency in Iowa.

In more detail, this rule making proposes the following eight amendments:

Item 1 amends rule 567—20.2(455B), definition of “EPA reference method,” to adopt the most current EPA methods for measuring air pollutant emissions, performance testing (sometimes called “stack testing”), and continuous monitoring. EPA’s revisions to 40 Code of Federal Regulations (CFR) Part 60 to correct regulations for source testing of emissions was published in the Federal Register on February 16, 2021 (86 Fed. Reg. 9470 (Feb. 16, 2021)). EPA states that the final amendments correct errors for one of the test methods in 40 CFR Part 60, Appendix A. Adopting EPA’s updates ensures that state reference testing methods match current federal reference methods and are no more stringent than the federal methods.

The amendment in Item 2 is proposed concurrently with the amendment in Item 1. It revises the definition of “EPA reference method” in rule 567—22.100(455B) to similarly reflect updates to EPA testing and monitoring methods, which are the methods that apply to the Title V Operating Permit rules in Chapter 22.

The amendment in Item 3 proposes to add a new chemical to the definition of “hazardous air pollutant” in rule 567—22.100(455B). On January 5, 2022, EPA published a final rule to add 1-Bromopropane (1-BP) to the CAA’s list of hazardous air pollutants (HAP). The addition of 1-BP, also known as n-propyl bromide, is the first time the EPA has added a new compound to the HAP list since the U.S. Congress provided the original HAP list in the 1990 CAA Amendments.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

A wide variety of industries may be impacted by the listing of 1-BP, which is primarily used as a cleaning solvent in solvent cleaning machines or as an applied solvent (e.g., wipe cleaning). 1-BP also has reported uses in both the manufacturing process and the final cleaning of metal and plastic parts.

A facility must include 1-BP in its potential emissions HAP inventory in construction permit applications as of February 4, 2022. Actual emissions of 1-BP are not required to be reported in Title V or minor source emissions inventories until 2023, for the 2022 emissions year. At this time, the Department is aware of only one facility that has reported actual or potential emissions of 1-BP.

More information on the short- and long-term regulatory impacts of EPA's listing of 1-BP is available in the Department's electronic air quality newsletter, which was sent to over 25,000 subscribers on January 25, 2022, and is available on the Department's website at www.iowadnr.gov/About-DNR/DNR-News-Releases/ArticleID/3885/EPA-adds-1-bromopropane-1-BP-to-the-Clean-Air-Act-List-of-Hazardous-Air-Pollutants.

The amendments in Items 4, 5, and 6 propose to adopt changes to the federal NSPS and NESHAP. The CAA obligates EPA to issue standards to control air pollution. The NSPS and NESHAP set federal standards and deadlines for industrial, commercial, or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

Because the NSPS and NESHAP adopted by reference are federal regulations, affected sources are subject to the federal requirements regardless of whether the Commission adopts the standards into the administrative rules. However, the CAA allows a state or local agency to implement NSPS and NESHAP as a delegated authority. Upon adoption of the standards, the Department becomes the delegated authority for the specific NSPS or NESHAP and is the primary implementation agency in Iowa. Two local agencies, those in Polk County and Linn County, implement these standards within their counties.

The administrative rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a specific federal publication date. With delegation authority and adoption of the federal standards into the administrative rules and the rules of Polk County and Linn County, the State and local agencies have the ability to make applicability determinations for facilities, rather than referring these decisions to EPA.

Stakeholders affected by NSPS and NESHAP typically prefer for the Department, rather than EPA, to be the primary implementation agency in Iowa. Upon adoption of the new and amended standards, the Department will work with affected facilities to provide any needed compliance assistance. Additionally, affected area sources that are small businesses are eligible for free technical assistance through the Iowa Air Emissions Assistance Program.

In more detail, Item 4 amends subrule 23.1(2) to adopt by reference changes EPA made to the NSPS. As described in the amendment for Item 1 above, EPA corrected an error to a test method in 40 CFR Part 60, Appendix A. Additionally, on January 19, 2021, EPA amended the NSPS for Volatile Organic Liquid Storage Vessels (40 CFR Part 60, Subpart Kb). These amendments will allow facilities with certain equipment to elect to comply with the corresponding NESHAP requirements in lieu of the NSPS requirements.

Risk and technology reviews for NESHAP (40 CFR Part 63)

Most of EPA's amendments adopted in subrule 23.1(4) address the risk and technology reviews required under the CAA. The CAA requires EPA to address air toxics emissions from large industrial facilities (major sources) in two phases.

The first phase of review is technology-based, where EPA develops standards for controlling the emissions of air toxics from sources in an industry group or "source category" (for example, industrial boilers). These maximum achievable control technology (MACT) standards are based on emissions levels that controlled and low-emitting sources in an industry are already achieving.

The second phase of review is a risk-based approach called residual risk. In this step, EPA must determine whether more health-protective standards are necessary. Within eight years of setting the MACT standards, the CAA requires EPA to assess the remaining health risks from each source category to determine whether the MACT standards protect public health with an ample margin of safety and protect against adverse environmental effects. On this same schedule, the CAA also requires EPA to

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

review the standards and, if necessary, revise them to account for improvements in air pollution controls or prevention. The combined review of public health risk and air pollution control is called the “risk and technology review” (RTR).

Impact of the NESHAP amendments

For most of the recent NESHAP RTR updates, EPA has determined that the risks from emissions from affected source categories are acceptable and that there are no new cost-effective controls available. However, the updates do include revisions to the requirements for periods of startup, shutdown, and malfunction (SSM) and require electronic reporting of performance test results and compliance reports.

In some cases, EPA made minor amendments to correct errors, clarify requirements, and provide technical updates. EPA also provided additional flexibilities in several of the final NESHAP RTRs, such as alternative testing methods or reduced monitoring. A few of the recent and upcoming NESHAP RTRs do include more substantive requirements for pollution control and monitoring.

Table 1 below identifies the amendments to the NESHAP source categories adopted by reference in amendments proposed in Item 5 and Item 6. The standards are identified by source category and are listed in order of publication date in the Federal Register. The table also indicates the subpart in 40 CFR Part 63, as well as the associated paragraph in subrule 23.1(4). Additionally, the table indicates the number of facilities that the Department estimates are currently affected by the specific standard. The Commission is adopting standards that currently do not affect any Iowa sources in case a new facility of that type is constructed in the future.

**Table 1
NESHAP Proposed for Adoption**

NESHAP: Affected Source Category	Date Published in Federal Register	40 CFR 63 Subpart/Subrule 23.1(4) Paragraph	Estimated Iowa Facilities Affected
Chemical Preparations Industry (Area Source)	12/30/2009*	BBBBBBB/“fb”	1
General Provisions	3/26/2021	A/“a”	N/A
Flexible Polyurethane Foam Fabrication Operations	11/18/2021	MMMMM/“dm”	0
Surface Coating of Automobiles and Light-Duty Trucks	11/19/2021	III/“ci”	0
Surface Coating of Metal Cans	11/19/2021	KKKK/“ck”	0
Boat Manufacturing	11/19/2021	VVVV/“cv”	0
Refractory Products Manufacturing	11/19/2021	SSSS/“ds”	0
Carbon Black Production and Cyanide Chemicals Manufacturing	11/19/2021	YY/“ay”	0
List of Hazardous Air Pollutants (Addition of 1-Bromopropane (1-BP))	2/4/2022	A/“a”	N/A
Mercury Cell Chlor-Alkali Plants	5/6/2022	IIII/“di”	0

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*The Commission did not adopt this NESHAP (Subpart BBBBBBB) upon EPA's finalizing it because there were no affected Iowa facilities at that time. Recently, the Department became aware of one facility that is subject to this NESHAP. The Commission is now proposing to adopt the NESHAP to have the Department become the delegated authority for this federal regulation.

Item 7 amends subrule 25.1(9) to adopt the changes EPA made to the federal test methods for measuring emissions, as explained above for Item 1.

Item 8 amends rule 567—28.1(455B) to adopt the National Ambient Air Quality Standards (NAAQS) for ozone that were published in the Federal Register on October 26, 2015 (80 Fed. Reg. 65291-65468 (Oct. 26, 2015)). The Commission did not adopt the 2015 ozone NAAQS at the time of EPA promulgation due to active litigation of the 2015 standards. The substantive issues in the legal challenges have since been resolved, and the Commission is now proposing to adopt the 2015 ozone NAAQS. All areas in Iowa are currently attaining the 2015 ozone NAAQS.

Fiscal Impact

After analysis and review of this rule making, these amendments will have no fiscal impact on the State of Iowa and a neutral impact on regulated facilities, the general public, and county and local governments. Some of the amendments may benefit the private sector because they streamline current air quality programs. Affected businesses and the public benefit from up-to-date air quality requirements and increased effectiveness. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, these proposed amendments will have an overall neutral impact on private sector jobs. Some of these amendments may benefit the private sector because they streamline current air quality programs. For the amendments specified in Items 4, 5, and 6, the Commission has determined that there may be job impacts on Iowa businesses. However, the amendments are only implementing federally mandated regulations, thus any resulting impact originates at the federal level. These amendments are identical to the federal regulations and will not impose any regulations on Iowa businesses not already required by federal law. In some cases, the revised federal standards being adopted provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on Monday, December 5, 2022. Comments should be directed to:

Jessica Reese McIntyre
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: jessica.resemcintyre@dnr.iowa.gov

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Jessica Reese McIntyre via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Jessica Reese McIntyre prior to the hearing to facilitate an orderly hearing.

December 5, 2022
1 to 2 p.m.

Via video/conference call

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **567—20.2(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ [February 16, 2021](#)); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020).

2. No change.

ITEM 2. Amend rule **567—22.100(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ [February 16, 2021](#)); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020).

2. No change.

ITEM 3. Amend rule **567—22.100(455B)**, definition of “Hazardous air pollutant,” by adding the following **new** chemical in alphabetical order:

cas #	chemical name
106945	1-Bromopropane

ITEM 4. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~October 7, 2020~~, [February 16, 2021](#), are adopted by reference, except §60.530 through §60.539b (Part

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. A different date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 5. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~November 3, 2020~~, May 6, 2022, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. A different date for adoption by reference may be included with the subpart designation in parentheses or as indicated in this introductory paragraph. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A ~~as amended or corrected through December 2, 2020~~), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in rule 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 6. Adopt the following **new** paragraph **23.1(4)“fb”**:

fb. National emission standards for hazardous air pollutants for area sources: chemical preparations industry. This standard applies to chemical preparations at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart BBBB))

ITEM 7. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

a. Performance test (stack test). A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ February 16, 2021); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020). The owner of the equipment or the owner’s authorized agent may use an alternative methodology if the methodology is approved by the department in writing before testing. Each test shall consist of at least three separate test runs. Unless otherwise specified by the department, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs.

b. and c. No change.

ITEM 8. Amend rule 567—28.1(455B) as follows:

567—28.1(455B) Statewide standards. The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), 44 Federal Register 8202, 8220 (February 9, 1979), 52 Federal

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Register 24634-24669 (July 1, 1987), 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997), 71 Federal Register 61144-61233 (October 17, 2006), 73 Federal Register 16436-16514 (March 27, 2008), 73 Federal Register 66964-67062 (November 12, 2008), 75 Federal Register 6474-6537 (February 9, 2010), 75 Federal Register 35520-35603 (June 22, 2010), and 78 Federal Register 3086-3287 (January 15, 2013), and 80 Federal Register 65291-65468 (October 26, 2015). The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws and regulations.

This rule is intended to implement Iowa Code section 455B.133.

ARC 6632C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action****Proposing rule making related to beverage container deposits
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 107, “Beverage Container Deposits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455C.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 455C as amended by 2022 Iowa Acts, Senate File 2378.

Purpose and Summary

Chapter 107 regulates the beverage container redemption system in Iowa. This rule making is necessary to align Chapter 107 with Iowa Code chapter 455C as amended by recent legislation (2022 Iowa Acts, Senate File 2378). The proposed amendments rescind or amend provisions that are now inconsistent with the amended statute. The proposed amendments also clarify the existing rules and remove outdated provisions.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Amie Davidson
 Iowa Department of Natural Resources
 Wallace State Office Building
 502 East Ninth Street
 Des Moines, Iowa 50319
 Email: bottlebill@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Amie Davidson via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Davidson prior to the hearing to facilitate an orderly hearing.

November 22, 2022
 1 to 2 p.m.

Video/conference call

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve rule **567—107.1(455C)**.

ITEM 2. Amend rule 567—107.2(455C), introductory paragraph, as follows:

567—107.2(455C) Definitions. ~~As used in this chapter:~~ For the purpose of this chapter, the following terms shall have the meaning indicated in this rule. The definitions set out in Iowa Code section 455C.1 shall be considered to be incorporated verbatim in this rule.

ITEM 3. Rescind the definitions of “Beverage,” “Beverage container,” “Commission,” “Consumer,” “Dealer,” “Dealer agent,” “Department,” “Director,” “Distributor,” “Exempt dealer,” “Manufacturer,” “Redemption center,” “Redemption center for a dealer” and “Registered redemption center” in rule **567—107.2(455C)**.

ITEM 4. Adopt the following **new** definitions of “Distributor redemption center” and “Handling fee” in rule **567—107.2(455C)**:

“*Distributor redemption center*” means a redemption center that satisfies the requirements of Iowa Code section 455C.14.

“*Handling fee*” or “*fee*” means the amount reimbursed by a distributor, in addition to the return of the 5 cent refund value, in an amount that is 1 cent per beverage container for containers accepted from a dealer agent and 3 cents per beverage container accepted from a participating dealer or redemption center.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 5. Amend rule **567—107.2(455C)**, definitions of “Exempt beverage container” and “Unapproved redemption center,” as follows:

“*Exempt beverage container*” means a beverage container that is not marked with the words “Iowa Refund 5¢” because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of 5 or more cents or because it is a refillable metal or plastic beverage container that has been exempted, in accordance with the procedure of subrule 107.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words “Iowa Refund 5¢” indicated on the container, but is not necessarily exempt from the minimum deposit and redemption requirements of this chapter.

“*Unapproved redemption center*” means a redemption center that is not an approved redemption center ~~or a registered redemption center.~~

ITEM 6. Amend subrule 107.3(1) as follows:

107.3(1) All beer, wine, alcoholic liquor, mineral water, soda water and similar carbonated soft drink containers (other than exempt containers) sold or offered for sale in Iowa by a dealer shall have the words “Iowa Refund 5¢” or “IA 5¢” clearly, indelibly and legibly indicated on the container. ~~If the refund value is more than 5 cents, the greater value may be indicated, e.g., “Iowa Refund 10¢” or “IA 10¢.”~~ Any abbreviation of the words “Iowa Refund” other than as provided in this subrule shall be submitted to and approved by the department.

ITEM 7. Amend subrule 107.3(5) as follows:

107.3(5) The words “Iowa Refund 5¢” or “IA 5¢” shall be on the top or on the cylindrical portion of a metal beverage container. The words “Iowa Refund 5¢” or “IA 5¢” shall be on the conical portion of a glass or plastic beverage container so that the words are visible from above or shall be on the product label. The placement of refund information solely on the bottom of the beverage container is prohibited.

ITEM 8. Amend subrule 107.3(7), introductory paragraph, as follows:

107.3(7) An application for exemption from the requirement of having the words “Iowa Refund 5¢” or “IA 5¢” indicated on the container shall be ~~on Form LQ 37 or on 8½" × 11" paper~~ submitted to the department and shall contain:

ITEM 9. Amend subrule 107.3(8) as follows:

107.3(8) An example of the container for which the exemption is being requested shall be sent to the department along with the application required in subrule 107.3(7). The example may consist of photographic images or empty containers. Examples submitted to the department shall not contain any liquid.

ITEM 10. Adopt the following **new** subrule 107.3(10):

107.3(10) Automatic exemption. Beverage containers sold in Iowa containing alcoholic liquor as defined in Iowa Code section 123.3(5) where the total capacity of the container is not more than 50 milliliters are automatically exempted from the labeling requirement of rule 567—107.3(455C). However, such beverage containers remain subject to the remainder of this chapter.

ITEM 11. Amend rule 567—107.4(455C), introductory paragraph, as follows:

567—107.4(455C) Redemption centers. The Act provides for both approved and unapproved redemption centers. Both approved and unapproved redemption centers redeem empty beverage containers and pay the refund value to consumers. ~~Additionally, the Act recognizes “a redemption center for a dealer.” Unapproved redemption centers in existence on May 22, 2002, and served by distributors on a voluntary basis may formalize the status quo by registering with the department pursuant to 107.4(4). Only approved redemption centers can satisfy the requirements of Iowa Code sections 455C.4(2) “a”(2) and 455C.4(2) “a”(3) and 2022 Iowa Acts, Senate File 2378, section 19.1(a) or 19.1(b). Additionally, only approved redemption centers will be listed on the department’s electronic database pursuant to Iowa Code section 455C.4(2) “c.”~~

ITEM 12. Amend subrules 107.4(1) and 107.4(2) as follows:

107.4(1) Approved redemption centers.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

a. Any person may file with the department an application for approval of a redemption center.

b. An annual application for approval of a redemption center shall be submitted ~~on Form LQ38 or on 8½"×11" paper and shall contain the following information:~~ to the department electronically.

(1) Initial application. All redemption centers in existence prior to January 1, 2023, that wish to be considered approved under this chapter must apply for approval pursuant to the requirements of subrule 107.4(1) by January 31, 2023. This will ensure that the approved redemption center list published by the department is accurate and includes existing redemption centers. All other redemption centers that wish to be considered approved under this chapter (i.e., new redemption centers established any time after January 1, 2023) should file their application within 30 days of starting their business.

(2) Annual renewals. All redemption centers should file their annual renewal application by January 31 of each subsequent year to allow the department to update its approved redemption center list in a timely manner.

(3) Application requirements. A redemption center must submit a separate application for each facility, including if a redemption center is operating a mobile redemption system for a dealer or dealers. The information on the application will be included in an electronic database for consumers to locate the nearest approved redemption center; as such, applications must be resubmitted annually to ensure that contact information remains accurate. There is no fee to submit the application. The application shall include the following information:

- (1) 1. Name, address and telephone number of the redemption center;
- (2) 2. Name, address and telephone number of the person or persons responsible for the establishment and operation of the redemption center;
- (3) 3. Indication that the redemption center will accept all kinds, sizes, and brand names of beverage containers sold by the dealers served by the redemption center; A statement that the operator of the redemption center understands it must accept all redeemable containers, except for those containers exempted in rule 567—107.13(455C);
4. Whether the redemption center will be operating a mobile redemption system and the location where the system will be operated.
- (4) Names and addresses of the dealers to be served by the redemption center and the written consent of those dealers to be served by the redemption center;
- (5) Distance, in blocks or other appropriate measure, from the redemption center to each dealer to be served by the redemption center;
- (6) Names and addresses of the distributors whose beverage containers will be redeemed;
- (7) Hours during which the redemption center is to be open;
- (8) Whether metal, glass or plastic beverage containers will be crushed or broken and, if so, the written consent of the distributor or manufacturer to the crushing or breaking;
- (9) Reasons why the redemption center and the dealers to be served by it believe that the redemption center will provide a convenient service to consumers.

c. ~~A redemption center shall be approved as a redemption center for a dealer if the department determines that the redemption center will provide a convenient service to the dealer's customers. The department order that approves the redemption center shall name the dealers to be served by the redemption center.~~ The department will issue an electronic order of approval once a complete application is received.

d. ~~An approved redemption center may file with the department a supplemental application to serve additional dealers. The supplemental application shall be in the form and contain the information required by paragraph "b." If the department finds that the redemption center will provide a convenient service to the customers of those additional dealers which the redemption center proposes to serve, the department shall supplement its order approving the redemption center to name the additional dealers.~~

e. ~~A dealer named in the department order that approves a redemption center or named in a supplemental order shall be an exempt dealer.~~

f. d. ~~The department may at any time rescind the order approving a redemption center or terminate the exemption of a dealer if the department determines, after notice and hearing, that the redemption~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

center is in violation of the Act or this chapter or that the redemption center is no longer meeting the above criteria or is no longer providing a convenient service to a dealer's customers.

~~g.~~—A dealer may withdraw its consent to be served by a redemption center which is approved as a redemption center for the dealer by filing with the department written notice of withdrawal of consent. A dealer which has withdrawn its consent is no longer an exempt dealer, and the approval of its redemption center as a redemption center for the dealer is thereby terminated.

~~h. e.~~ An approved redemption center shall accept from consumers and shall pay the refund value for all beverage containers that bear an Iowa refund value and are of the kinds, sizes and brand names sold by the dealers for which it is an approved redemption center those containers exempted from the labeling requirement pursuant to subrule 107.3(10).

~~i.~~—An approved redemption center shall be in operation and open to the public for redemption of beverage containers at least 20 hours per week, 4 hours of which shall be between the hours of 6 p.m. and 10 p.m. or on Saturday or Sunday, or a combination thereof.

~~j. f.~~ When an approved redemption center is closing permanently, it shall give to the department notice that includes the redemption center's final date of operation. As of the final date of operation, the redemption center's approval as a redemption center shall be terminated and a dealer it was approved to serve shall no longer be an exempt dealer. An approved redemption center must notify the department and any dealers with which the redemption center has agreements 30 days prior to the redemption center's closing.

107.4(2) Unapproved redemption centers. Nothing in the Act or this chapter prevents a person from establishing a redemption center that has not been approved by, certified by, or registered with the department. ~~Before commencing operations, unapproved redemption centers shall provide the following to the department:~~ These facilities are not approved redemption centers as required by some sections of the Act.

~~a.~~—Name, address and telephone number of the redemption center;

~~b.~~—Name, address and telephone number of the person or persons responsible for the establishment and operation of the redemption center; and

~~c.~~—Operating hours of the redemption center.

~~When the redemption center is closing permanently, it shall give to the department notice that includes the redemption center's final date of operation.~~

ITEM 13. Rescind subrule 107.4(3) and adopt the following **new** subrule in lieu thereof:

107.4(3) Distributor redemption centers.

a. Each beer distributor selling nonrefillable metal beverage containers in this state shall provide individually or collectively by contract or agreement with a dealer, person operating a redemption center or another person, at least one facility in the county seat of each county where refused empty nonrefillable metal beverage containers, refused pursuant to rule 567—107.13(455C), having a readable refund value indication as required by this chapter may be accepted and redeemed. In cities having a population of 25,000 or more, the number of the facilities provided shall be one for each 25,000 population or a fractional part of that population.

b. Distributor redemption centers may be either “approved” or “unapproved.” To be “approved,” the facility must submit an application pursuant to subrule 107.4(1), which includes the requirement to accept more than just metal beverage containers.

ITEM 14. Rescind subrule **107.4(4).**

ITEM 15. Rescind subrule **107.4(5).**

ITEM 16. Rescind subrule **107.4(6).**

ITEM 17. Rescind and reserve rule **567—107.5(455C).**

ITEM 18. Rescind and reserve rule **567—107.7(455C).**

ITEM 19. Amend rule 567—107.8(455C) as follows:

567—107.8(455C) Interpretive rules Miscellaneous requirements.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~107.8(1) Beverage containers “sold” on interstate carriers.—It is common practice for interstate carriers to provide or sell soft drinks, beer, wine, or alcoholic liquor to passengers for consumption on the conveyance. Such containers are not a litter problem and their return would be impractical. Since statutes should be construed to avoid a strained or impractical result, the commission believes that control of the beverage containers “sold” on interstate carriers is beyond the objectives sought to be obtained by the Act and that these containers, such as trains, planes, or buses that travel through Iowa, are not subject to the deposit and labeling requirements of the Act.~~

~~107.8(2) Beverage containers must be reasonably intact. In order to be redeemed, an empty beverage container must be returned reasonably intact. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed, but may not be crushed flat. A returned beverage container should be able to stand on its own base.~~

~~107.8(3) Vending machines.~~

~~a.—When a beverage container is dispensed from a vending machine in exchange for money, there is presumed to be a sale of a beverage in a beverage container to a consumer. Therefore some person must be the “dealer” who is responsible for collecting the deposit at the time of sale and for refunding the deposit when the empty beverage container is returned. Because of the variety of contractual relationships surrounding operation of a vending machine, the person who is the “dealer” might be the owner of the vending machine, the lessee of the vending machine, the owner of the premises on which the vending machine is located, or the person who stocks the vending machine. It is incumbent upon the parties involved in the operation of a vending machine to determine the person who is the “dealer” and to indicate prominently on the vending machine the name, location and normal operating hours of the dealer (or an approved redemption center) if the dealer does not have personnel on its premises.~~

~~b.—If the vending machine is located on premises where personnel of the dealer are not normally working, there is no obligation to provide personnel to redeem beverage containers at the site of the vending machine. However, the “dealer” must provide for redemption of beverage containers at the dealer’s usual working place.~~

~~107.8(4) 107.8(2) Transfer tanks, premix tanks and beer kegs.—Because transfer tanks, premix tanks and beer kegs (half kegs, quarter kegs or pony kegs) are refillable, are returned to distributors and are not a litter problem, the commission believes that control of these containers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.~~

~~107.8(5) 107.8(3) Return limits. Dealers may limit the number of containers returned by an individual to 120 containers in a 24-hour period. Redemption centers may limit the number of containers returned by an individual to 500 containers in a 24-hour period.~~

~~107.8(6) Hours of returns for dealers.—A dealer, unless exempted pursuant to 107.4(4), must accept returns, at a minimum, from 7 a.m. to 10 p.m. unless the dealer’s operating hours are shorter, in which case returns shall be limited to the dealer’s hours of operation. If a dealer chooses to limit the hours of returns, the dealer must post a sign stating the hours during which beverage containers are accepted for return.~~

~~107.8(7) A dealer shall provide to the department upon request the name, telephone number and address of the distributor of any or all beverages sold by the dealer.~~

ITEM 20. Amend rule 567—107.9(455C) as follows:

567—107.9(455C) Pickup and acceptance of redeemed containers by distributor.

107.9(1) Pickup and acceptance from participating dealers. A distributor shall accept and pick up from a participating dealer served by the distributor, ~~other than an exempt dealer,~~ all empty beverage containers that bear an Iowa refund value and are of the kinds, sizes and brand names sold by the distributor. The distributor shall pick up the empty beverage containers at least weekly, or when the distributor delivers the beverage product to the dealer if deliveries are less frequent than weekly, unless otherwise agreed to by both the distributor and the dealer.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~107.9(2) Pickup and acceptance from approved redemption centers and redemption centers certified as a redemption center for a dealer.~~ A distributor shall accept and pick up from an approved redemption center for a dealer served by the distributor and from a redemption center certified as a redemption center for a dealer served by the distributor all empty beverage containers that bear an Iowa refund value and are of the kinds, sizes and brand names sold by the distributor. The distributor shall pick up the empty beverage containers at least weekly, ~~or when the distributor delivers the beverage product to the dealer for which the redemption center is certified as a redemption center if deliveries are less frequent,~~ unless otherwise agreed to by both the distributor and the approved redemption center ~~or the certified redemption center for a dealer, as the case may be.~~

~~107.9(3) Pickup from registered redemption centers.~~ A distributor shall pick up from a registered redemption center at the physical address specified in the redemption center's application, or at a new location approved by the department pursuant to 107.4(4), all empty beverage containers that bear an Iowa refund value and are of the kinds, sizes and brand names sold by the distributor. The distributor shall pick up the empty beverage containers according to the following schedule:

~~a. At least as frequently as the distributor picks up empty beverage containers from a dealer served by the distributor and located within three road miles of the registered redemption center, but not less frequently than once every ten calendar days;~~

~~b. At least once every ten calendar days for a registered redemption center located more than three road miles from the closest dealer served by the distributor; or~~

~~c. As agreed to by both the distributor and the registered redemption center.~~

~~107.9(4) Acceptance of redeemed containers from redemption centers.~~ A distributor shall accept delivery of empty beverage containers from and pay the refund value and handling fee to a redemption center located within the distributor's geographic service area provided that the containers bear an Iowa refund value and are of the kinds, sizes and brand names sold by the distributor.

~~107.9(5) 107.9(3) Acceptance of redeemed containers from dealer agents.~~ A distributor shall accept delivery of empty beverage containers from and pay the refund value and handling fee to a dealer agent provided that the containers were picked up by the dealer agent within the distributor's geographic service area and that they bear an Iowa refund value and are of the kinds, sizes and brand names sold by the distributor.

~~107.9(6) 107.9(4) Notification of frequency.~~ A distributor shall notify each participating dealer served by the distributor of the intended frequency of pickup. A distributor shall notify each redemption center from which the distributor is required to pick up containers of the intended frequency of pickup.

~~107.9(7) 107.9(5) Partial pickup.~~ A distributor which picks up containers more often than the required frequency shall not be required to pick up all available containers from a participating dealer or redemption center at each pickup provided that all available containers are picked up from the dealer or redemption center within the required frequency.

ITEM 21. Rescind and reserve rule ~~567—107.11(455C).~~

ITEM 22. Rescind and reserve rule ~~567—107.12(455C).~~

ITEM 23. Rescind rule 567—107.13(455C) and adopt the following new rule in lieu thereof:

567—107.13(455C) Refusing payment of the refund value. A distributor, participating dealer, or redemption center may refuse to pay the refund value and, if applicable, the handling fee in the following situations:

107.13(1) Nonparticipating dealers. A dealer may refuse to accept any beverage container and pay the refund value on a container if the dealer is in compliance with one of the requirements of Iowa Code section 455C.4 that allows the dealer not to participate in the bottle redemption program established in Iowa Code chapter 455C, and the dealer has complied with those provisions requiring proper notification to consumers of the approved redemption centers where the containers may be redeemed.

107.13(2) Refusal of certain store brands.

a. A redemption center may refuse to accept store brand containers for redemption if the store selling those brands refuses to identify distributors to pick up redeemed containers and to pay the full

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

deposit and handling fee. In such cases, the redemption center shall post a notice of the store brands it will not accept and why it will not accept those brands.

b. Any dealer, regardless of whether the dealer is a participating dealer or a nonparticipating dealer, that collects a deposit for a store brand must provide the consumer with a way to redeem the container to recover the deposit. Failure to do so is a violation of Iowa Code chapter 455C.

107.13(3) *Redeemed containers must be reasonably clean and intact.* Consumers shall return containers in a reasonably clean and intact condition. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed, but may not be crushed flat. In order to be redeemed, an empty beverage container shall be dry and free of foreign materials other than the dried residue of the beverage. Redemption centers and participating dealers may refuse to redeem containers that are not reasonably clean and intact, as well as containers that do not have an Iowa 5-cent redemption label and containers that have had the Iowa 5-cent label removed or if the label is illegible for any reason.

ITEM 24. Amend rule 567—107.14(455C) as follows:

567—107.14(455C) Payment of refund value by distributors.

107.14(1) *Payment to participating dealers.* A distributor shall issue to a participating dealer payment of the refund value and handling fee within one week following pickup or when the dealer pays the distributor for the beverages, if payment is less frequent than weekly.

107.14(2) *Payment to approved redemption centers and redemption centers certified as a redemption center for a dealer.* A distributor shall issue to an approved redemption center and to a redemption center for a dealer payment of the refund value and handling fee within one week following pickup unless otherwise agreed to by both the distributor and the redemption center.

107.14(3) *Payment to registered redemption centers.* A distributor shall issue to a registered redemption center payment of the refund value and handling fee within one week following pickup or when the dealer which is served by the distributor and which is closest to the registered redemption center pays the distributor for the beverages supplied by the distributor, if payment is less frequent than weekly. Payment to a registered redemption center shall be issued by a distributor at least every 14 calendar days unless otherwise agreed to by both the distributor and the registered redemption center.

107.14(4) **107.14(3)** *Payment to redemption centers and dealer agents delivering containers to distributors.* A distributor shall issue to a redemption center or dealer agent payment of the refund value and handling fee within one week of delivery and acceptance of empty beverage containers, unless otherwise agreed to by both the redemption center and the distributor or by both the dealer agent and the distributor, as the case may be.

ARC 6619C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to medical and remedial care
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 249A.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249A and 2022 Iowa Acts, House Files 2546 and 2578.

Purpose and Summary

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2546, which requires Iowa Medicaid to establish a rate for psychiatric intensive care in Iowa, was passed. 2022 Iowa Acts, House File 2578, which requires implementation of a tiered rate reimbursement methodology for psychiatric intensive patient care under the Medicaid program no later than January 1, 2023, was also passed.

This proposed rule making defines “acute psychiatric intensive care” and identifies how a patient meets the need for that level of care. This rule making also identifies the payment methodology for the acute psychiatric intensive care services.

Fiscal Impact

It is anticipated there will be a \$1.5 million state cost in state fiscal year 2023 and a \$3 million state cost in state fiscal year 2024 with the assumption that the implemented rate will be developed to align with the funding appropriated. The Legislature has not yet appropriated the full annualized cost.

Jobs Impact

The additional funding may be utilized for increased staffing ratios, but it is unlikely a significant number of jobs will be created.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

HUMAN SERVICES DEPARTMENT[441](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** subrule 78.3(8):

78.3(8) Payment will be made for medically necessary inpatient acute psychiatric intensive care services that meet the criteria in this subrule, pursuant to 441—paragraph 79.1(5) “i.” This inpatient rate is only applicable to individuals 18 to 64 years of age. All inpatient acute psychiatric intensive care services shall require prior authorization.

a. “Acute psychiatric intensive care” is defined as care provided for a condition with rapid onset that is accompanied by severe symptoms and is generally of brief duration, requiring emergency treatment and critical care.

b. To meet the need for acute psychiatric intensive care, the patient must:

- (1) Have a serious mental illness as defined in 441—subrule 77.47(1);
- (2) Have a current, severe, imminent risk of serious harm to self or others; and
- (3) Display additional complexity of need related to:

1. Complex comorbidities, including intellectual or developmental disability, autism spectrum disorder, substance use disorders, or traumatic brain injuries; or

2. A history of violence or current aggression that is secondary to mental illness; or

3. A request for patient transfer that has been rejected by inpatient level of care by one or more hospitals due to severity of symptoms; or

4. Lack of responsiveness to typical interventions or a condition that is treatment refractory; or

5. A highly disorganized psychotic state or a highly suicidal state; or

6. Behavior that causes disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or

7. High elopement risk; or

8. Any other atypical reason that the admitting psychiatrist feels that additional resources are needed to keep the patient and others around the patient safe.

c. The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:

- (1) Fall risk,
- (2) Restraints or seclusion room requirements,
- (3) Requiring assistance with activities of daily living,
- (4) Nursing care requirements,
- (5) Patient status (alertness/orientation),
- (6) Complexity of mental illness and comorbidities,
- (7) Physical risk posed to staff, other patients, and infrastructure,
- (8) Elopement risk.

ITEM 2. Amend paragraph **79.1(5)“i”** as follows:

i. *Payment for certified physical rehabilitation hospitals and units, ~~and~~ psychiatric units, and acute psychiatric intensive care services.* Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5) “r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5) “r” is prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital’s base-year cost report pursuant to paragraph 79.1(5) “a.” No recognition will be given to the professional component of the hospital-based physicians except as noted under paragraph 79.1(5) “j.”

(2) ~~Reserved.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~(3)~~ (2) Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.

(4) (3) Per diem recalculation. Hospital prospective reimbursement rates shall be established as of October 1, 1987, for the remainder of the applicable hospital fiscal year. Beginning July 1, 1988, all updated rates shall be established based on the state's fiscal year.

(4) Acute psychiatric intensive care services. Services that meet the criteria at 441—subrule 78.3(8) shall be reimbursed as follows:

1. Services provided in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” will be paid based on the hospital-specific per diem rate as calculated pursuant to subparagraph 79.1(5)“i”(1) plus a percentage increase as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

2. Services not provided in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” will be paid based on the hospital-specific DRG payment rate as calculated pursuant to paragraph 79.1(5)“b” plus an add-on per diem rate as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

(5) Per diem billing. The current method for submitting billing and cost reports shall be maintained. All cost reports will be subject to desk review audit and, if necessary, a field audit.

ARC 6621C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to collections
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 95, “Collections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 252B.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.3.

Purpose and Summary

Chapter 95 was reviewed as part of the Department's five-year rules review. These rules outline the eligibility for child support recovery services under federal and state laws and the rules for children and families referred to the child support recovery unit who have applied for or are receiving public assistance.

The rules review resulted in proposed technical changes. Proposed amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are proposed to be updated to provide accurate listings, and outdated references are proposed to be removed. Mailing addresses are also proposed to be updated.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—95.1(252B)**, definition of “Current support,” as follows:

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. ~~In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).~~

ITEM 2. Amend subrule 95.2(4) as follows:

95.2(4) Application for services.

A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2)“a,” “b,” and “c,” shall complete and ~~return~~ submit to the child support recovery unit Form 470-0188, ~~Application for Nonassistance Support Services,~~ or an electronic version of such application, for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of the child’s parents.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a. The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.~~

~~b. The person requesting services has the option to seek support from one or both of the child's parents.~~

ITEM 3. Amend paragraph **95.3(1)“a”** as follows:

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, ~~“Income Withholding Return Document,”~~ to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

ITEM 4. Adopt the following new implementation sentence in rule **441—95.4(252B)**:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 5. Amend subrule 95.5(1) as follows:

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to ~~August 4, 1989~~ September 1, 2022. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

ITEM 6. Amend paragraph **95.13(1)“a”** as follows:

a. An obligee may contact a customer service representative ~~in person at the department's collection services center,~~ by telephone ~~through the specialized customer services unit,~~ or by writing to the Collection Services Center, ~~727 East 2nd Street P.O. Box 9243,~~ Des Moines, Iowa 50306.

ITEM 7. Amend paragraph **95.14(1)“a”** as follows:

a. The child support recovery unit may terminate services when the case meets at least one of the following case closure criteria and the child support recovery unit maintains supporting documentation for the case closure decision in the record:

(1) to (4) No change.

(5) The noncustodial parent's location is unknown and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to September 1, 2022, all of which have been unsuccessful, within the applicable time frame:

1. and 2. No change.

(6) to (13) No change.

(14) The child support recovery unit documents failure by the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that its intergovernmental services are no longer needed.

(17) and (18) No change.

ITEM 8. Amend subparagraph **95.14(1)“c”(2)** as follows:

(2) The child support recovery unit receives instructions for case closure from an initiating agency, as defined under 45 CFR 301.1 as amended to September 1, 2022. Within ten working days, the child

HUMAN SERVICES DEPARTMENT[441](cont'd)

support recovery unit must stop the income withholding order or notice and close the intergovernmental IV-D case.

ITEM 9. Amend subrule 95.14(2) as follows:

95.14(2) Case closure notifications. In cases meeting one of the criteria of subrule 95.14(1), except subparagraph 95.14(1)“a”(9), (10), or (11), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. to d. No change.

ITEM 10. Amend paragraph **95.15(2)“b”** as follows:

b. The child support recovery unit ~~attorney~~ shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

ITEM 11. Amend rule **441—95.15(252B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and ~~598.21~~ 598.21C.

ITEM 12. Rescind and reserve rule **441—95.16(252B)**.

ITEM 13. Adopt the following new implementation sentence in rule **441—95.17(252B)**:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 14. Amend rule 441—95.18(252B) as follows:

441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—subrule ~~41.22(8)~~ 441—Chapter 41 or 441—subrule ~~75.14(3)~~ 441—Chapter 75, as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

95.18(1) Notice of services. When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, ~~Notice of Continued Support Services~~, to the family’s last-known address within five working days of the notification of ineligibility, to inform the family of the following:

a. and b. No change.

95.18(2) Termination of services. A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, ~~Notice of Continued Support Services~~, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

95.18(3) No change.

This rule is intended to implement Iowa Code section 252B.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 15. Amend rule 441—95.19(252B) as follows:

441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

95.19(1) Cooperation defined. The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in ~~441—subrule 41.22(8)~~ 441—Chapter 41 or ~~75.14(8)~~ 441—Chapter 75 for refusal to cooperate, is established.

a. and b. No change.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, ~~Child Support Information~~, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.19(2) Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, ~~Notice of Noncooperation~~, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) Good cause or other exception.

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrules 41.22(8) through 41.22(12)~~ 441—Chapter 41.

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrule 75.14(3)~~ 441—Chapter 75.

This rule is intended to implement Iowa Code section 252B.3.

ITEM 16. Amend rule 441—95.20(252B), introductory paragraph, as follows:

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in ~~441—subrule 41.22(6)~~ 441—Chapter 41 and ~~rule 441—75.14(249A)~~ 441—Chapter 75 shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

ITEM 17. Amend subrule 95.21(2) as follows:

95.21(2) Failure to cooperate. The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under ~~95.14(1)“b”(1)~~ subparagraph 95.14(1)“a”(10).

ITEM 18. Amend subrule 95.25(1) as follows:

95.25(1) Verification process. CSRU shall send Form 470-2562, ~~Emancipation Verification~~, to the obligor and obligee on a case if CSRU has an address.

ARC 6620C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 96, “Information and Records,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 252B.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.9.

Purpose and Summary

Chapter 96 was reviewed as part of the Department’s five-year rules review. Title IV-D of the Social Security Act provides that state child support agencies providing services under the Act shall have access to information and records from third parties to assist in providing services. These rules provide the framework for a child support agency to request or administratively subpoena information from employers and other sources.

Technical changes are proposed as a result of the five-year rules review. A reference to an obsolete form is being replaced with current information. A mailing address is also proposed to be amended.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **96.1(3)“a”** as follows:

a. Form ~~470-3232, Employer Verification Request, Form 470-0177~~ 470-0177M, Employment and Health Insurance Questionnaire, or other forms as specified in appropriate rules from the child support recovery unit which request information described at subrule 96.1(1).

ITEM 2. Amend paragraph **96.3(2)“b”** as follows:

b. If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with the child support recovery unit or with the child support agency of the other state. The person or entity shall request a conference with the child support recovery unit by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to the Iowa Department of Human Services, Bureau of Collections, Central Registry, P.O. Box ~~9248~~ 9136, Des Moines, Iowa ~~50306-9248~~ 50306-9136. The person or entity shall request a conference with the child support agency of the other state by following the requirements of that state’s laws and regulations.

ARC 6622C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 97, “Collection Services Center,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 252B.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.16.

Purpose and Summary

Chapter 97 was reviewed as part of the Department’s five-year rules review. The collection services center is the public agency designated by the State as the unit with responsibility for the receipt, recording and disbursement of specified support payments within the state of Iowa. The administrative guidelines within this chapter describe the process of transferring support cases or information from the clerks of

HUMAN SERVICES DEPARTMENT[441](cont'd)

district court to the collection services center and the policies and procedures used to receive, monitor and distribute support payments.

Technical changes are proposed as a result of the five-year rules review. References to obsolete language are being replaced with current information.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—97.2(252B), introductory paragraph, as follows:

441—97.2(252B) Transfer of records and payments. For non-IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. “Core case information” means information listed in paragraphs 97.2(1) “a” and “b” and subrule 97.2(2). For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, ~~obligees,~~ and ~~payors of income~~ obligees based upon case type.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 97.5(3), introductory paragraph, as follows:

97.5(3) Implementing electronic funds transmission. A payor of income implementing electronic funds transmission shall complete all the following ~~before the implementation date specified in subrule 97.5(5)~~ in advance of transmitting payments electronically:

ITEM 3. Rescind and reserve subrule **97.5(5)**.

ITEM 4. Amend subrule 97.6(3) as follows:

97.6(3) Electronic transfer. Obligees who want electronic transfer of support payments to a designated account shall complete Form 470-2612, ~~Authorization for Automatic Deposit~~, and submit it to the collection services center. Unless subrule 97.6(5) applies, any obligee not using automatic deposit to a designated account shall be issued an electronic access card for receipt of support payments.

ITEM 5. Amend paragraph **97.6(5)“c,”** introductory paragraph, as follows:

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on Form 470-3972, ~~Electronic Support Payments~~, that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return Form 470-3972 to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. The exemptions available under this paragraph are:

ARC 6609C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to foster care facility inspections and providing an opportunity for public comment

The Inspections and Appeals Department (Department) hereby proposes to amend Chapter 5, “Public Records and Fair Information Practices,” and rescind Chapter 40, “Foster Care Facility Inspections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 17A.7(2).

Purpose and Summary

Currently, Chapter 40 addresses duties related to the performance of foster care facility inspections by the Department on behalf of the Department of Human Services. After a review of this chapter in association with Iowa Code section 17A.7(2), the Department determined that references within this chapter are outdated and the duties set forth therein are redundant because the Department completes a comprehensive memorandum of understanding each year that governs the totality of work performed by the Department on behalf of the Department of Human Services and the duties associated therewith. This proposed rule making rescinds Chapter 40.

Subrule 5.12(2) regarding confidential records is also proposed to be updated to eliminate redundancy and remove outdated citations, including one reference to Chapter 40.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend 481—Chapter 5, introductory paragraph, as follows:

The department of inspections and appeals adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices ~~printed in the first volume of the Iowa Administrative Code~~, which are published on the Iowa general assembly’s website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

ITEM 2. Amend subrule 5.12(2) as follows:

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

~~The list below indicates rules prohibiting release.~~

1. ~~481— 21.5(10A). Real estate broker trust account information is governed by Iowa Code section 272C.6(4).~~

2. ~~481— 22.2(10A). Health care facility audits are confidential under Iowa Code section 217.30.~~

3. ~~481— 40.4(10A). DHS determines accessibility of foster care inspection records.~~

4. ~~481— 50.8(22,135B,135C). Survey information is confidential pursuant to Iowa Code sections 135B.12 and 135C.19.~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~5. 481—71.9(10A). Recoupment records and appeals and hearing records are governed by Human Services rules and Iowa Code section 217.30.~~

~~6. 481—72.4(10A). Food stamp investigation records are released only to DHS when an investigation is complete.~~

~~7. 481—73.8(10A). Iowa Code sections 10A.105, 17A.2(7)“f,” and 22.7(18) describe some of the investigation records as confidential.~~

~~8. 481—74.3(1)“e.” Economic assistance fraud bureau investigative material is not released pursuant to Iowa Code sections 10A.105, 17A.2(7)“f,” and 22.7(18).~~

~~In all cases, the originating agency shall determine whether records may be released.~~

ITEM 3. Rescind and reserve **481—Chapter 40.**

ARC 6633C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to dependent adult abuse
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 52, “Dependent Adult Abuse in Facilities and Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 235E.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 235E.5.

Purpose and Summary

The Department completed a review of Chapter 52 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making rescinds an outdated reference that staff member training be completed no later than December 31, 2010, and strikes definitions and rescinds rules that are redundant of statute. This rule making also updates the definition of “staff member” to clarify that health care employment agency workers are included within the definition of “staff member” and associated staff member reporting requirements. This rule making also adds a reference to a health care employment agency’s reporting requirement in accordance with new 481—Chapter 55 (Notice **ARC 6571C**, IAB 10/5/22).

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—52.1(235E) as follows:

481—52.1(235E) Definitions. The definitions set forth in Iowa Code section 235E.1 are incorporated herein by reference. For purposes of this chapter, unless the context otherwise requires, the following definitions apply:

~~“Assault of a dependent adult” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.~~

~~“Caretaker” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.~~

~~“Confidentiality” means the withholding of information from any manner of communication, public or private.~~

~~“Court” means the district court.~~

~~“Department” means the department of inspections and appeals.~~

~~“Dependent adult” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for the person’s own care or protection is impaired, either temporarily or permanently.~~

~~“Dependent adult abuse” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

exploitation, exploitation, neglect, or personal degradation. “Dependent adult abuse” does not include any of the following:

1.— Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

2.— Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment or care.

3.— The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 144B, 222, 229, or 633.

“*Exploitation*” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

“*Facility*” means a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1.

“*Gross negligence*” means an act or omission that signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences; and, in other words, means an extreme departure from the ordinary standard of care.

“*Immediately*,” for purposes of mandatory reporters’ reporting of suspected dependent adult abuse, means within 24 hours.

“*Inspector*” means a surveyor, monitor or investigator with the department or any department designee.

“*Intimate relationship*” means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the following nonexclusive list of factors may be considered:

1.— The duration of the relationship;

2.— The frequency of interaction;

3.— Whether the relationship has been terminated; and

4.— The nature of the relationship, characterized by either person’s expectation of sexual or romantic involvement.

“*Misappropriates*” means taking unfair advantage of or wrongfully or dishonestly exercising control over property.

“*Neglect of a dependent adult*” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.

“*Person*” means person as defined in Iowa Code section 4.1.

“*Personal degradation*” means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. “Personal degradation” also

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility's or program's confidentiality policy and release of information or consent policies.~~

~~"Physical injury" means a physical injury, or injury which is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker in similar circumstances. "Physical injury" includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.~~

~~"Program" means an elder group home as defined in Iowa Code section 231B.1, an assisted living program certified under Iowa Code section 231C.3, or an adult day services program as defined in Iowa Code section 231D.1.~~

~~"Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.~~

~~"Registry" means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.~~

~~"Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.~~

~~"Resident" means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.~~

~~"Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. "Sexual exploitation" includes but is not limited to:~~

- ~~1. to 4. No change.~~

~~"Sexual exploitation" does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.~~

~~"Sexual offense" means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.~~

~~"Staff member" means an individual who provides direct or indirect treatment or services to residents in a facility or program. Specifically included in the definition of "staff member" is an employee, health care employment agency worker, or other independent contractor who otherwise meets the definition. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the definition of "staff member" are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.~~

~~"Unreasonable confinement" means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the convenience of staff. "Unreasonable confinement" does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.~~

~~"Unreasonable punishment" means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

“*Willful misconduct*” means an intentional act of unreasonable character committed with disregard for a known or obvious risk that is so great as to make it highly probable that harm will follow.

ITEM 2. Rescind paragraph **52.2(1)“b”** and adopt the following new paragraph in lieu thereof:

b. A health care employment agency in accordance with 481—Chapter 55.

ITEM 3. Rescind subrule **52.2(6)**.

ITEM 4. Amend subrule 52.3(2) as follows:

52.3(2) *Reports sent to the department or the department of human services.* Any person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department. The department shall transfer any reports received of dependent adult abuse in the community to the department of human services. ~~The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department in accordance with Iowa Code section 235E.2(5).~~

ITEM 5. Rescind and reserve rule **481—52.4(235E)**.

ITEM 6. Amend paragraph **52.7(2)“b”** as follows:

b. An alleged dependent adult abuser may request to have an attorney present at the alleged dependent adult abuser’s expense at any time during the interview, but the request may not unreasonably delay the investigation. An employee organization representative or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met: set forth in Iowa Code section 235E.2(13) “a” are met.

(1) ~~The alleged dependent adult abuser is part of a bargaining unit or employee organization that is party to a collective bargaining agreement under Iowa Code chapter 20 or any other applicable state or federal law.~~

(2) ~~The alleged dependent adult abuser requests the presence of a union representative or employee organization representative.~~

(3) ~~The representative maintains the confidentiality of all information from the interview subject to the penalties provided in Iowa Code section 235B.12 if such confidentiality is breached.~~

(4) The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

ITEM 7. Amend subrule 52.7(3) as follows:

52.7(3) *Photographs of victim, vicinity and related matters.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved in accordance with Iowa Code section 235E.2(12). ~~The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.~~

ITEM 8. Amend rule 481—52.8(235E) as follows:

481—52.8(235E) Notification to subsequent employers. The department shall notify a facility or program that subsequently employs an alleged or founded dependent adult abuser in accordance with Iowa Code section 235E.2(11).

ARC 6618C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action****Proposing rule making related to the updated 2023 4% qualified allocation plan
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35.

Purpose and Summary

The updated 2023 4% Qualified Allocation Plan (4% QAP) sets forth the purposes of the plan, administrative information required for participation, threshold criteria, selection criteria, post-reservation requirements, the appeal process, and compliance monitoring. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the 4% QAP are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinance.com. It is the Authority’s intent to incorporate the updated 2023 4% QAP by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years’ QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

IOWA FINANCE AUTHORITY[265](cont'd)

Kristin Hanks-Bents
 Iowa Finance Authority
 1963 Bell Avenue, Suite 200
 Des Moines, Iowa 50315
 Phone: 515.452.0404
 Email: kristin.hanks-bents@iowafinance.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 12.1(1) as follows:

12.1(1) Four percent qualified allocation plan. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2020-21~~ 2023 4% Qualified Allocation Plan (“4% QAP”) dated ~~November 6, 2019~~ October 5, 2022, shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to ~~November 6, 2019~~ October 5, 2022.

ITEM 2. Amend subrule 12.2(1) as follows:

12.2(1) 4% QAP. The 4% QAP can be reviewed and copied in its entirety on the authority’s website at ~~www.iowafinanceauthority.gov~~ www.iowafinance.com. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s website. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 6, 2019~~ October 5, 2022. Additionally, the 4% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s website.

ARC 6630C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

**Proposing rule making related to grant programs
 and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 23, “Wildlife Habitat Promotion with Local Entities Program,” Chapter 27, “Lands and Waters Conservation Fund Program,” Chapter 30, “Waters Cost-Share and Grant Programs,” Chapter 33, “Resource Enhancement and Protection Program: County, City and Private Open Spaces Grant Programs,” and Chapter 35, “Fish Habitat Promotion for County Conservation Boards,” Iowa Administrative Code.

NATURAL RESOURCE COMMISSION[571](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6), 455A.19(1)“b,” 455A.19(1)“d” and 462A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 452A.79A, 455A.19, 456A.29 to 456A.33, 461A.3, 464A.11 and 483A.3A.

Purpose and Summary

The Commission proposes to amend rules related to multiple grant programs to add provisions addressing conflicts of interest, electronic filing, and more adaptable filing deadlines.

Several grant programs do not explicitly address conflicts within the preselected scoring committee. This proposed rule making adds language that requires designation of at least two alternates. The alternates will be available to serve in the place of a primary committee member whenever the primary committee member is directly participating in a grant cycle.

Additionally, a few grant programs have antiquated submission rules, requiring that paper copies be mailed to a particular address. The Department of Natural Resources (Department) began using an electronic grant submission portal in 2020. This new method is easy and cost-effective. The proposed amendments require that applications be submitted via a form or a method specified on the Department’s website. This will enable the Department and grant applicants to utilize new systems as technology improves over time.

Finally, many grant programs have fixed deadlines set forth in rule (e.g., March 15). This prevents flexibility on grant deadlines even when extraordinary events may justify accommodations, such as the derecho and COVID-19, both experienced within the last several years. The proposed amendments mirror existing language in Chapter 30 that allows a submission deadline to be published on the Department’s website with at least 90 days’ notice. Notably, Chapter 30’s publication-based framework has been successfully utilized for 14 years. The proposed amendment would allow the Department to change a deadline when circumstances warrant while still ensuring plenty of public notice.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

NATURAL RESOURCE COMMISSION[571](cont'd)

Michelle Wilson
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: michelle.wilson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Michelle Wilson via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Wilson prior to the hearing to facilitate an orderly hearing.

November 22, 2022
12 noon to 1 p.m.

Video/conference call

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 23.6(2) as follows:

23.6(2) Time of submission. Applications for funds shall be reviewed and selected for funding ~~during January and July of each year~~ at least twice per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be ~~received in acceptable form by~~ submitted to the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, ~~by the close of business on the last business day of May for consideration at the summer review and the last business day of November for the winter review~~ department as described on the website. Changes to grant applications must be submitted to the department no later than 4 p.m. the day prior to the committee review date. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of these funds. In emergencies, local entities can obtain a waiver so that acquisition projects may be approved for retroactive payments, provided that funds are available and the project meets all other criteria.

ITEM 2. Amend subrule 23.7(1) as follows:

23.7(1) Review and selection committee.

a. A review and selection committee, hereinafter referred to as the committee, composed of one person appointed by the director to represent the department and designated by the director as chairperson and four persons appointed by the director to represent county conservation boards shall determine which grant applications and amendment requests shall be selected for funding. Additionally, there shall be at least two alternates designated by the director to represent the county conservation boards in the event of a conflict of interest.

NATURAL RESOURCE COMMISSION[571](cont'd)

b. Conflict of interest. An individual who is a member, volunteer, or employee of a county conservation board that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 3. Amend subrule 27.5(2) as follows:

27.5(2) Application timing. The following information applies to local projects only. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on an annual basis as provided in subrule 27.2(2). ~~Annual reviews shall be held in April. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the work day closest to the fifteenth day of March.~~ The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

ITEM 4. Amend subrule 27.6(1) as follows:

27.6(1) Review and selection committee.

a. A five-member review and selection committee, hereinafter referred to as the committee, shall be composed of three staff members of the department as appointed by the director of the department, one member appointed by the director with input from the ~~Iowa Association of County Conservation Boards~~ association of county conservation boards, and one member appointed by the director of the department with input from the ~~Iowa League of Cities~~ league of cities and the ~~Iowa Parks and Recreation Association~~ parks and recreation association. Additionally, there shall be at least two alternates designated by the director with input from both associations and the league of cities. The committee shall determine which grant applications and amendment requests shall be selected for funding at the local level. A review and selection committee for state projects shall be composed of four staff members of the department as appointed by the director.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 5. Rescind rule 571—30.8(452A) and adopt the following new rule in lieu thereof:

571—30.8(452A) Application procedures. Applications for funds shall be reviewed and selected for funding at least once per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

ITEM 6. Rescind and reserve rule ~~571—30.14(77GA,SF2381)~~.

ITEM 7. Amend rule ~~571—30.51(455A,461A,462A)~~, definition of "Scoring committee," as follows:

"Scoring committee" means the water trails scoring committee, which consists of the coordinator, two ~~other~~ department staff members appointed by the director, and two representatives and two alternates of the water recreation community selected by the director.

ITEM 8. Amend rule 571—30.57(455A,461A,462A) as follows:

571—30.57(455A,461A,462A) Proposal evaluation.

30.57(1) Proposals will be evaluated by the scoring committee. The scoring committee shall evaluate both water trails development program proposals and low-head dam public hazard program proposals.

30.57(2) Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 9. Amend subrule 33.5(2) as follows:

33.5(2) Applications for all grant programs shall be made on forms provided by the department. ~~An original and five copies shall be submitted by deadlines as specified in subrule 33.5(4) of this chapter or as otherwise published by the department.~~

ITEM 10. Amend subrule 33.5(4) as follows:

33.5(4) Application deadlines are the same for county, city, and private open space grant programs. Applications will be reviewed and projects selected for funding ~~one time each year in September~~ at least once per year. Applications must be received in acceptable form by the department by the close of business on the fifteenth day of August. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Upon a 60-day notice to potential applicants, the department may schedule additional review and selection periods to expedite the distribution of grant funds.

ITEM 11. Amend subrule 33.30(3) as follows:

33.30(3) *Project planning and review committee.*

a. The makeup of this committee is as follows: two representatives of the department appointed by the director; two county conservation board directors appointed by the director of the department with input from the ~~Iowa Association of County Conservation Boards~~ association of county conservation boards; one member selected every three years by a majority vote of the director's appointees. Additionally, there shall be at least two alternates designated by the director with input from the Iowa association of county conservation boards. The members shall select a chairperson at the first meeting during each calendar year. Terms of appointment to the committee shall be on a three-year staggered term basis.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 12. Amend subrule 33.40(4) as follows:

33.40(4) *Review and selection committee.*

a. The director shall appoint a five-member review and selection committee to evaluate project applications. This committee shall include one member representing each of the three size classes of cities (e.g., one from a city of less than 2,000, one from a city of 2,000 to 25,000, and one from a city of over 25,000). The director shall request a list of candidates from the Iowa league of Iowa cities and Iowa parks and recreation association. The remaining two members of the committee shall be a representative of the department and an at-large member. Additionally, there shall be at least two alternates designated by the director from the candidates list provided by the Iowa league of cities and the Iowa parks and recreation association. The committee shall elect its own chairperson from its members. Members shall serve three-year staggered terms.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 13. Amend subrule 33.50(4) as follows:

33.50(4) *Project review and selection committee.*

a. The director shall appoint a committee to review and score projects. The committee shall include the following: three persons representing the private sector and two alternates selected from a pool of potential names as submitted to the director by the various private eligible groups; administrator of the conservation and recreation division of the department, or the administrator's designee; and the bureau chiefs of the department's ~~forestry~~ wildlife bureau and parks, forests, and preserves bureau or their designees. The committee shall elect its own chairperson from its members. ~~The director shall request a list of candidates for the private sector members from groups eligible to participate in this program.~~ The committee will report to the director the order in which proposed projects were ranked using criteria as specified in 33.50(5).

NATURAL RESOURCE COMMISSION[571](cont'd)

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 14. Amend subrule 35.5(2) as follows:

35.5(2) Time of submission. Applications for funds shall be reviewed and selected for funding during January of each year at least once per year. ~~The district designee shall receive an original application and six copies in acceptable form by the close of business on the last business day of November of the previous year for consideration. The district shall forward a copy of all applications to the department's designee by December 15 of the previous year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.~~ Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of funds. In emergencies, a county may request a waiver so that an acquisition project may be approved for retroactive payments if funds are available and the project meets all other criteria.

ITEM 15. Amend subrule 35.6(1) as follows:

35.6(1) Review and selection committee.

a. Each district shall have a review and selection committee, hereinafter referred to as the committee. Each committee shall be composed of at least five county directors or their designees, with at least two designated alternates. Each district's committee shall determine which grant applications and amendment requests shall be selected for funding. For advisory purposes only, a department biologist or designee shall be present during review and selection of grant applications and amendment requests.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ARC 6629C

NATURAL RESOURCES DEPARTMENT[561]

Notice of Intended Action

Proposing rule making related to the recording and submission of groundwater hazard statements and providing an opportunity for public comment

The Natural Resources Department hereby proposes to amend Chapter 9, "Groundwater Hazard Documentation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 558.69.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 558.69.

Purpose and Summary

The purpose of this proposed rule making is to align the groundwater hazard statement rules with recent changes in Iowa law. Minor cleanups of rule language are also proposed.

2022 Iowa Acts, House File 2343, was signed into law on April 21, 2022. This legislation has amended Iowa Code section 558.69 in two ways relevant to this rule making. First, it removes the requirement to record a groundwater hazard statement if no relevant conditions are present on the property. In these circumstances, prescribed statutory language must be included on the first page of the transferring document. Second, this legislation allows county recorders to submit groundwater hazard

NATURAL RESOURCES DEPARTMENT[561](cont'd)

statements to the Department through the use of a web browser interface provided by the county land record information system or through other electronic means.

More specifically, the proposed amendments:

- Remove the requirement to record groundwater hazard statements in circumstances that now conflict with the Iowa Code.
- Reference a new groundwater hazard statement form. This proposed form is made part of this rule making as a rule-referenced document. The proposed form can be found at www.iowadnr.gov/Portals/idnr/uploads/forms/5420960%20Proposed.pdf. The proposed form clarifies when a condition is present or not present and provides clear instructions on when to submit the form versus when to include the statutory language. This proposed form is intended to rescind and replace the current form in its entirety.
- Require the Department to enter into an agreement with the custodian of the county land record information system prior to the submission of groundwater hazard statement forms through the system's web browser interface. This rule will ensure efficient and transparent submissions, particularly in future years. Additionally, to account for unforeseen circumstances, the Department proposes rules that allow for the easy digital transmission of groundwater hazard statements in the unlikely event the county land record information system is inoperable.
- Ensure that the Department does not receive documents that transfer property when no conditions are present on the property.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Noah Poppelreiter
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: GWHS@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via Zoom meeting. Persons who wish to attend the Zoom public hearing should contact Noah Poppelreiter via email at noah.poppelreiter@dnr.iowa.gov. A meeting registration link will be provided prior to the hearing.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Persons who wish to make oral comments at the public hearing must submit a request to Noah Poppelreiter prior to the hearing to facilitate an orderly hearing. A hearing is scheduled as follows:

November 22, 2022
12 noon to 1 p.m.

Video/conference call

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 9.1(4) as follows:

9.1(4) *When groundwater hazard statement is required.* A groundwater hazard statement shall be presented to the county recorder along with the real estate transaction documents ~~for any real estate transaction in which either of the following circumstances exists:~~ only when required by Iowa Code section 558.69 or when otherwise required by Iowa law.

~~a. A declaration of value is required to be submitted pursuant to Iowa Code chapter 428A.~~

~~b. A private sewage disposal system inspection is required pursuant to 2008 Iowa Acts, chapter 1033, section 1. It shall be the duty of the transferor to determine whether an inspection is required and to include the groundwater hazard statement and certified inspector's report when filing transfer documents that do not require a declaration of value.~~

ITEM 2. Amend subrule 9.2(1) as follows:

9.2(1) The department hereby adopts by reference Form 542-0960, "Groundwater Hazard Statement" (February 1, 2023), which may be obtained from the department or local county recorder.

~~a. When a groundwater hazard statement is required to be presented to a county recorder pursuant to subrule 9.1(2), the transferor or the transferor's agent or attorney shall complete and sign department present Form 542-0960, "Groundwater Hazard Statement," which may be obtained from the department or local county recorder. An The transferor's agent or attorney may sign the form for on behalf of the transferor, but in doing so the agent or attorney represents that a good-faith inquiry of the transferor has been made regarding the information contained in the form and that the information is correct. The department hereby adopts by reference Form 542-0960, "Groundwater Hazard Statement," as amended through July 18, 2012.~~

~~b. For all real estate transactions where a groundwater hazard statement is required to be submitted to a county recorder pursuant to subrule 9.1(4) and where the real estate transaction is dated July 18, 2012, or later after February 1, 2023, a county recorder shall accept only the currently adopted form. The department authorizes the reproduction of Form 542-0960 by any person through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.~~

ITEM 3. Amend subrule 9.2(3) as follows:

9.2(3) In all cases, the county recorder shall return the original of or present the statement to the transferee when with the recorded instrument when the instrument is returned or presented to the transferee or the transferee's designee. If the statement submitted reveals that there is a well, a disposal site, an underground storage tank, or hazardous waste on the property, a copy of the form shall be submitted to the department within 15 days after the close of each month. If a standardized

NATURAL RESOURCES DEPARTMENT[561](cont'd)

electronic format is established by agreement between the Iowa County Recorders Association and the department, then the department's copy may be submitted electronically in the manner established by the agreement. Forms on which a private burial site is the sole matter disclosed and which do not reveal the existence of a well, disposal site, underground storage tank, or hazardous waste on the property shall not be submitted to the department. Forms shall be retained by the department for a period of five years.

ITEM 4. Rescind subrule 9.2(4) and adopt the following **new** subrule in lieu thereof:

9.2(4) When a county recorder accepts a groundwater hazard statement for recording, the county recorder shall transmit the groundwater hazard statement form to the department through one of the following methods:

a. Upon written agreement between the department and the custodian of the county land record information system, recorded groundwater hazard statement forms shall be presented to the department through a browser interface provided through the county land record information system for so long as such an agreement remains in place. Any agreement shall include, but not be limited to, a requirement that each form be posted to the system within 15 days of recording and a requirement that each form remain on the system for at least five years.

b. In the absence of such an agreement, or if the county land record information system is inoperable, a county recorder shall submit to the department via email a scanned or digital copy of each groundwater hazard statement form within 15 days of its recording. All emails shall be directed to the department's records division. Forms in the custody of the department shall be retained for a period of at least five years.

ITEM 5. Adopt the following **new** subrule 9.2(5):

9.2(5) Nothing in these rules shall be construed as requiring any party to submit to the department the first page of any document that transfers a property on which no conditions are present.

ARC 6610C**RACING AND GAMING COMMISSION[491]****Notice of Intended Action****Proposing rule making related to proceedings, gambling, wagering, horse racing, gambling games, and fantasy sports contests and providing an opportunity for public comment**

The Racing and Gaming Commission hereby proposes to amend Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 8, "Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering," Chapter 10, "Thoroughbred and Quarter Horse Racing," Chapter 11, "Gambling Games," Chapter 12, "Accounting and Cash Control," Chapter 13, "Sports Wagering," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 99D.7, 99E.3 and 99F.4.

Purpose and Summary

Item 1 updates a citation to a codified Iowa Code section.

Item 2 increases the administrative penalty for gaming board matters.

Item 3 corrects the name of a degree.

Item 4 clarifies language to allow for situations for which a contract already provides.

RACING AND GAMING COMMISSION[491](cont'd)

Item 5 changes the 30-day requirement for submission of a qualifying agreement to 60 days for Iowa vendors.

Item 6 incorporates language for consistency with the Iowa Code.

Item 7 changes the 90-day requirement to 60 days to submit a network security risk assessment report.

Item 8 rescinds a subrule to clarify that racing wagers are allowed no more than one hour ahead of scheduled post time.

Item 9 adds a type of wager that may be prohibited in relation to contests with seven or fewer horses in a race.

Item 10 clarifies which records held by advance deposit wagering operators should be available to the Commission.

Item 11 allows for jockey agents to be in otherwise prohibited areas with advance written permission by the stewards.

Item 12 allows for a type of bonus wager that is statistically dependent on other outcomes.

Item 13 allows access to bank accounts on the gaming floor using a cashless system.

Item 14 clarifies use of a form to attest to reserves on hand.

Item 15 clarifies the way sports wagering operators report suspicious activities.

Item 16 clarifies reporting requirements for sports wagering Internal Revenue Service form W-2G events.

Item 17 clarifies which records held by advance deposit sports wagering (ADSW) operators should be available to the Commission.

Item 18 eliminates the in-person registration requirement for sports wagering.

Item 19 clarifies that an unusual, suspicious login attempt shall result in a locked account.

Item 20 clarifies reserve requirements for ADSW operators.

Item 21 clarifies expectations for change control process for ADSW operators.

Item 22 changes the 30-day requirement to 60 days to submit an ADSW system risk assessment report.

Item 23 removes a provision that prohibited fantasy sports wagers on collegiate events.

Item 24 clarifies which records held by fantasy sports operators should be available to the Commission.

Item 25 changes the 30-day requirement to 60 days to submit a fantasy sports contest system risk assessment report.

Item 26 removes a provision that prohibited fantasy sports wagers on collegiate events.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

RACING AND GAMING COMMISSION[491](cont'd)

Barb Blake
 Iowa Racing and Gaming Commission
 1300 Des Moines Street
 Des Moines, Iowa 50309
 Email: barb.blake@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 22, 2022
 10 a.m.

Commission Office, Suite 100
 1300 Des Moines Street
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **491—4.2(17A)**, definition of “Contested case,” as follows:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under ~~1998 Iowa Acts, chapter 1202, section 14~~ Iowa Code section 17A.10A.

ITEM 2. Amend rule 491—4.7(99D,99E,99F), introductory paragraph, as follows:

491—4.7(99D,99E,99F) Penalties (gaming board and board of stewards). All penalties imposed will be promptly reported to the commission and facility or other licensed entity in writing. The board may impose one or more of the following penalties: eject and exclude an individual from a facility; revoke a license; suspend a license for up to five years from the date of the original suspension; place a license on probation; deny a license; impose a fine of up to \$1000; or order a redistribution of a racing purse or the payment of or the withholding of a gaming payout. The board of stewards may impose a fine of up to \$1,000, and the gaming board may impose a fine of up to \$3,000. The board may set the dates for which the suspension must be served. The board may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by a state racing or gaming commission. If the punishment so imposed is not sufficient, in the opinion of the board, the board shall so report to the commission.

ITEM 3. Amend subrule 4.22(4) as follows:

4.22(4) An administrative law judge assigned to act as presiding officer in a contested case shall have a ~~Juris Docterate~~ Doctor degree unless waived by the agency.

ITEM 4. Amend subparagraph **5.4(8)“a”(1)** as follows:

(1) All contracts and business arrangements entered into by a facility are subject to commission jurisdiction. Written and verbal contracts and business arrangements involving a related party or in which the term exceeds three years or the total value in a calendar year exceeds \$100,000 regardless of payment

RACING AND GAMING COMMISSION[491](cont'd)

method are agreements that qualify for submission to and approval by the commission. Contracts and business arrangements with entities licensed pursuant to rule 491—11.13(99F) to obtain gambling games and implements of gambling, as defined by rule 491—11.1(99F), are exempt from submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

1. to 3. No change.

4. Any type of contract, regardless of value or term, where a third party provides electronic or mechanical access to cash or credit for a patron of the facility. ~~The~~ Where not already available, the contract must contain a clause that provides for immediate notification and implementation when technology becomes available to allow a person to voluntarily bar the person's access to receive cash or credit from such devices located on the licensed premises.

ITEM 5. Amend subparagraph **5.4(8)“a”(3)** as follows:

(3) A qualifying agreement must be ~~submitted~~ approved by the commission within ~~30~~ 60 days of execution if made in Iowa pursuant to subparagraph 5.4(8)“b”(4) or within 30 days of execution if not made in Iowa. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval and the qualifying agreement is submitted to commission staff prior to implementation. Qualifying agreements need only be submitted on initiation, unless there is a material change in terms or noncompliance with subparagraph 5.4(8)“b”(4) or to comply with numbered paragraph 5.4(8)“a”(1)“3.”

ITEM 6. Amend paragraph **5.4(12)“a”** as follows:

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

(1) No change.

(2) Comply with the process established by the commission to allow a person to be voluntarily excluded from the gaming floor of an excursion gambling boat, from the wagering area as defined in Iowa Code section 99D.2, from the sports wagering area as defined in Iowa Code section 99F.1(24), and from the gaming floor of all other licensed facilities or gambling activities regulated under Iowa Code chapters 99D and 99F; ~~and~~

(3) Allow persons to be voluntarily excluded for five years or life from all facilities on a form prescribed by the commission. Each facility will disseminate information regarding the exclusion to all other licensees and the commission; ~~and~~

(4) Identify the availability of technology on a device that provides electronic or mechanical access to cash or credit for a patron of the facility that would allow for a person to voluntarily bar the person's access to receive cash or credit from such devices located on the licensed premises and provide the process for a person to do so. Methods of identification shall be prominently displayed and be indicative of the availability of the process prior to a transaction taking place.

ITEM 7. Amend subparagraph **5.4(21)“a”(3)** as follows:

(3) Results from the network security risk assessment shall be submitted to the administrator no later than ~~90~~ 60 days after the assessment is completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

ITEM 8. Rescind and reserve subrule **8.2(5)**.

ITEM 9. Amend subrule 8.2(13) as follows:

8.2(13) *Pools dependent upon betting interests.* Unless the administrator otherwise provides, at the time the pools are opened for wagering, the facility:

a. May offer win, place, and show wagering on all contests ~~with six or more betting interests.~~

b. to g. No change.

h. May prohibit superfecta and pentafecta wagering on any contest with seven or fewer betting interests scheduled to start.

i. to l. No change.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 10. Adopt the following **new** subrule 8.6(4):

8.6(4) Records. Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 11. Amend paragraph **10.5(4)“b”** as follows:

b. Prohibited areas. A jockey agent is prohibited from entering the jockey room, winner’s circle, racing strip, paddock, or saddling enclosure during the hours of racing unless advance written permission has been granted from the stewards.

ITEM 12. Amend subrule 11.7(1) as follows:

11.7(1) Devices that determine or affect the outcome of wagers or are used in the collection of wagers on table games are subject to the requirements of rule 491—11.4(99F) and subrule 11.5(3). Additionally, software used in the conduct of table games is subject to the following requirements:

a. Removable storage media shall be sealed with tamper-evident tape by a commission representative prior to implementation.

b. Random number generators shall conform to the requirements of subrule 11.10(2); however, outcomes generated from the random number generator results may be dependent on previous outcomes in the following circumstances:

(1) When simulating live card games where cards used are not reused until the next hand is dealt, or until the multiplayer electronic device performs a shuffle of the simulated cards.

(2) When the random number generator is used in the award of a bonus outcome approved in accordance with subrule 11.5(3). Bonus outcomes that are statistically dependent must employ technology solutions to ensure that continuation from the last outcome is maintained in the event of any malfunction.

ITEM 13. Amend paragraph **12.16(2)“b”** as follows:

b. Methods of transfer or deposit into a player’s account shall be limited to currency transactions with a casino cashier, or transfers from a participating gaming machine or designated kiosk, unless otherwise approved by the commission. Direct transfers utilizing accounts with outside entities are permitted, ~~but transfers to a player’s wagering account shall not be allowed while a patron is on the designated gaming floor, as approved pursuant to 491—subrule 5.4(17).~~ Electronic wagering accounts shall not be funded with a credit card.

ITEM 14. Amend paragraph **13.2(6)“d”** as follows:

d. ~~The~~ On a form provided by the commission, the controller or an employee of higher authority shall file a monthly attestation to the commission that the reserve funds have been safeguarded pursuant to this subrule. The attestation shall be provided to the commission no later than 15 days after the end of each month.

ITEM 15. Amend subrule 13.2(7) as follows:

13.2(7) Internal controls. Licensees and advance deposit sports wagering operators shall submit a description of internal controls to the administrator. The submission shall be made at least 30 days before sports operations are to commence unless otherwise approved by the administrator. All internal controls must be approved by the administrator prior to commencement of sports operations. The operator shall submit to the administrator any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by the administrator. It shall be the affirmative responsibility and continuing duty of each licensee and advance deposit sports wagering operator and their employees to follow and comply with all internal controls. The submission shall include controls and reasonable methods that provide for the following:

a. to c. No change.

RACING AND GAMING COMMISSION[491](cont'd)

d. To promptly report to the commission, in a format approved by the administrator, any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification. Integrity-monitoring procedures shall also provide for the sharing of information with other licensees, other governing authorities, and accredited sports governing entities by participating in an integrity-monitoring association or group or by another method as approved by the administrator.

e. Written notification to the commission for any incident where there is a violation involving criminal activity, Iowa Code chapter 99F, a commission rule or order, or an internal control within 72 hours of detection. The licensee or advance deposit sports wagering operator shall provide a written report detailing the violation as required by and in a format approved by the administrator.

f. to i. No change.

ITEM 16. Amend subrule 13.2(8) as follows:

13.2(8) Revenue reporting. Reports generated from the sports wagering system shall be made available as determined by the commission. The reporting system shall be capable of issuing reports by wagering day, wagering month, and wagering year. Wagering data shall not be purged unless approved by the commission. The reporting system shall provide for a mechanism to export the data for the purposes of data analysis and auditing or verification. The reporting system shall be able to provide, at a minimum, the following sports wagering information:

a. to j. No change.

k. The date, time, stake amount, win amount and individual associated with each event where winnings are required to be reported on Internal Revenue Service form W-2G, as recorded by the reporting system.

ITEM 17. Adopt the following **new** subrule 13.2(13):

13.2(13) Records. Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 18. Amend subrule 13.5(2), introductory paragraph, as follows:

13.5(2) Account registration. A person must have an established account in order to place advance deposit sports wagers. The process for establishing an account is subject to the administrator's approval. ~~Prior to January 1, 2021, an account shall be established at the facility as required by Iowa Code section 99F.9(4). On or after January 1, 2021, an An~~ account may be established through on-site registration under procedures previously approved by the administrator, or through remote registration. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, and any other information required by the administrator. The account registration process shall also include:

ITEM 19. Amend paragraph **13.5(3)“g”** as follows:

g. Process to immediately notify a player following an unusual login attempt. In the event that the unusual login attempt constitutes suspicious activity or if other suspicious activity is detected, an account shall be locked. A multifactor authentication process must be employed for the account to be unlocked.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 20. Amend paragraph **13.5(4)“h”** as follows:

~~h.~~ h. If the method of reserve utilized to comply with subrule 13.2(6) is not in the form of cash or cash equivalents segregated from operational funds, an advance deposit sports wagering operator or licensee shall segregate player account funds from operational funds.

ITEM 21. Amend subrule 13.6(2) as follows:

13.6(2) Change control. The licensees and advance deposit sports wagering operators shall submit change control processes that detail evaluation procedures for all updates and changes to equipment and systems to the administrator for approval at least 30 days prior to operation. These processes shall include details for identifying criticality of updates and determining of submission of updates to an independent testing laboratory for review and certification. These processes shall include, at a minimum, descriptions of the following areas of licensee operations:

a. Process to classify all changes according to organizational risk.
b. Process to designate whether changes must be submitted to an independent testing laboratory for review and certification.
c. Process for emergency change determination and implementation.
d. Process to log or note changes. Must include the details logged for each change, including but not limited to the following areas:

(1) Date and time of change or proposed date and time of change.
(2) Basic description of changes to be implemented.
(3) Change classification of change or changes, determined in accordance with the process established by paragraph 13.6(2)“a.” If emergency designation is separate from other change classifications, this shall also be included in the log or note.

(4) Identification of whether a change was submitted to an independent testing laboratory, and the certification report number of any testing.

e. Process to maintain logs or notify the commission of changes.

ITEM 22. Amend subparagraph **13.6(3)“a”(3)** as follows:

(3) Results from the risk assessment shall be submitted to the administrator no later than ~~30~~ 60 days after the assessment is completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

ITEM 23. Amend rule **491—14.1(99E)**, definition of “Fantasy sports contest,” as follows:

“Fantasy sports contest” or “contest” means a fantasy or simulated game or contest in which:

1. to 4. No change.

5. No winning outcome is solely based on the score, point spread, or any performance or performances of any single actual team or solely on any single performance of an individual athlete or player in any single actual event. However, until May 1, 2020, “fantasy sports contest” does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99F.1.

ITEM 24. Amend subrule 14.8(2) as follows:

14.8(2) Records. Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and ~~their~~ the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 25. Amend subparagraph **14.8(4)“c”(1)** as follows:

(1) A system integrity and security risk assessment shall be performed annually on the fantasy sports contest system.

1. and 2. No change.

RACING AND GAMING COMMISSION[491](cont'd)

3. Results from the risk assessment shall be submitted to the administrator no later than ~~30~~ 60 days after the assessment is completed.

4. and 5. No change.

ITEM 26. Amend subrule 14.9(2) as follows:

14.9(2) Licensees are required to comply with and ensure the following:

a. to d. No change.

e. Contests are not offered based on the performance of participants in high school or youth sports events. ~~However, until May 1, 2020, “fantasy sports contest” does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99E.1.~~

f. to k. No change.

REVENUE DEPARTMENT

Interest Rates

Starting January 1, 2023, the interest rate for taxpayers with overdue payments will be:

- 6.0% annually
- 0.5% monthly
- 0.016438% daily

Iowa Code section 421.7 specifies the procedures for calculating the Department’s annual and monthly interest rates. The annual rate is based on the average monthly prime rate during the preceding 12-month period (October through September). Iowa law requires that this average be rounded to the nearest whole percent and two percentage points to be added to it. The prime rate averaged 3.96 percent over the past 12 months. Rounded to the nearest whole percent, this average is 4.0 percent. Adding two percentage points results in the annual Department rate of 6.0 percent. The monthly rate is the annual rate divided by 12, rounded to the nearest one-tenth of a percentage point. The daily rate for 2023 is the annual rate divided by 365. (The average monthly bank prime rate is published by the United States Federal Reserve at www.federalreserve.gov/datadownload/Choose.aspx?rel=H15.)

ARC 6611C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to exemptions and providing an opportunity for public comment

The Revenue Department hereby proposes to rescind Chapter 14, “Computation of Tax”; rescind Chapter 19, “Sales and Use Tax on Construction Activities”; amend Chapter 203, “Elements Included in and Excluded from a Taxable Sale and Sales Price,” and Chapter 219, “Sales and Use Tax on Construction Activities”; and rescind Chapter 287, “Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic or Orthopedic Devices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

Several years ago, the Department adopted new chapters related to sales tax on construction as well as food, drugs, and other medical devices. As part of an ongoing effort to review and revise its rules, the Department now proposes to rescind Chapters 19 and 287. There is one rule in Chapter 19 that was not replicated in Chapter 219 on construction contracts with designated exempt entities. This proposed rule making provides an updated version of that rule to be located in Chapter 219. In addition, Chapter 14 only contains one rule, which was revised in 2021. The Department proposes to renumber rule 701—14.3(423) to include it in Chapter 203 and rescind and reserve 701—Chapter 14 since it no longer has any rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.782.0535
Email: tim.reilly@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 22, 2022
1 to 2 p.m.

Room 1 NW
Hoover State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

REVENUE DEPARTMENT[701](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Renumber rule **701—14.3(423)** as **701—203.9(423)**.
- ITEM 2. Rescind and reserve **701—Chapter 14**.
- ITEM 3. Rescind and reserve **701—Chapter 19**.
- ITEM 4. Adopt the following **new** rule 701—219.23(423):

701—219.23(423) Construction contracts with designated exempt entities. This rule applies to exempt sales of building materials, supplies, equipment, or services to certain persons performing construction contracts for sponsors that are designated exempt entities and the continuing right of designated exempt entities and other persons to seek refund of taxes paid by persons performing construction contracts.

219.23(1) Definitions.

“*Construction contract*” means the same as defined in rule 701—219.8(423).

“*Designated exempt entity*” means the same as defined in Iowa Code section 423.3(80).

“*GovConnectIowa*” means the e-services portal of the department.

219.23(2) Registration with the department. A designated exempt entity seeking to issue exemption certificates to contractors, subcontractors, builders, or manufacturers performing construction contracts shall register with the department through GovConnectIowa. The designated exempt entity shall provide the following information:

- a. The name and address of the designated exempt entity.
- b. The federal identification number of the designated exempt entity.
- c. The name of the construction project or the project number for which exemption is requested.
- d. A general description of the construction project.
- e. The name and address of all contractors, subcontractors, builders, or manufacturers to which the designated exempt entity shall provide exemption certificates.
- f. Additional information as requested by the department if the status of the entity seeking registration as a designated exempt entity is unclear.

219.23(3) Exemption certificates. Once a designated exempt entity's registration is completed and approved, the designated exempt entity can obtain exemption certificates to provide to its contractors, subcontractors, builders, or manufacturers. The contractors, subcontractors, builders, or manufacturers may then provide these exemption certificates to retailers when purchasing building materials, supplies, equipment, or services to be used in completion of the construction contract with the designated exempt entity in order to make those purchases exempt from sales tax.

219.23(4) Exempt purchases, withdrawals from inventory, and manufacturers' fabrication costs.

a. A contractor, subcontractor, or builder who purchases building materials, supplies, equipment, or services intending to use such property or services in the performance of a construction contract with a designated exempt entity shall purchase the property or services from a retailer exempt from tax if the property or services are subsequently used in the performance of that contract and the contractor, subcontractor, or builder presents an exemption certificate issued by the designated exempt entity to the retailer.

b. The withdrawal of building materials, supplies, or equipment from inventory by a contractor, subcontractor, or builder who is also a retailer is exempt from tax if the materials are withdrawn for use in construction performed for a designated exempt entity and an exemption certificate is received from the designated exempt entity.

c. The fabricated cost, as defined in rule 701—219.6(423), of building materials, supplies, or equipment purchased and consumed by the manufacturer of such property in the performance of a

REVENUE DEPARTMENT[701](cont'd)

construction contract for a designated exempt entity is exempt from tax if an exemption certificate is received from the exempt entity and presented to a retailer.

d. Sales, withdrawals, or a manufacturer's consumption of building materials, supplies, equipment, or services used in the performance of a construction contract for purposes other than incorporation into real property with subsequent loss of identity as tangible personal property are not eligible for the exemption described by this rule.

219.23(5) Refunds. A designated exempt entity that does not complete the registration process in order to provide exemption certificates to contractors, subcontractors, builders, or manufacturers in advance of its construction project may request a refund of sales tax the designated exempt entity paid to its contractors, subcontractors, builders, or manufacturers. The contractors, subcontractors, builders, or manufacturers should provide the designated exempt entity with completed Iowa Contractor's Statement forms. The designated exempt entity shall then submit a Construction Contract Claim for Refund form and all accompanying Iowa Contractor's Statement forms to the department.

This rule is intended to implement Iowa Code sections 423.3(80) and 423.4(1).

ITEM 5. Rescind and reserve **701—Chapter 287**.

ARC 6612C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to sports tourism marketing and infrastructure

The Enhance Iowa Board hereby amends Chapter 214, “Enhance Iowa Board,” and Chapter 215, “Sports Tourism Program,” and adopts Chapter 216, “Sports Tourism Program: Infrastructure Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15F.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15F and 2022 Iowa Acts, House File 2579.

Purpose and Summary

2022 Iowa Acts, House File 2579, amends Iowa Code sections 15F.401 and 15F.403 relating to the Sports Tourism Program and creates a new Iowa Code section 15.404. The purpose of the program is to provide financial assistance for projects that promote sporting events. The legislation creates a separate fund for sports tourism infrastructure projects and distinguishes this fund from the previously established Sports Tourism Marketing Fund.

The Board adopted amendments to Chapters 214 and 215 to reflect the changes made to the Iowa Code and the legislative intent in updating the program. This rule making also creates a new Chapter 216 to implement the infrastructure fund with the requirements established in the legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6444C**. No public comments were received. Two changes from the Notice have been made in subrules 215.4(2) and 216.4(2) to clarify that compensation of applicant staff is not an eligible expense for the marketing fund or infrastructure fund.

Adoption of Rule Making

This rule making was adopted by the Board on October 6, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **214.2(5)“b”(2)** as follows:

(2) Sports tourism marketing and infrastructure;

ITEM 2. Amend **261—Chapter 215**, title, as follows:

SPORTS TOURISM PROGRAM: MARKETING FUND

ITEM 3. Amend rule 261—215.1(15F) as follows:

261—215.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Accredited colleges and universities” means any college, university, or institution of higher learning that is accredited by the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Bid fees” means fees paid as part of proposing a location for an event.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

“Convention and visitors bureau” or *“CVB”* means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area's facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means a regional sports authority district certified under Iowa Code section 15E.321.

“Financial assistance” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“Infrastructure” means equipment, appurtenant structures, or site development that is related to the operation of a sporting event that is the subject of the project land acquisition and construction; major renovations of buildings; and all appurtenant structures, utilities, and site development that are related to the operation of a sporting event.

“Marketing” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools and tactics.

“Marketing fund” means the fund established pursuant to Iowa Code section 15F.403 for purposes of financing sports tourism marketing projects.

“Organization” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“Professional sporting events” means any sporting events for which the competing athletes receive payment for their participation in such sporting event.

“Program” means the portion of the sports tourism marketing and infrastructure program administered pursuant to this chapter and funded by the marketing fund.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*Promote*” or “*promotion*” means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“*Public organization*” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“*Sporting event*” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“*Sports tourism program review committee*” or “*review committee*” means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2) “a” and one member from the state at large under Iowa Code section 15F.102(2) “b.”

ITEM 4. Amend rule 261—215.2(15F) as follows:

261—215.2(15F) Eligible applicants. Eligible applicants for ~~sports tourism~~ financial assistance from the marketing fund include cities or counties in the state or public organizations, including convention and visitors bureaus.

ITEM 5. Amend rule 261—215.3(15F), catchwords, as follows:

261—215.3(15F) Eligible marketing projects.

ITEM 6. Amend rule 261—215.4(15F) as follows:

261—215.4(15F) Eligible and ineligible marketing expenses.

215.4(1) No change.

215.4(2) Ineligible expenses. Expenses that are not directly related to the active promotion of a sporting event will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts or lobbying fees;
- b. Travel costs or compensation of applicant staff;
- c. Meals, dining, or alcoholic beverages;
- d. Items that are purchased for resale;
- e. Prizes given to participants;
- f. Costs related to infrastructure or ongoing costs of a facility;
- g. Other costs that the board determines to be ineligible.

ITEM 7. Amend **261—Chapter 215**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15F.401, ~~and~~ 15F.402, and 15F.403 as amended by 2022 Iowa Acts, House File 2579.

ITEM 8. Adopt the following **new** 261—Chapter 216:

CHAPTER 216
SPORTS TOURISM PROGRAM: INFRASTRUCTURE FUND

261—216.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“*Accredited colleges and universities*” means any college, university, or institution of higher learning that is accredited by the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Bid fees*” means fees paid as part of proposing a location for an event.

“*Board*” means the enhance Iowa board as created in Iowa Code section 15F.102.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*Convention and visitors bureau*” or “*CVB*” means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“*District*” means a regional sports authority district certified under Iowa Code section 15E.321.

“*Financial assistance*” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“*Infrastructure*” means land acquisition and construction; major renovations of buildings; and all appurtenant structures, utilities, and site development that are related to the operation of a sporting event.

“*Infrastructure fund*” means the fund established pursuant to Iowa Code section 15F.404 for purposes of financing sports tourism infrastructure projects.

“*Marketing*” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools, and tactics.

“*Organization*” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“*Professional sporting events*” means any sporting events for which the competing athletes receive payment for their participation in such sporting events.

“*Program*” means the portion of the sports tourism marketing and infrastructure program administered pursuant to this chapter and funded by the infrastructure fund.

“*Promote*” or “*promotion*” means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“*Public organization*” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“*Sporting event*” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“*Sports tourism program review committee*” or “*review committee*” means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2) “a” and one member from the state at large under Iowa Code section 15F.102(2) “b.”

261—216.2(15F) Eligible applicants. Eligible applicants for financial assistance from the infrastructure fund include cities and counties in the state and public entities that are a convention and visitors bureau or a district.

261—216.3(15F) Eligible infrastructure projects. Eligible projects must actively and directly support sporting events for accredited colleges and universities, professional sporting events, and other sporting events in the area served by an eligible applicant as defined in rule 261—216.2(15F). Only projects that support sporting events occurring in Iowa are eligible for assistance.

216.3(1) An eligible applicant may apply for and receive financial assistance for more than one project. The board may require additional information to substantiate the financial need for awarding more than one project in any fiscal year.

216.3(2) An eligible applicant may apply for financial assistance for a project that spans two fiscal years. If financial assistance is approved for two fiscal years, financial assistance will only be provided for the second fiscal year if all applicable contractual requirements are met. When considering whether to award financial assistance for two fiscal years, the board shall evaluate metrics including the amount

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

of revenue generated by ticket sales, the estimated economic impact, and the number of overnight stays at hotels in the city or county where the sporting event is being held. For example, economic impact may be calculated as total estimated attendance multiplied by daily attendee spending multiplied by average length of stay. If an eligible applicant wishes to supply an alternative formula for calculating economic impact, the applicant must supply a credible source for using an alternative formula. The authority may include such metrics and estimates in a program agreement executed pursuant to Iowa Code section 15F.401.

216.3(3) A convention and visitors bureau shall not in the same fiscal year receive financial assistance under the program created in this chapter and financial assistance as part of a district created pursuant to 261—Chapter 38.

216.3(4) An eligible applicant shall demonstrate the availability of matching funds for financing the sports tourism infrastructure project in the form of a private and public partnership with financing from city, county, and private sources in order to receive financial assistance pursuant to this rule. The amount of matching funds that may be required shall be at the board's discretion. An applicant under the program shall not receive financial assistance in an amount exceeding 50 percent of the total cost of the project.

216.3(5) A city, county, or public organization may use financial assistance received under the program for infrastructure that actively and directly supports a sporting event. Whether an activity or individual cost item is related to the sporting event shall be within the discretion of the authority.

216.3(6) A city, county, or public organization shall not use financial assistance received under the program as reimbursement for completed projects or for costs incurred prior to approval of financial assistance.

216.3(7) Financial assistance shall be provided for sports tourism infrastructure projects that draw a national and international audience and attract a significant number of visitors from outside the state. Factors the authority will consider in determining whether a project is qualified under this subrule include, but are not limited to, whether the likelihood of a national or international audience is validated by any available data about the anticipated audiences for the event, whether the event is nationally or internationally televised, and projected visitor information or visitor information for similar events held in the state.

216.3(8) Financial assistance shall not be provided for sports tourism infrastructure projects located in reinvestment districts as defined and approved by the authority pursuant to Iowa Code section 15J.4 or to applicants that have received a rebate of sales tax imposed and collected by retailers pursuant to Iowa Code section 423.4(5).

261—216.4(15F) Eligible and ineligible infrastructure expenses.

216.4(1) *Eligible expenses.* Examples of eligible expenses include, but are not limited to:

- a. Land acquisition;
- b. Construction;
- c. Major renovation of buildings;
- d. Site development;
- e. Permanent or temporary structures; and
- f. Purchase or long-term lease of equipment.

216.4(2) *Ineligible expenses.* Expenses that are not directly related to sporting events or are not considered infrastructure will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts, or lobbying fees;
- b. Travel costs or compensation of applicant staff;
- c. Expenses eligible for financial assistance from the sports tourism marketing fund pursuant to 261—subrule 215.4(1) or other costs associated with marketing or promotion;
- d. Ongoing operational costs not specifically related to sporting events; and
- e. Other costs that the board determines to be ineligible.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

261—216.5(15F) Threshold application requirements. To be considered for funding under the program, an application must meet the following threshold application requirements:

216.5(1) There must be demonstrated local support for the proposed activity.

216.5(2) The application must contain a detailed description of the project, outlining the sporting event(s) and the infrastructure expenses necessary to support it.

216.5(3) The proposed project budget must be spent on infrastructure that actively and directly supports the sporting event(s).

216.5(4) The application must contain detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the sporting event(s) described in the application. Such information shall include the estimated number of spectators and estimated quality and quantity of advertising and media coverage the sporting event(s) will generate. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events and a summary of the advertising and media coverage generated.

261—216.6(15F) Application process.

216.6(1) Applications for assistance under the program shall be submitted to the authority. For those applications that meet the threshold application requirements and the eligibility criteria, the authority shall forward the applications to the board and provide a staff review analysis and evaluation to the sports tourism program review committee and to the board.

216.6(2) When reviewing the applications, the review committee and the authority shall consider, at a minimum, all of the following:

- a. Impact of the project on the local, regional, and state economies.
- b. Amount of positive advertising or media coverage the project generates in national and international markets.
- c. Quality, size, and scope of the project.
- d. The extent to which the project would generate additional recreational and cultural attractions or tourism opportunities.
- e. The extent to which the sporting event to be supported by the infrastructure project is unique, innovative, or diverse.

216.6(3) Upon review of the recommendations of the review committee, the board shall make final funding decisions on each application. The board may approve, defer, deny, or modify applications for financial assistance under the program, in its discretion, in order to fund as many projects with the moneys available as possible. The board and the authority may negotiate with applicants regarding the details of projects and the amount and terms of any award. In making final funding decisions pursuant to this subrule, the board and the authority are exempt from Iowa Code chapter 17A.

261—216.7(15F) Administration.

216.7(1) *Administration of awards.*

a. Each applicant receiving an award of financial assistance from the board shall enter into an agreement with the authority. The agreement shall contain such terms and conditions as the board may place on the award or the authority may deem necessary for the efficient administration of the program established in this chapter. The agreement will also include the terms and conditions under which financial assistance must be repaid or penalties incurred in the event the applicant does not fulfill all obligations under the agreement.

b. These rules and applicable state laws shall be part of the agreement.

c. The applicant must execute and return the contract to the board within 90 days of the transmittal of the final contract from the board. Failure to do so may be cause for the board to terminate the award.

d. Financial assistance shall not be provided until all financing for the sports tourism infrastructure project is secured and documented to the satisfaction of the authority.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

e. Awards may be conditioned upon authority receipt and board approval of an implementation plan for the funded project.

216.7(2) Reports. An applicant receiving financial assistance shall provide an annual report to the authority for years in which the applicant receives financial assistance under this rule. The report shall include the information the authority deems relevant. The report shall be submitted in the manner and on forms prescribed by the authority. The authority may perform any reviews or site visits necessary to ensure performance by the applicant.

216.7(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

216.7(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents, and other records pertinent to the sports tourism award for three years after contract closeout. Representatives of the authority shall have access to all recipient records that pertain to sports tourism funds.

216.7(5) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions, and significant alterations of the funded project that change the scope, location, objectives, or scale of the approved project. Amendments must be approved by the board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

216.7(6) Project closeout. Upon expiration of the agreement, the authority shall initiate project closeout procedures.

216.7(7) Compliance. If the board finds that an applicant is not in compliance with the requirements of this program or the terms and conditions of the agreement, the board may find the applicant noncompliant. Remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the applicant's use of funds for activities not described in the contract, the applicant's failure to complete funded projects in a timely manner, the applicant's failure to comply with applicable state or local rules, or the lack of a continuing capacity of the applicant to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code sections 15F.401, 15F.402, and 15F.404 and 2022 Iowa Acts, House File 2579.

[Filed 10/7/22, effective 12/7/22]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6613C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to disability services management

The Human Services Department hereby amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 225C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 225C.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

This rule making is a result of the five-year rules review for Chapter 25. Rules that are outdated or redundant are eliminated. These amendments update definitions, terminology and cross-references, and ambiguous rules are clarified.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as **ARC 6407C**. No public comments were received. One change from the Notice has been made to update obsolete Iowa Code cross-references in the implementation sentence of rule 441—25.41(331) in Item 30.

Adoption of Rule Making

This rule making was adopted by the Mental Health and Disability Services Commission on September 15, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—25.1(331)**, definitions of “Emergency care,” “Evidence-based services,” “Family support peer specialist,” “Homeless,” “Mental health professional,” “Peer support specialist,” “Respite services,” “Routine care” and “Urgent nonemergency need,” as follows:

“*Emergency care services*” means the same as defined in ~~rule 441—88.21(249A)~~ 441—subrule 24.4(15).

“*Evidence-based services*” or “*evidence-based practices*” means using interventions that have been rigorously tested; have yielded consistent, replicable results; and have proven safe, beneficial and effective and have established standards for fidelity of the practice.

“*Family support peer specialist*” means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program ~~or the Iowa Behavioral Health Care Plan~~.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Homeless” means the same as “homeless person” as defined in rule 441—25.11(331) Iowa Code section 48A.2.

“Mental health professional” means the same as defined in Iowa Code section ~~228.1(6)~~ 228.1(7).

“Peer support specialist” means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program ~~or the Iowa Behavioral Health Care Plan.~~

“Respite services” means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

“Routine care” means ~~the same as defined in rule 441—88.21(249A)~~ care which is not urgent or emergent in nature and can wait for a regularly scheduled appointment without risk to the individual. A condition requiring routine care is not likely to substantially worsen without immediate intervention.

“Urgent ~~nonemergency~~ need” means ~~the same as defined in rule 441—88.21(249A)~~ existence of conditions that are not emergent in nature but that require expeditious treatment because of the prospect of the condition worsening without immediate intervention.

ITEM 2. Rescind the definitions of “Community-based crisis intervention service,” “State board,” “Strengths-based case management,” “Telephone crisis service” and “Walk-in crisis service” in rule **441—25.1(331).**

ITEM 3. Rescind and reserve rule **441—25.3(331).**

ITEM 4. Amend paragraph **25.4(2)“c”** as follows:

c. Crisis stabilization residential services. ~~An individual who has been determined to need CSRS shall receive CSRS within 120 minutes of referral. The service CSRS shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs CSRS.~~

ITEM 5. Amend paragraph **25.4(2)“e”** as follows:

e. Twenty-three-hour observation and holding. ~~An adult who has been determined to need 23-hour observation and holding shall receive 23-hour observation and holding within 120 minutes of referral. The service Twenty-three-hour observation and holding shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs 23-hour observation and holding.~~

ITEM 6. Amend paragraph **25.4(3)“a”** as follows:

a. Outpatient.

(1) Emergency services: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within ~~one~~ 1 hour of presentation or 24 hours of telephone contact.

(3) Routine care: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

ITEM 7. Amend subrule 25.4(5) as follows:

25.4(5) Support for community living for adults. The first appointment shall occur within four weeks of the individual’s request of support for community living services, including a home health aide, home and vehicle modifications, respite, and supportive community living.

ITEM 8. Amend subrule 25.4(6) as follows:

25.4(6) Support for employment for adults. The initial referral shall take place within 60 days of the individual’s request of support for employment services, including day habilitation, job development, supported employment, and prevocational services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 9. Amend subrule 25.4(7) as follows:

25.4(7) Recovery services for adults. An individual receiving recovery services, including family support and peer support, shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

ITEM 10. Amend subrule 25.5(3) as follows:

25.5(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based service practice models including, but not limited to, assertive community treatment ~~or strengths-based case management~~; integrated treatment ~~of~~ for co-occurring substance use and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

ITEM 11. Amend paragraph **25.6(1)“c”** as follows:

c. Eligibility for access center services. To be eligible to receive access center services, an individual shall meet all of the following criteria:

(1) The individual is an adult in need of screening, assessment, services or treatment related to a mental health or substance use crisis.

(2) The individual shows no obvious signs of illness or injury indicating a need for immediate medical attention.

(3) The individual has not been determined ~~not~~ to need an acute inpatient psychiatric ~~hospital level of care~~ hospitalization.

~~(4) The individual does not have immediate access to alternative, safe, and effective services.~~

ITEM 12. Adopt the following new subparagraph **25.6(8)“a”(4)**:

(4) Regional reimbursement rates for non-Medicaid individuals receiving intensive residential services shall be negotiated by the region and the provider and shall be no less than the minimum Medicaid rate.

ITEM 13. Amend subparagraph **25.6(8)“b”(1)** as follows:

(1) Be enrolled as an HCBS 1915(i) habilitation provider or an HCBS 1915(c) intellectual disability waiver supported community living provider and in good standing with ~~the Iowa Medicaid enterprise~~.

ITEM 14. Amend subparagraph **25.6(8)“b”(5)**, introductory paragraph, as follows:

(5) Ensure that within the first year of employment, staff members complete 48 hours of competency-based training in mental health and multi-occurring conditions. During each consecutive year of employment, staff members shall complete 24 hours of competency-based training in mental health and multi-occurring conditions. Staff training shall include, but is not limited to, the following:

ITEM 15. Rescind subparagraph **25.6(8)“c”(2)**.

ITEM 16. Renumber subparagraph **25.6(8)“c”(3)** as **25.6(8)“c”(2)**.

ITEM 17. Amend **441—Chapter 25**, Division II preamble, as follows:

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services and children’s behavioral health services ~~provided by counties operating as a region~~ shall be delivered in accordance with a regional service system management plan approved by the region’s governing board and implemented by the regional administrator (Iowa Code section 331.393). ~~Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services.~~ It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services and that Iowa children should have access to needed behavioral health services regardless of the location of their residence.

ITEM 18. Amend rule **441—25.11(331)**, definitions of “Emergency service,” “Medical savings account,” “Mental health professional” and “Regional services fund,” as follows:

“*Emergency service services*” means the same as defined in ~~rule 441—88.21(249A)~~ 441—subrule 24.4(15).

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Medical savings account*” means an account that is exempt from federal income taxation pursuant to Section ~~220~~ 223 of the U.S. Internal Revenue Code (26 U.S.C. ~~§220~~ §223) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

“*Mental health professional*” means the same as defined in Iowa Code section ~~228.1(6)~~ 228.1(7).

“*Regional ~~services~~ service fund*” means the mental health and disability regional ~~services~~ service fund created in Iowa Code section 225C.7A.

ITEM 19. Amend subrule 25.12(2) as follows:

25.12(2) Regional administrator. The formation of the regional administrator shall be as defined in Iowa Code sections 331.388, ~~and~~ 331.390, and 331.399.

- a. No change.
- b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section ~~225C.4(1)“u.”~~ 225C.4(1)“x.”
- c. No change.
- d. The regional administrative entity functions as a lead agency ~~utilizing shared county or regional staff or other means of limiting administrative costs.~~
- e. and f. No change.

ITEM 20. Adopt the following **new** paragraph **25.14(1)“k”**:

k. Methods for reimbursing member counties if county employees are conducting regional work.

ITEM 21. Amend paragraph **25.14(3)“g”** as follows:

g. A process for performance of an annual independent audit of the regional administrator, and methods for submitting the audit to the department upon completion.

ITEM 22. Amend paragraph **25.15(3)“d”** as follows:

d. The individual has a diagnosis of intellectual disability as defined by ~~Iowa Code section 4.1(9A)~~ rule 441—83.60(249A).

ITEM 23. Amend paragraph **25.15(7)“a”** as follows:

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section ~~331.397(1)“b.”~~ 331.397(2)“b.”

ITEM 24. Amend paragraph **25.18(2)“e”** as follows:

e. Children’s behavioral health services. Identification of children’s behavioral health services as described in subrule 25.2(4), including contact information for the agencies responsible and eligibility requirements or reference to where eligibility requirements can be found in the policies and procedures manual.

ITEM 25. Amend paragraph **25.18(2)“g”** as follows:

g. Budget and financing provisions for the next year. The provisions shall address how ~~county,~~ regional, state and other funding sources will be used to meet the service needs within the region.

ITEM 26. Amend paragraph **25.18(2)“h”** as follows:

h. Financial forecasting measures. A description of the financial forecasting measures used in the identification of service need and funding necessary for services and a financial statement of actual revenues and actual expenses by chart of account codes, ~~including levies by county.~~

ITEM 27. Amend rule 441—25.21(331), introductory paragraph, as follows:

441—25.21(331) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. ~~The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 28. Amend paragraph **25.21(1)“e”** as follows:

e. Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department’s outcome and performance measures process as outlined in Iowa Code sections 225C.4(1)“j” 225C.4(1)“k” and 225C.6A.

ITEM 29. Amend subrule 25.21(2) as follows:

25.21(2) Approval. ~~The manual shall be submitted by April 1, 2014, as a part of the region’s management plan for the fiscal year beginning July 1, 2014. The manual A region’s policy and procedures manual shall be approved by the region’s governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan policy and procedures manuals. Manuals approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.~~

~~*a.—Criteria for acceptance.* The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.~~

~~*b.—Notification.*~~

~~(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:~~

~~1.—The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.~~

~~2.—The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.~~

~~(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.~~

ITEM 30. Amend rule 441—25.41(331) as follows:

441—25.41(331) Minimum data set. Each county region shall maintain data on all clients served through the MH/DD services fund.

25.41(1) Submission of data. Each county region shall submit to ~~DHS~~ the department a copy of the data regarding each individual that the county region serves ~~through the central point of coordination process.~~

~~*a.* DHS state payment program, The state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the counties regions.~~

~~*b.* DHS The department shall maintain the data ~~in the data analysis unit~~ for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.~~

25.41(2) Data required. The data to be submitted are as follows:

~~*a.* Basic client individual information including a unique identifier, name, address, and county of residence ~~and county of legal settlement.~~~~

~~*b.* The state I.D. number for state payment cases when applicable.~~

~~*c.* Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans’ status, guardianship status, legal status in the system, source of referral, diagnosis in the current version of the DSM, diagnosis code in the current version of the ICD, disability group (i.e., intellectual disability, developmental disability, ~~chronic mental illness,~~ mental illness, brain injury), central point of coordination ~~(and county of residence number preceded by A-1),~~ and central point of coordination (CPC) name.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~d. Service information including the decision on services, date of decision, date client terminated from CPC services, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.~~

~~e. Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services. For the purposes of this rule:~~

~~(1) Situations of crisis include but are not limited to voluntary and involuntary hospitalizations, legal and transportation services associated with involuntary hospitalizations, emergency outpatient services, mobile crisis team services, jail diversion services, mental health services provided in a county jail, and other services for which the county is required to pay but does not have access to the client to collect the required information.~~

~~(2) Outreach efforts to identify or engage people in needed mental health services include but are not limited to mental health advocate services; services for homeless persons, refugees, or other legal immigrants; services for state cases who do not have documentation with them and are unable to help the county locate appropriate records; consultation; education to raise public awareness; 12-step or other support groups for persons with dual disorders; and drop-in centers.~~

~~f. e. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 100 percent reporting of the data elements listed in this paragraph. Beginning with the data reported for state fiscal year 2008, less than 100 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e": Regions shall submit data according to the file layouts, format, and naming conventions prescribed by the department. Any changes to the data submission requirements will be made in consultation with the regional administrators.~~

~~(1) Client identifiers:~~

- ~~1. Lname3 (the first three letters of the client's last name).~~
- ~~2. Last4SSN (the last four digits of the client's social security number).~~
- ~~3. SEX (the client's sex).~~
- ~~4. BDATE (the client's birth date).~~

~~(2) CPC (central point of coordination).~~

~~(3) Payment information:~~

- ~~1. PYMTDATE (CoMIS payment date).~~
- ~~2. FUND CODE (CoMIS fund code).~~
- ~~3. DG (CoMIS diagnosis).~~
- ~~4. COACODE (CoMIS chart of accounts code).~~
- ~~5. BEGDATE (CoMIS service beginning date).~~
- ~~6. ENDDATE (CoMIS service ending date).~~
- ~~7. UNITS (CoMIS units of service).~~
- ~~8. COPD (CoMIS county paid).~~

~~(4) ValidSSN (valid social security number indicator).~~

~~(5) IsPerson (IsPerson indicator).~~

~~g. f. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 90 percent reporting of the data elements listed in this paragraph beginning with the data reported for fiscal year 2008. Less than 90 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e": Regions must submit their data for each fiscal year by December 1 of the following fiscal year.~~

~~(1) Application Date (application date) When a region's data is incomplete or is not compliant with the prescribed file layouts, format, or naming conventions the region will be notified by email.~~

~~(2) RESCO (residence county) The region shall resubmit corrected files or provide an explanation for noncompliant data within 30 days of the date of the email notice.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) ~~LEGCO (legal county)~~ If the region remains noncompliant after the 30-day time period, the department may take action as allowable under the performance-based contracts established pursuant to rule 441—25.23(331).

(4) ~~Provider ID (vendor number).~~

h.—The department shall analyze the data received on or before December 1 each year by December 15 or by the next business day if December 15 falls on a weekend or holiday.

(1) ~~When a county’s data submission does not meet the specifications in paragraph “f” or “g,” the department will notify the county by email.~~

(2) ~~The county shall have 30 days from the date of the email notice to submit the missing data or to provide an explanation of why the data cannot be reported.~~

(3) ~~If the county does not report the data or provide an adequate explanation within 30 days, the department shall find the county in noncompliance.~~

i.—The department shall post the aggregate reports received by December 1 on the department’s website within 90 days.

~~25.41(3) Method of data collection.~~ A county may choose to collect this information using the county management information system (CoMIS) that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

a.—Except as provided in subparagraph (3), each county shall submit the following files in Microsoft Excel format (version 97 to 2000) or comma-delimited text file (CSV) format using data from the associated CoMIS table or from the county’s chosen management information system:

Files to submit	Associated CoMIS Table
WarehouseClient.xls or WarehouseClient.csv	Client Data
WarehouseIncome.xls or WarehouseIncome.csv	Income Review
WarehousePayment.xls or WarehousePayment.csv	Payment
WarehouseProvider.xls or WarehouseProvider.csv	Provider
WarehouseProviderServices.xls or WarehouseProviderServices.csv	tblProviderServices
WarehouseService.xls or WarehouseService.csv	Service Authorizations

(1) ~~Paragraphs “b” through “g” list the data required in each file and specify the structure or description for each data item to be reported.~~

(2) ~~The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.~~

(3) ~~The file labeled WarehouseService.xls or WarehouseService.csv or service authorization (described in paragraph “g” of this subrule) shall be removed from this requirement on June 30, 2011, if data from this file have not been used by that date.~~

b.—File name: ~~WarehouseClient.xls or WarehouseClient.csv.~~

Sheet name: ~~Warehouse_Client_Transfer_Query.~~

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
				900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
Last Update	Date	10	mm/dd/yyyy	Date of last update to client record
SID	Text	8	9999999a	State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).
ADD1	Text	50		First address line
ADD2	Text	50		Second address line (if applicable)
CITY	Text	50		City address line
STATE	Text	2		State code
ZIP	Number	5	0 decimal places	5-digit ZIP code
ETHN	Number	1	0 decimal places	Ethnicity of client: 0 = Unknown 1 = White, not Hispanic 2 = African American, not Hispanic 3 = American Indian or Alaskan native 4 = Asian or Pacific Islander 5 = Hispanic 6 = Other (biracial; Sudanese; etc.)
MARITAL	Number	1	0 decimal places	Marital status of client: 1 = Single, never married 2 = Married (includes common-law marriage) 3 = Divorced 4 = Separated 5 = Widowed
EDUC	Number	2	0 decimal places	Education level of the client
RARG	Number	2	0 decimal places	Residential arrangement of client: 1 = Private residence/household 2 = State MHI 3 = State resource center 4 = Community supervised living 5 = Foster care or family life home 6 = Residential care facility 7 = RCF/MR 8 = RCF/PMI 9 = Intermediate care facility 10 = ICF/MR 11 = ICF/PMI 12 = Correctional facility 13 = Homeless shelter or street 14 = Other
LARG	Number	1	0 decimal places	Living arrangement of client: 1 = Lives alone 2 = Lives with relatives 3 = Lives with persons unrelated to client

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
INS	Number	1	0 decimal places	Health insurance owned by client: 1 = Client pays 3 = Medicaid 4 = Medicare 5 = Private third party 6 = Not insured 7 = Medically Needy
INSCAR	Text	50		First insurance company name, if applicable
INSCAR1	Text	50		Second insurance company name, if applicable
INSCAR2	Text	50		Third insurance company name, if applicable
VET	Text	1		Veteran status of client: Y = Yes N = No
CONSERVATOR	Number	1	0 decimal places	Conservator status of client: 1 = Self 2 = Other
GUARDIAN	Number	1	0 decimal places	Guardian status of client: 1 = Self 2 = Other
LEGSTAT	Number	1	0 decimal places	Legal status of client: 1 = Voluntary 2 = Involuntary, civil commitment 3 = Involuntary, criminal commitment
REFSO	Number	1	0 decimal places	Referral source of client: 1 = Self 2 = Family or friend 3 = Targeted case management 4 = Other case management 5 = Community corrections 6 = Social service agency other than case management 7 = Other
DSM (current version)	Text	50		DSM (current version) diagnosis code of client
ICD (current version)	Text	50		ICD (current version) diagnosis code (optional for county use; not tied to CoMIS entry)
DG	Number	2	0 decimal places	Disability group of client: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
Application Date	Date	10	mm/dd/yyyy	Date of client's initial application
Outcome decision	Number	1	0 decimal places	Decision on client's application: 1 = Application accepted 2 = Application denied 3 = Decision pending
Decision date	Date	10	mm/dd/yyyy	Date decision was made on client's application

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
Denial reason	Text	2		Denial reason code: 00 = Not applicable 01 = Over income guidelines 1A = Over resource guidelines 02 = Does not meet county plan criteria 2A = Legal settlement in another county 2B = State case 3A = Brain injury 3B = Alzheimer's 3C = Substance abuse 3D = Other 04 = Does not meet service plan criteria 05 = Client desires to discontinue process 5A = Client fails to return requested information
Client exit date from CPC	Date	10	mm/dd/yyyy	Date client was terminated from CPC services
Exit reason	Number	1	0 decimal places	Reason client left the CPC system: 0 = Unknown 1 = Client voluntarily withdrew 2 = Client deceased 3 = Unable to locate consumer 4 = Ineligible due to reasons other than income 5 = Ineligible, over income guidelines 6 = Client moved out of state 7 = Client no longer needs service 8 = Client has legal settlement in another county
Review Date	Date	10	mm/dd/yyyy	Date of last application review
PhoneNumber	Text	50		Phone number of client
ValidSSN	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client has a valid social security number. If the client does not have a valid social security number, populate this field with NO.
IsPerson	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client is a person. If the client entry represents a nonperson such as administrative costs, populate this field with NO.

e. File name: WarehouseIncome.xls or WarehouseIncome.csv.

Sheet name: Warehouse_Income_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
SEX	Text	1		Sex of client: M = Male F = Female
EMPL	Number	2	0 decimal places	Employment situation of client: 1 = Unemployed, available for work 2 = Unemployed, unavailable for work 3 = Employed full-time 4 = Employed part-time 5 = Retired 6 = Student 7 = Work activity employment 8 = Sheltered work employment 9 = Supported employment 10 = Vocational rehabilitation 11 = Seasonally employed 12 = In the armed forces 13 = Homemaker 14 = Other or not applicable 15 = Volunteer
House Hold Size	Number	2	0 decimal places	Number of people in client's household
INCSOUR	Number	2	0 decimal places	Primary income source of client: 1 = Family and friends 2 = Private relief agency 3 = Social security disability benefits 4 = Supplemental Security Income 5 = Social security benefits 6 = Pension 7 = Food assistance 8 = Veterans benefits 9 = Workers compensation 10 = General assistance 11 = Family investment program (FIP) 12 = Wages
Public Assistance Payments	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security Disability	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
SSI	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
VA Benefits	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
R/R Pension	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Child Support	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Employment Wages	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Dividend Interest	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Other Income	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Description 1	Text	50		Description of "Other Income"
Cash on hand	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Checking	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Savings	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
Stocks/Bonds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Time Certificates	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Trust Funds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Other Resources	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description-2	Text	50		Description of "Other Resources" (where applicable)
Other Resources-2	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description-3	Text	50		Description of "Other Resources-2"
Date reviewed	Date	10	mm/dd/yyyy	Date income was last reviewed (where applicable)

d. File name: WarehousePayment.xls or WarehousePayment.csv. Sheet name: Warehouse_Payment_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
PYMTDATE	Date	10	mm/dd/yyyy	Date county approves or makes payment
VENNAME	Text	50		Vendor or provider paid
COCODE	Number	3	0 decimal places	County where service was provided
FUND_CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for payment
BEGDATE	Date	10	mm/dd/yyyy	Beginning date of payment period
ENDDATE	Date	10	mm/dd/yyyy	Ending date of payment period
UNITS	Number	4	0 decimal places	Number of service units for payment
COPD	Currency	14	2 decimal places	Amount paid by the county
RECEIVED	Currency	14	2 decimal places	Amount received for reimbursement (if applicable)

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. File name: WarehouseProvider.xls or WarehouseProvider.csv. Sheet name: Warehouse_Provider_Transfer_Que. (If the provider has more than one office location, enter information for the headquarters office.)

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
Provider Address1	Text	50		Provider address line 1
Provider Address2	Text	50		Provider address line 2 (if applicable)
City	Text	50		Provider city
State	Text	2		Provider state code
Zip	Text	10		Provider ZIP code
COCODE	Number	3	0 decimal places	Provider county code
PhoneNumber	Text	50		Provider phone number
Date of Last Update	Date	10	mm/dd/yyyy	Provider last updated date

f. File name: WarehouseProviderServices.xls or WarehouseProviderServices.csv. Sheet name: Warehouse_Provider_Services_Tra.

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for service
RATE	Currency	14	2 decimal places	Payment rate

g. File name: WarehouseService.xls or WarehouseService.csv. Sheet name: Warehouse_Service_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 200 = Iowa nonresident 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
FUND-CODE	Text	10		Fund code for service
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category
COACODE	Number	5	0 decimal places	Chart of accounts code for service
Begin-Date	Date	10	mm/dd/yyyy	Beginning date of service period
End-Date	Date	10	mm/dd/yyyy	Ending date of service period
Ending-Reason	Number	1	0 decimal places	Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization
Units	Number	4	0 decimal places	Average number of service units approved monthly
Rate	Currency	14	2 decimal places	Dollar amount per service unit
Review-Date	Date	10	mm/dd/yyyy	Date for next service review

This rule is intended to implement Iowa Code sections 331.438 and 331.439 chapter 331, subchapter III, parts 1 and 2.

ITEM 31. Amend subrule 25.54(4) as follows:

25.54(4) The advocate shall file with the court Iowa Ct. R. 12.36 Form 30, quarterly reports in a form prescribed by the court as the advocate feels necessary or as required for each individual assigned to the advocate. ~~The report shall state the actions taken with the individual and amount of time spent on behalf of the individual.~~

[Filed 10/10/22, effective 1/1/23]

[Published 11/2/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6623C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to facility participation

The Human Services Department hereby amends Chapter 54, “Facility Participation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

Chapter 54 was reviewed as part of the Department's five-year rules review. As part of this review, the word "enterprise" was removed from the name of Iowa Medicaid. Form names are also removed from the rules. These amendments align residential care facilities (RCFs) rules with existing policy. RCFs no longer use cost reporting but instead have a set per diem that changes annually, and these amendments reflect those changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6472C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—54.1(249) as follows:

441—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department of human services and agree to the provisions as enumerated in Form 470-0443, ~~Application and Contract Agreement for Residential Care Facilities~~. The effective date of the contract shall be the first of the month that the ~~Application and Contract Agreement for Residential Care Facilities~~, form is signed by the administrator of the facility, and is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be in effect until the department ceases to participate in the program, until either party gives 60 days' notice of termination in writing to the other party, or until

HUMAN SERVICES DEPARTMENT[441](cont'd)

there is a change in ownership. The facility shall notify the department within 30 days of a change in ownership, a change in the number of beds or a change in administrator.

This rule is intended to implement Iowa Code section 249.12.

ITEM 2. Amend rule 441—54.2(249) as follows:

441—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in the facility which contains the following:

1. Contract between the facility and the resident on Form 470-0477, ~~RCF Admission Agreement~~.
2. and 3. No change.

This rule is intended to implement Iowa Code section 249.12.

ITEM 3. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) Payment Payments for residential care facilities. Payments for ~~privately operated~~ residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3). ~~Non-privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules.~~

ITEM 4. Amend subrule 54.3(1) as follows:

54.3(1) Failure to maintain records. Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks, source documents, invoices, and audit reports by or for a facility may result in the penalties specified in ~~subrule 54.8(1) rule 441—79.3(249A)~~.

ITEM 5. Rescind subrules **54.3(2) to 54.3(11)**.

ITEM 6. Renumber subrule **54.3(12)** as **54.3(2)**.

ITEM 7. Amend renumbered subrule 54.3(2) as follows:

54.3(2) Termination or change of ~~owner~~ ownership.

~~a.~~ A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department of human services with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. ~~The person responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:~~

~~(1) In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.~~

~~(2) When a participating nursing home is a sole proprietorship, a transfer of title and property to another party constitutes a change of ownership.~~

~~(3) When the facility is a corporation, neither a transfer of corporate stock nor a merger of one or more corporations with the participating corporation surviving is a transfer of ownership. A consolidation of two or more corporations resulting in the creation of a new corporate entity constitutes a change of ownership.~~

~~(4) When a participating facility is leased, in whole or in part, a transfer of ownership is considered to have taken place.~~

~~b.~~ Upon change of ownership, the new owner or operator shall furnish the department with an appraisal made by a department approved appraiser. The appraisal shall be based on market values.

~~c.~~ The new owner or operator shall either continue the previous owner's depreciation schedule or set up a new depreciation schedule using the amount obtained by deducting the depreciation expense

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~incurred since July 1, 1980, from the value of depreciable real property. The value will be the sale price or appraisal value, whichever is less.~~

ITEM 8. Rescind subrules **54.3(13)** to **54.3(15)**.

ITEM 9. Amend rule **441—54.3(249)**, implementation sentence, as follows:

~~This rule is intended to implement Iowa Code section 249.12 and 1992 Iowa Acts, chapter 1241, section 33, subsection 3.~~

ITEM 10. Amend rule 441—54.5(249), introductory paragraph, as follows:

441—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The personal needs funds shall be deposited in a single checking account, not commingled with trust funds from any other facility, nor commingled with facility operating funds except for facility funds, not to exceed \$500, deposited to cover bank charges and have in the account name the terms "Resident Trust Funds." The funds shall be deposited in a bank or other institution within the state of Iowa insured by the federal government. Expense for bank service charges for this account is ~~an allowable audit cost under rule 441—54.3(249)~~ a cost of doing business if the service cannot be obtained free of charge. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs allowance when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of human services, and shall meet the following criteria:

ITEM 11. Amend rule 441—54.6(249) as follows:

441—54.6(249) Case activity report. ~~A Case Activity Report, Form 470-0042,~~ shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, or is discharged from the facility.

This rule is intended to implement Iowa Code section 249.12.

ITEM 12. Amend rule 441—54.7(249), introductory paragraph, as follows:

441—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to ~~the Iowa Medicaid enterprise~~ following the month in which service was provided.

ITEM 13. Rescind subrules **54.7(1)** and **54.7(2)**.

ITEM 14. Rescind and reserve rule **441—54.8(249)**.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6624C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

**Rule making related to eligibility for the home-
and community-based services habilitation program**

The Human Services Department hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

This rule making amends the needs-based and risk-based eligibility criteria for the Home- and Community-Based Services (HCBS) Habilitation program to reflect the changes to the state plan amendment that the Centers for Medicare and Medicaid Services require as a condition of approval because of the maintenance of effort requirements established by the American Rescue Plan Act of 2021, Section 9817. The enhanced Federal Medicaid Assistance Percentage for HCBS services requires states to not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

Federal rules require that individuals who were found eligible for the state plan HCBS benefit before modification of the needs-based criteria under this state plan adjustment must remain eligible for the HCBS benefit until such time as:

- 1) The individual no longer meets the needs-based criteria used for the initial determination of eligibility; or
- 2) The individual is no longer eligible for or enrolled in Medicaid, or the individual is no longer enrolled in the HCBS benefit.

This means that if a member met the initial needs-based eligibility criteria using the interRAI screening tool and would have continued to meet the eligibility criteria were it not for the change in assessment and criteria, the member must remain eligible for habilitation services until the member no longer meets the needs-based eligibility criteria that had been determined using the interRAI tool prior to the change in the assessment tool and needs-based eligibility criteria.

Iowa Medicaid is permitted to modify the needs-based criteria pursuant to 42 CFR 441.715 and will follow all applicable requirements outlined in these rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6474C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making action is adopted:

Amend subrule 78.27(2) as follows:

78.27(2) Member eligibility. To be eligible to receive home- and community-based habilitation services, a member shall meet the following criteria:

~~a. Age.~~ ~~The member is at least 16 years of age or older.~~

~~b. a. LOCUS/CALOCUS actual disposition.~~ The member has a LOCUS/CALOCUS actual disposition of level one recovery maintenance and health management or higher on the most current LOCUS/CALOCUS assessment completed within the past 30 days.

~~c. b. Risk factors.~~ The member has at least one of the following risk factors:

~~(1) The member has undergone or is currently undergoing psychiatric treatment more intensive than outpatient care (e.g., crisis response services, subacute mental health services, emergency services, alternative home care, partial hospitalization, or inpatient hospitalization) more than once in the member's life~~ The individual has a history of inpatient, partial hospitalization, or emergency psychiatric treatment more than once in the individual's life; or

~~(2) The member is currently receiving habilitation or integrated health home services~~ The individual has a history of continuous professional psychiatric supportive care other than hospitalization;
or

~~(3) The member has a history of severe and persistent mental illness resulting in at least one episode of continuous, professional supportive care other than hospitalization (e.g., counseling, therapy, assertive community treatment, or medication management)~~ The individual has a history of involvement with the criminal justice system; or

~~(4) The member has a history of severe and persistent mental illness resulting in involvement in the criminal justice system (e.g., prior incarceration, parole, probation, criminal charges, jail diversion program or mental health court)~~ Services available in the individual's community have not been able to meet the individual's needs; or

~~(5) Traditional mental health services available in the member's community have not been able to meet the member's needs.~~ The individual has a history of unemployment or employment in a sheltered setting or poor work history; or

~~(6) The individual has a history of homelessness or is at risk of homelessness.~~

~~d. c. Need for assistance.~~ The ~~member individual~~ has a need for assistance ~~or is likely to need assistance related to functional impairment arising out of a mental health diagnosis typically demonstrated by meeting at least two of the following criteria on a continuing or intermittent basis for at least 12 months:~~

~~(1) The member is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history, and the member is currently receiving employment services or the member has a need for employment services to obtain or maintain employment~~ The individual needs assistance to obtain or maintain employment.

~~(2) The member individual requires financial assistance to reside independently in the community or may be homeless or at risk of homelessness if unable to procure this assistance without help.~~

~~(3) The member shows significant inability individual needs significant assistance~~ to establish or maintain a personal social support system.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~(4) The member requires help in basic living skills such as self care, money management, housekeeping, cooking, and medication management~~ The individual needs assistance with at least one of the activities of daily living (ADLs) or instrumental activities of daily living (IADLs) to reside independently in the community.

~~(5) The member exhibits social behavior that puts the member's safety or others' safety at risk, which results in the need for service intervention which may include crisis management or protective oversight~~ The individual needs assistance with management and intervention of maladaptive or antisocial behaviors to ensure the safety of the individual or others.

e. d. Income. The countable income used in determining the member's Medicaid eligibility does not exceed 150 percent of the federal poverty level.

f. e. Needs assessment. The LOCUS or CALOCUS tool has been completed in the LOCUS online system, and using the algorithm developed by Deerfield Solutions to derive the actual disposition score based on the comprehensive assessment and social history (CASH) completed by the integrated health home (IHH) or community-based case manager (CBCM) during a face-to-face interview with the member and the member's representative as applicable, and based on information submitted on the information submission tool and other supporting documentation as relevant, the IME medical services unit has determined that the member is in need of home- and community-based habilitation services. The LOCUS/CALOCUS information submission tools are available on request from the IME medical services unit. Copies of the information submission tool for an individual are available to that individual from the individual's case manager, integrated health home care coordinator, or managed care organization. The designated case manager or integrated health home care coordinator shall:

(1) and (2) No change.

g. f. Plan for service. The department or the member's managed care organization has approved the member's comprehensive service plan for home- and community-based habilitation services. Home- and community-based habilitation services included in a comprehensive service plan or treatment plan that has been validated by the IME or the member's managed care organization shall be considered approved by the department. Home- and community-based habilitation services provided before approval of a member's eligibility for the program cannot be reimbursed.

(1) to (4) No change.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6625C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to cost report reviews

The Human Services Department hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

These amendments were drafted in collaboration with a stakeholder workgroup in response to proposed legislation regarding utilization of generally accepted accounting principles (GAAP) in completion of cost report reviews. These amendments are based on provider feedback and Department analysis of the impact to providers. Changes were made that are a benefit to providers and members and do not require legislation to move forward.

These amendments to the Home- and Community-Based Services (HCBS) Waiver cost reporting requirements are as follows:

- Clarify the programs that submit cost reports.
- Correct Financial and Statistical Report form numbers.
- Remove the 20 percent limitation from all HCBS salary, benefit and payroll tax expenses.
- Retain, with no changes, the current limitation on all other HCBS expenses.
- Change the mileage reimbursement for business use of personal employee vehicles to be reimbursed according to the federal Internal Revenue Service's (IRS's) published mileage rate.
- Change the cost reporting period to align with the provider's fiscal year.
- Set the maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to subparagraph 82.5(11)"e"(4). Currently this is limited by the 20 percent limitation on wages, benefits and taxes.
- Provide definitions for the terms reasonable and necessary, related party, ownership, and control.
- Add rebasing language for recalculation of rates every three years for HCBS brain injury (BI) waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency to be consistent with intellectual disability (ID) waiver rebasing.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6475C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making could potentially increase the amount of reportable costs for the following services:

- ID Waiver Supported Community Living (15-minute unit).
- BI Waiver Supported Community Living (15-minute unit).
- BI Waiver Supported Community Living (daily unit).
- Community Mental Health (CMH) Waiver Family and Community Support Services.
- Interim Medical Monitoring and Treatment for the BI, Health and Disability (HD), and ID waivers.

An increase in reportable costs could increase Medicaid provider rates. The prospective rates for established providers are capped at the upper rate limits in subrule 79.1(2). Across these services, there are currently 134 of 238 providers paid below the upper rate limit. It is unclear by how much provider rates will increase because of these amendments. A high-end estimate assumes rates for all 134 providers will increase to the upper limit as a result of these amendments. A low-end estimate assumes no providers experience an increase to current rates. The fiscal estimate is based on the midpoint of these

HUMAN SERVICES DEPARTMENT[441](cont'd)

two scenarios. Assumptions used to calculate the fiscal impact are based on the number of providers not currently paid at maximum rates relative to state fiscal year 2020 fee-for-service utilization. A midpoint estimate was used. It is estimated that the impact would be approximately \$300,000 total; the state-only fiscal impact would be \$100,000. This fiscal analysis is only based on fee-for-service utilization. The managed care organizations (MCOs) and the providers must negotiate the providers' reimbursement rates.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **79.1(1)“e”(3)** as follows:

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment ~~based on the provider's actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 4.5 percent.~~ pursuant to paragraph 79.1(15)“f.”

ITEM 2. Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS brain injury waiver supported community living; HCBS intellectual disability waiver supported community living for 15-minute services; HCBS children's mental health waiver family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency under an HCBS intellectual disability waiver, brain injury waiver, or health and disability waiver.

ITEM 3. Rescind paragraph **79.1(15)“a”** and adopt the following new paragraph in lieu thereof:

a. Reporting requirements.

(1) Providers shall submit the complete Form 470-5477. The provider shall email the report and required supplemental information to costaudit@dhs.state.ia.us. The provider shall mail one signed copy of the certification page to the Iowa Medicaid Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, no later than the due date of the required electronic submissions.

(2) Regardless of the period for the provider's fiscal year, the provider shall submit a financial and statistical report for the period of July 1, 2021, through June 30, 2022. For provider fiscal periods beginning on or after July 1, 2022, the provider shall submit a financial and statistical report coinciding with the provider's fiscal year.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) The provider shall submit the financial and statistical report on or before the last day of the third month following the end of the cost reporting period.

(4) A certified home health agency enrolled to deliver HCBS that is required to submit a Medicare cost report may request a 60-day extension for submitting the financial and statistical cost report. All other providers may request a 30-day extension for submitting the financial and statistical report. All requests must be submitted in writing to the Iowa Medicaid provider cost audit and rate setting unit by the financial and statistical report due date. No other extensions will be granted.

(5) If a provider terminates its participation in any HCBS program or service, the provider shall submit a final financial and statistical report on or before the sixtieth day following the date of termination for retrospective adjustment in accordance with subparagraph 79.1(15)“f”(1).

(6) Providers failing to submit a financial and statistical report that meets the requirements of this paragraph within the time frames set forth in subparagraph 79.1(1)“a”(3) or 79.1(1)“a”(4), as applicable, shall reduce payment to 76 percent of the current rate. The reduced rate shall be paid for not longer than three months, after which time no further payments will be made.

(7) Providers shall submit a completed financial and statistical report in an electronic format that can be opened using the extension xls or.xlsx. The provider shall submit supplemental documentation in a generally accepted business format.

(8) Along with its financial and statistical report, the provider shall include a working trial balance that corresponds to the data contained on the financial and statistical report. Financial and statistical reports submitted without a working trial balance will be considered incomplete.

(9) The provider’s financial data within the financial and statistical report shall be based on the provider’s financial records. When the records are not based on the accrual basis of accounting, the provider shall make adjustments necessary to convert the information to an accrual basis for reporting.

(10) Providers of multiple programs or services shall submit a cost allocation schedule. The schedule must identify an allocation method for each expense account, including the statistics used in the calculation.

(11) Providers shall not report costs to any waiver service that are costs of any other program or public or private funding sources, including but not limited to the Medicaid state plan; Medicare; other state, local or federal funded programs; and private funding sources. Providers shall not report costs of HCBS waiver services as a cost of any other public or private funding source.

(12) Iowa Medicaid or its designee may review or audit financial and statistical reports as filed to determine the actual cost of services in accordance with generally accepted accounting principles or Medicare cost principles published in Centers for Medicare and Medicaid Services Publication §15-1, subject to the exceptions and limitations in the department’s administrative rules and financial and statistical report instructions.

(13) Failure to maintain records to support the financial and statistical report and make them available to the department or its designee upon request may result in adjustment, payment reduction, or sanction including but not limited to termination of the provider’s HCBS certification.

(14) When adjustments made to prior reports indicate noncompliance with reporting instructions or the provider has a history of inadequate documentation to support the financial and statistical report, the department may require that an external accountant experienced with cost report preparation prepare the financial and statistical report or that a certified public accountant complete a review or examination of the financial and statistical report or cost allocation methodology.

ITEM 4. Rescind paragraph 79.1(15)“b” and adopt the following **new** paragraph in lieu thereof:

b. Home- and community-based general rate criteria.

(1) To receive reimbursement for services, a certified provider shall enter into an agreement with the department on Form 470-2918 and have an approved service plan for the member.

(2) The rates a provider may charge are subject to limits established in subrule 79.1(2).

(3) Twenty percent identified cost limitation.

1. The following identified costs are not subject to the 20 percent limitation; however, the following costs are used to calculate the limitation:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Wages, benefits, and payroll taxes.
- Direct care transportation expense—with and without member present.
- Direct care development, training, and supplies.
- Member-specific assistance.
- Member-specific equipment repair or purchase.

2. For each waiver service, the sum of reported costs not identified in numbered paragraph 79.1(15)“b”(3)“1” is limited to 20 percent of the identified costs in numbered paragraph 79.1(15)“b”(3)“1.”

(4) Mileage reimbursement for business use of personal employee vehicles shall be limited to the federal Internal Revenue Service’s (IRS’s) published mileage rate in effect during the cost reporting period.

(5) Compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function and do not exceed the maximum allowed compensation as described in numbered paragraphs 79.1(15)“b”(5)“5” and “6.”

1. “Ownership” is defined as an interest of 5 percent or more. For this purpose, the following persons are considered immediate relatives: husband, wife, natural or adoptive parent, natural or adoptive child, natural or adoptive sibling, step-parent, step-child, step-sibling, parent-in-law, child-in-law, sibling-in-law, grandparent, or grandchild. Adequate time records shall be maintained.

2. “Compensation” means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including but not limited to salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include but are not limited to costs of leave, employee insurance, pensions and unemployment plans. If the facility’s fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to Iowa Medicaid or its designee. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. Providers shall report all compensation paid to related parties, including payroll taxes, on the financial and statistical report.

3. “Reasonableness” requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable providers, and depends upon the facts and circumstances of each case.

4. “Necessary” requires that the function be such that had the owner or immediate relative not rendered the services, the facility would have had to employ another person to perform the service, and be pertinent to the operation and sound conduct of the institution.

5. The maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, is equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to 441—subparagraph 82.5(11)“e”(4).

6. The maximum allowed compensation for any other owner or immediate relative is 60 percent of the amount allowed in numbered paragraph 79.1(15)“b”(5)“5.”

7. The provider shall maintain records in the same manner for an owner or immediate relative compensated by the agency as are maintained for any employee of the agency, including but not limited to employment records, timekeeping, and payroll records.

8. The maximum allowed compensation for owners and immediate relatives shall be adjusted by the percentage of the average workweek devoted to business activity during the fiscal year of the financial and statistical report. The time devoted to the business shall be disclosed on the financial and statistical report. If an owner’s or immediate relative’s time is allocated to the facility from another entity (e.g., home office), the compensation limit shall be adjusted by the percentage of total costs of the entity allocated to the facility. In no case shall the amount of salary for one owner or immediate relative

HUMAN SERVICES DEPARTMENT[441](cont'd)

allocated to multiple facilities be more than the maximum allowed compensation for that employee had the salary been allocated to only one agency.

9. Costs applicable to services, facilities, and supplies furnished to the provider by a person or organization related to the provider by common ownership or control are a reimbursable cost when included at the cost to the related party or organization. The cost shall not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

- “Related” means that the agency, to a significant extent, is associated with or has control of or is controlled by the organization furnishing the services, facilities, or supplies.

- Common ownership exists when an individual or individuals possess significant ownership or equity in the facility and the institution or organization serving the provider.

- Control exists where an individual or an organization has power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

- A provider may lease a facility from a related person or organization. In such case, the rent paid to the lessor by the provider is not allowable as a cost. The provider, however, would include in its cost the costs of ownership of the facility. This includes depreciation, interest on the mortgage, real estate taxes, and other expenses attributable to the leased facility.

- An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence that the criteria in numbered paragraph 79.1(15) “b”(5)“10” have been met.

10. The agency must demonstrate the following with convincing evidence. Where all of the conditions below are met, the charges by the supplier to the provider for such services, facilities, or supplies are allowable as costs.

- The supplying organization is a bona fide separate organization;

- A substantial part of its business activity of the type carried on with the facility is transacted with others and there is an open competitive market for the type of services, facilities, or supplies furnished by the organization;

- The services, facilities, or supplies are those which commonly are obtained by similar institutions from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by the institutions; and

- The charge to the agency is in line with the charge for services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for the services, facilities, or supplies.

ITEM 5. Rescind paragraph 79.1(15)“c” and adopt the following new paragraph in lieu thereof:

c. Prospective rates for new providers.

(1) “New providers” means providers who have not submitted an annual report including at least six months of actual, historical costs of operations for any service as listed in subrule 79.1(15).

(2) New providers shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period.

(3) Projected costs of any new service, as listed in subrule 79.1(15), shall be submitted on Form 470-5477.

(4) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)“f.”

(5) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph 79.1(15)“d.”

ITEM 6. Rescind paragraph 79.1(15)“d” and adopt the following new paragraph in lieu thereof:

d. Prospective rates for established providers.

(1) “Established providers” means providers who have submitted an annual report including six months of actual, historical costs of operation.

(2) The prospective rate will be adjusted annually, effective the first day of the third month after the month during which the annual financial and statistical report is submitted to the department.

(3) The provider’s prospective rate shall be the lower of:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. The provider's reasonable and proper actual cost-based rate as calculated by the provider's most recent financial and statistical report and adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider's fiscal year end,

2. In the first year of reporting six months of actual, historical costs of operation, or a year in which the provider's base rate is recalculated, the base rate is equal to the amount calculated in numbered paragraph 79.1(15)"d"(3)"1,"

3. In a year in which the provider's base rate is not recalculated, the prior period base rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider's fiscal year end, or

4. The upper rate limit pursuant to subrule 79.1(2).

(4) Recalculation of base rates (rebasing).

1. For providers of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency, the base rates will be recalculated based on the reasonable and proper actual costs of operation as calculated by the fiscal year 2022 financial and statistical report.

2. For providers of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency; and 15-minute HCBS intellectual disability waiver supported community living services, the base rates will be recalculated based on the reasonable and proper costs of operation for the provider's fiscal year ending on or after January 1, 2024.

3. Subsequent to the recalculation of base rates in numbered paragraph 79.1(15)"d"(4)"2," a provider's base rate shall be recalculated no less than every three years.

(5) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)"f."

ITEM 7. Amend paragraph **79.1(15)"f"** as follows:

f. Retrospective adjustments.

(1) ~~Retrospective~~ For fee for service, retrospective adjustments shall be made based on reconciliation of provider's reasonable and proper actual service costs with the revenues received for those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service 15-minute HCBS intellectual disability waiver supported community living services; HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency under an HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver, as reported on Form 470-5477, subject to the upper rate limit allowed in subrule 79.1(2).

~~(2) For services provided from July 1, 2015, through June 30, 2016, revenues exceeding adjusted actual costs by more than 4.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.~~

~~(3) For services provided from July 1, 2015, through June 30, 2016, providers who do not reimburse revenues exceeding 104.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 104.5 percent of the actual costs deducted from future payments.~~

~~(4) (2) For services provided on or after July 1, 2016, revenues exceeding adjusted actual costs by more than 5.5 percent for fee for service shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.~~

~~(5) For services provided on or after July 1, 2016, providers who do not reimburse revenues exceeding 105.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 105.5 percent of the actual costs deducted from future payments.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) If a provider does not remit the amount of the overpayment identified in subparagraph 79.1(15)“f”(2) within 30 days after notice, the department will deduct the amount owed from future payments.

ITEM 8. Rescind paragraph 79.1(15)“g.”

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6634C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to PROMISE JOBS program

The Human Services Department hereby amends Chapter 93, “PROMISE JOBS Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 239B.4 and 239B.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 239B.4 and 239B.17.

Purpose and Summary

Chapter 93 is amended as part of the Department’s five-year rules review. This rule making clarifies language, accurately reflects the job readiness and job search activities, and updates case retention rules in the PROMISE JOBS program. These changes are technical in nature and will not have an impact on caseloads or program costs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6458C**. No public comments were received. Changes from the Notice have been made to update two references in Item 1 and Item 11 to list the correct state agency since the Department of Human Rights is responsible for the Family Development and Self-Sufficiency (FaDSS) program.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—93.1(239B)**, definitions of “FaDSS” and “Limited benefit plan,” as follows:

“*FaDSS*” means the family development and self-sufficiency program operated under 441—~~Chapter 465~~ ~~421—Chapter 24~~, which provides in-home family development services to families at risk of instability or long-term welfare FIP dependency.

“*Limited benefit plan*” or “*LBP*” means a period of time in which a participant or member of a participant’s family is either ineligible for any assistance under the family investment program or eligible for reduced assistance ~~only~~ in accordance with Iowa Code section 239B.9.

ITEM 2. Amend subrule 93.2(2) as follows:

93.2(2) *Contracts with provider agencies.* The department of human services may contract with the department of workforce development, the department of economic development, or other appropriate entity to provide PROMISE JOBS services and case management of those services.

a. No change.

b. Record keeping. All PROMISE JOBS agencies shall maintain PROMISE JOBS participant case files and records for at least ~~three~~ five years after FIP cancellation, in either paper or electronic format. Records shall be maintained for longer than ~~three~~ five years if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained for ~~three~~ five years after the litigation, audit, or claim is resolved. Case files must be disposed of in accordance with applicable federal requirements pertaining to confidentiality.

c. Confidentiality. The departments of ~~education, workforce development, economic development, and human rights, local education agencies,~~ and all subcontractor provider agencies shall safeguard participant information in conformance with Iowa Code section 217.30. The department of human services and the PROMISE JOBS provider agencies may disclose participant information to other state agencies or to any other entity when that agency or entity must have that information in order to provide services to PROMISE JOBS participants that have been determined to be necessary for successful participation in PROMISE JOBS, if approved by the director of the department of human services or the director’s designee, pursuant to a written request.

ITEM 3. Amend subrule 93.3(3) as follows:

93.3(3) *Initial appointment.*

a. FIP applicants. FIP applicants, including those who are in a limited benefit plan, shall be offered an appointment with the PROMISE JOBS provider agency for orientation, assessment, and FIA development at the earliest available time. The provider agency shall make sufficient appointment times available to allow the applicant to be scheduled no later than ten calendar days after the date of

HUMAN SERVICES DEPARTMENT[441](cont'd)

the notice that FIA responsibility has begun, as required by rule 441—93.4(239B) and 441—paragraphs 41.24(1)“c,” 41.24(1)“d,” and 41.24(10)“g.”

b. Exempt status change. Persons who become FIA-responsible while receiving FIP shall initiate PROMISE JOBS orientation and FIA development by contacting the appropriate PROMISE JOBS office to schedule an appointment within ten calendar days of the mailing date of the letter explaining that exempt status has been lost and FIA responsibility has begun, as required by 441—subrule 41.24(5). If the person fails to schedule an appointment or fails to appear for an appointment, PROMISE JOBS shall send one written reminder letter that informs the person that those who do not develop a family investment agreement shall enter into a limited benefit plan. If the person fails to schedule an appointment within ten calendar days of the written reminder letter or fails to appear for an appointment scheduled after the written reminder letter is sent, the person shall enter into a limited benefit plan as described at 441—paragraph 41.24(8)“c.”

ITEM 4. Amend subrule 93.3(4) as follows:

93.3(4) Orientation. Every person referred to PROMISE JOBS shall receive orientation services. PROMISE JOBS workers shall provide FIA orientation ~~if not previously provided by the department of human services.~~

a. No change.

b. Each applicant shall ~~sign~~ receive Form 470-3104, ~~Your FIA Rights and Responsibilities,~~ acknowledging confirming that information described in paragraph “a” of this subrule 93.3(4)“a” has been provided.

ITEM 5. Amend subrule 93.3(6) as follows:

93.3(6) Workforce development registration. Each applicant is required to ~~complete a current workforce development registration form as described at 877—subrule 8.2(3) when requested register for work with the department of workforce development, upon request~~ by the PROMISE JOBS worker.

ITEM 6. Amend paragraph **93.4(2)“a”** as follows:

a. Parents. All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA. Parents of any age are exempt only if they are receiving Supplemental Security Income (SSI) or they ~~do not meet citizenship requirements~~ are not U.S. citizens and are not qualified aliens as defined in rule 441—40.21(239B). When the FIP eligible group includes a minor parent living with one or both parents or a needy specified relative who receives FIP, as described at 441—subparagraph 41.28(2)“b”(2), and none is exempt from PROMISE JOBS participation, each parent or needy specified relative is responsible for a separate FIA.

ITEM 7. Amend subparagraph **93.4(4)“a”(2)** as follows:

(2) The program goal for all participants is to be involved in PROMISE JOBS activities on a full-time basis unless problems or barriers prohibit this level of involvement. “Full-time” is considered as an average of at least 30 hours per week. Exceptions to full-time involvement are identified in rule 441—93.14(239B) and subrule 93.4(5).

ITEM 8. Amend subparagraphs **93.4(4)“b”(3)** and **(4)** as follows:

(3) Job readiness and job search activities, including job ~~club~~ readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, workplace essentials training unplanned job opportunities, mental health treatment, substance abuse treatment, or other rehabilitative activities, as described in rule 441—93.6(239B).

(4) Work activities, including part-time or full-time employment, self-employment, on-the-job training, work experience placement, or unpaid community service as described in rule 441—93.7(239B).

ITEM 9. Renumber subparagraph **93.4(4)“b”(9)** as **93.4(4)“b”(10)**.

ITEM 10. Adopt the following new subparagraph **93.4(4)“b”(9)**:

(9) Family violence option as described in subparagraph 93.4(5)“b”(4).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 11. Amend subparagraph **93.4(4)“c”(4)** as follows:

(4) ~~Unmarried parents aged 17 and younger~~ Parents under the age of 18 who are not married and who do not live with a parent or legal guardian shall include FaDSS, as described at 441—Chapter 165 421—Chapter 24, or other family development services, as described in subrule 93.9(2), in the FIA. The FaDSS or other family development services shall continue after the parent reaches the age of 18 only when the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

ITEM 12. Amend subparagraph **93.4(5)“a”(4)** as follows:

(4) ~~Sexual or~~ Victim of domestic abuse history violence or sexual abuse.

ITEM 13. Adopt the following new subparagraphs **93.4(5)“b”(4)** and **(5)**:

(4) Victims of domestic violence may include in their FIA the family violence option, which is a safety plan to address or attempt to prevent domestic violence. The family violence option may allow for a temporary waiver from participation in PROMISE JOBS activities when appropriate for the participant or participant’s situation.

(5) The PROMISE JOBS worker shall review the need for inclusion of a barrier to participation in the FIA at least once every six months to determine if the barrier continues to exist.

ITEM 14. Amend paragraph **93.4(8)“b”** as follows:

b. Participants who choose not to cooperate in the renegotiation process when requested by PROMISE JOBS shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 15. Amend subrules 93.5(8) and 93.5(9) as follows:

93.5(8) *Supportive payments allowed.* Except for assessment activities that occur on the same day as orientation, persons participating in assessment activities are eligible for child care assistance and transportation payments ~~for transportation and child care~~ needed to allow the scheduled participation as described at rule 441—93.11(239B). When make-up sessions are required, the participant shall not receive an additional transportation payment, but necessary child care assistance shall be paid.

93.5(9) *Failure to complete assessment.* Participants who do not complete assessments that are written into their FIA shall be considered to have chosen the limited benefit plan unless they have good cause. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 16. Amend rule 441—93.6(239B) as follows:

441—93.6(239B) Job readiness and job search activities. Job readiness and job search activities include ~~job club~~, readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, ~~workplace essentials training~~ unplanned job opportunities, substance abuse treatment, mental health treatment, and other rehabilitation activities. The participant and the PROMISE JOBS worker shall incorporate into the FIA the job readiness and job search activities that are appropriate for the goals, work history, skill level, and life circumstances of the participant.

93.6(1) *Job ~~club~~ readiness.* Job ~~club~~ readiness prepares participants to search for ~~work~~ or obtain employment. Job ~~club~~ readiness consists of job readiness skills training in job-seeking skills and structured job search other activities completed outside of a training session that prepare a participant to search for or obtain employment.

a. Delivery of ~~services~~ job readiness skills training. Job ~~club~~ readiness skills training is provided ~~over a consecutive three-week period.~~ Each week consists in scheduled sessions consisting of up to 30 hours of structured activity per week.

(1) ~~Generally, the first week of job club consists of job-seeking skills training and the next two weeks consist of structured group job search.~~

(2) ~~Based on local office need and resources, the 30 hours of job-seeking skills training may be completed over the first two weeks when the hours not spent in job-seeking skills training are spent in~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~structured job search. The total time spent in each of the two weeks must meet the 30-hour requirement. The third week of job club is 30 hours of structured group job search.~~

~~b. Job-seeking Job readiness skills training. Job-seeking Job readiness skills training may include but is not limited to:~~

- ~~(1) Résumé development Interests and skills assessment;~~
- ~~(2) Writing application and follow-up letters Self-esteem building and motivational exercises;~~
- ~~(3) Completing job applications and interest and skills assessments Identifying and eliminating employment barriers;~~
- ~~(4) Job retention skills Résumé development;~~
- ~~(5) Motivational exercises Completing job applications and follow-up letters;~~
- ~~(6) Identifying and eliminating employment barriers Obtaining interviews and telephone skills;~~
- ~~(7) Self-marketing Interviewing skills development;~~
- ~~(8) Finding job leads Goal attainment planning;~~
- ~~(9) Obtaining interviews Soft skills and life skills;~~
- ~~(10) Use of telephones for job-seeking Job market trends and finding job leads;~~
- ~~(11) Interviewing skills Self-marketing and positive attitude building; and~~
- ~~(12) Financial education Job retention skills.~~

~~c. Structured job search Other job readiness activities. A written plan shall be developed with each participant using Form 470-4481, Job Search Plan Agreement, indicating the number of job search hours required depending on family circumstances and other component activities listed on the participant's FIA. Structured job search includes daily reporting to the job search site to access resources for job leads. Job readiness may include activities that prepare the participant to search for or obtain employment and are completed outside of a training session. This includes activities such as but not limited to working individually with Iowa workforce development (IWD), bureau of refugee services (BRS), or FaDSS staff to develop a résumé, improve interview skills, or identify any of the other skills listed in paragraph 93.6(1) "b."~~

~~d. Attendance.~~

~~(1) Daily attendance Attendance is required during both the job-seeking when a participant is scheduled for job readiness skills training and structured job search or other job readiness activities unless the participant has good cause as described at rule 441—93.14(239B) or a barrier as described at subrule 93.4(5). Participants who miss any portion of the job-seeking job readiness skills training or structured job search may be required to either make up the missed portion of the sessions or to retake the entire week of training based on practical worker judgment and participant need.~~

~~(1) (2) Participants who obtain employment are required to continue the job-seeking job readiness skills training unless the scheduled job club training hours conflict with the scheduled hours of employment.~~

~~(2) Participants who obtain employment averaging 30 hours or more per week may discontinue the structured job search portion of job club.~~

~~(3) Participants who obtain employment averaging 20 hours per week or more but less than 30 hours per week may discontinue the structured job search portion of job club if part-time employment was the FIA goal or the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.~~

~~(4) Participants who obtain employment averaging less than 20 hours per week shall continue the structured job search portion of job club unless the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.~~

~~e. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in job club readiness skills training or other job readiness activities. The transportation payment shall be paid in full at before the start first scheduled day of participation.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Participants who must repeat ~~the job-seeking~~ or make up any portion of job readiness skills training ~~or structured job search~~ because of absence due to reasons as described at rule 441—93.14(239B) shall receive an additional transportation payment as described at subrule 93.11(3) for each day that must be repeated and a child care ~~payment for needed child care~~ assistance. This rule applies only when the participant will have transportation costs that exceed the participant's original payment because of repeating or making up a portion of job ~~club~~ readiness skills training.

(2) Participants who must repeat ~~job-seeking~~ or make up any portion of job readiness skills training ~~or structured job search~~ as a result of absences due to reasons other than those described at rule 441—93.14(239B) shall not receive an additional transportation payment.

f. Documenting job ~~club~~ readiness skills training or other job readiness participation. ~~Participants shall provide documentation of job search activities~~ Hours of participation in job readiness skills training or other job readiness activities shall be documented as described at subrule 93.10(2).

g. Failure to participate in job ~~club~~ readiness skills training activities. Participants who without good cause do not appear for scheduled job ~~club~~ readiness skills training activities ~~or who fail to complete or document and submit job search contacts according to their written plan~~ as stated in the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(2) Individual job search. Individual job search shall be available to all participants, particularly those who have recent ties with the workforce, have successfully removed or reduced barriers to work, ~~or have completed job ~~club~~ or readiness skills training, or have completed education or training activities~~ and are now ready to work. Participants are not required to participate in individual job search full-time. Individual job search may be combined with other FIA activities to reach full-time equivalency. Hours of participation in individual job search shall be determined according to the participant's individual circumstances and be at a level that will reasonably allow the participant to successfully find full-time employment. If after three calendar months the participant still has not found employment, the worker shall review the participant's situation for possible barriers to employment or possible need for training to increase the participant's employability. Job search may continue if appropriate, but linking with other activities should be considered.

a. Job search plan. In consultation with the PROMISE JOBS worker, the participant shall design and provide a written plan of the individual job search activities on Form 470-4481, ~~Job Search Plan Agreement~~. The plan shall:

(1) to (4) No change.

(5) Be signed by the participant and the PROMISE JOBS advisor.

b. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed for participation in individual job search. The transportation payment shall be paid in full ~~at~~ prior to the start of each designated period of the individual job search. Transportation payments for any missed days of job search activity shall be subject to transportation overpayment policies as described at subrule 93.11(3).

c. No change.

d. Failure to participate in individual job search. Participants who without good cause do not ~~complete~~ participate in the steps of the ~~written plan of the individual job search plan~~ described at paragraph 93.6(2) "a" shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(3) Unplanned job opportunity. PROMISE JOBS participants who have an unplanned opportunity to interview or apply for a job shall be encouraged to take advantage of the opportunity.

a. Supportive payments allowed. Child care assistance and transportation payments needed to make an unplanned job contact shall be provided as described at rule 441—93.11(239B) when the following conditions are met:

(1) and (2) No change.

(3) ~~The participant provides documentation as described in paragraph "b" of this subrule.~~ 93.6(3) "b." Payment shall be issued after documentation is received.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. and *c.* No change.

93.6(4) ~~Workplace essentials Structured job search.~~ ~~The workplace essentials component consists of soft skills and life skills training.~~ Structured job search is designed with scheduled activities and required hours of participation to reflect proven job search techniques and the employment environment of the PROMISE JOBS service area. A PROMISE JOBS advisor is available to monitor the participant's progress in the participant's job search and to provide assistance and support. Structured job search provides up to 30 hours of scheduled activity. Hours of participation in structured job search shall be determined according to the participant's individual circumstance and may be full-time or at a level that will reasonably allow the participant to successfully find full-time employment.

a. ~~Delivery of services Attendance.~~ ~~Workplace essentials training is one 30-hour week in duration. Based on local office need and resources, the 30 hours may be completed over a two-week period. For the remainder of the 30 participation hours required in each week, participants must engage in other PROMISE JOBS activities. Participants are scheduled to appear daily at the PROMISE JOBS site to access resources for job leads. Participants who miss any portion of scheduled structured job search may be required to either make up the missed portion of the session or to retake the entire week of training based on practical worker judgment and participant need.~~

(1) Participants who obtain employment averaging 30 hours or more per week may discontinue structured job search.

(2) Participants who obtain employment averaging 20 hours or more per week, but less than 30 hours per week, may discontinue structured job search if part-time employment was the FIA goal or the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

(3) Participants who obtain employment averaging less than 20 hours per week shall continue structured job search unless the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

b. ~~Content.~~ ~~Workplace essentials training may include but is not limited to:~~

- ~~(1) Identifying and setting goals.~~
- ~~(2) Self-esteem building.~~
- ~~(3) Emotional awareness.~~
- ~~(4) Relationship management.~~
- ~~(5) Conflict resolution skills.~~
- ~~(6) Problem-solving skills.~~
- ~~(7) Decision-making skills.~~
- ~~(8) Time-management skills.~~
- ~~(9) Team-building skills.~~
- ~~(10) Networking skills.~~
- ~~(11) Listening skills.~~
- ~~(12) Positive thinking.~~
- ~~(13) Priority setting.~~
- ~~(14) Appropriate workplace behaviors.~~
- ~~(15) Cultural sensitivity.~~
- ~~(16) Workplace expectations.~~
- ~~(17) Stress management.~~

b. ~~Job search plan.~~ PROMISE JOBS and the participant shall develop a written job search plan using Form 470-4481 at the beginning of the structured job search period. The plan shall:

- (1) Contain a designated period for job search and the specific methods for finding job openings.
- (2) Specify the number of hours to be committed for the designated period so as to provide the most effective use of transportation funds.
- (3) Specify the due date for providing documentation of job search activities.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) Contain information as specific as possible about areas of employment interests, employers to be contacted, and other pertinent factors.

(5) Be signed by the participant and the PROMISE JOBS advisor.

c. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in workplace-essentials structured job search.

d. Documenting participation. The PROMISE JOBS worker shall verify and document each participant's monthly hours of actual participation in workplace-essentials structured job search. Participant documentation shall be provided as described at subrule 93.10(2).

e. Failure to participate in workplace-essentials structured job search. Participants who without good cause do not complete workplace-essentials structured job search as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(5) *Substance abuse treatment, mental health treatment, and other rehabilitative activities.* Substance abuse or mental health treatment or other rehabilitative activities are available when needed for a participant to be successful in participating in other FIA activities.

a. No change.

b. Supportive payments allowed. ~~Transportation and child~~ Child care assistance and transportation payments shall be provided as described at rule 441—93.11(239B) ~~are available for participating when needed to participate in substance abuse treatment, mental health treatment, or other rehabilitative activities when specified in the FIA.~~

c. No change.

d. Failure to participate in treatment or other rehabilitative activities. Participants who without good cause do not participate in substance abuse treatment, mental health treatment, or other rehabilitative activities as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 17. Amend subrule 93.7(1) as follows:

93.7(1) *Full-time or part-time employment.* FIAs may include full-time employment or part-time employment. Employment that does not lead to economic self-sufficiency may be included in the FIA only if the employment situation leads to better employment opportunities through building work skills and work history. See subrule 93.7(2) for additional policies applicable to self-employment.

a. Full-time employment. The goal for all participants is to participate in full-time employment. "Full-time employment" is defined as being employed an average of 30 or more hours per week.

(1) No change.

(2) Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

b. No change.

c. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at rule 441—93.11(239B) when needed for employment.

d. No change.

e. Failure to provide verification. Failure to provide verification of work hours after receiving a written reminder letter will result in a limited benefit plan.

f. Failure to maintain employment. A participant who without good cause does not maintain employment as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 18. Amend paragraph **93.7(2)"d"** as follows:

d. Requiring other FIA activities. When a participant has been self-employed for more than 12 months and has not shown progress toward self-sufficiency, the FIA shall include the part-time

HUMAN SERVICES DEPARTMENT[441](cont'd)

self-employment in combination with participation in other PROMISE JOBS activities, unless barriers to participation exist as ~~described~~ defined in subrule 93.4(5) and rule 441—93.14(239B).

(1) No change.

(2) When the determination that a participant has not shown progress toward self-sufficiency is made after the initial FIA is developed, the FIA shall be renegotiated to include the other PROMISE JOBS activities. Participants who choose not to enter into the FIA renegotiation process shall enter into a limited benefit plan as described in 441—subrule 41.24(8). Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 19. Amend paragraph **93.7(2)“e”** as follows:

e. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at subrule 93.11(2) when needed for participation in self-employment.

ITEM 20. Amend paragraph **93.7(2)“g”** as follows:

g. Failure to maintain employment. Participants who without good cause do not maintain employment as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 21. Amend paragraph **93.7(3)“b”** as follows:

b. Supportive payments. Transportation for on-the-job training is treated in the same manner as transportation for employment. Expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care ~~payments~~ assistance shall be provided ~~when needed~~ as described at subrule 93.11(2) when needed for participation in on-the-job training.

ITEM 22. Amend paragraph **93.7(3)“d”** as follows:

d. Failure to participate in on-the-job training. Participants who without good cause do not participate in on-the-job training as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 23. Amend paragraph **93.7(4)“d”** as follows:

d. Hours of participation. When a participant is involved in work experience that is subject to the Fair Labor Standards Act (FLSA), the participant cannot be required to work more hours than the amount of the monthly FIP grant divided by federal or state minimum wage, whichever is higher. EXCEPTION: To determine the maximum hours that can be required of a single-parent family on FIP with a child under the age of six, add the value of the family's ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) benefits to the FIP grant amount before dividing by the minimum wage.

(1) A participant cannot be required to work more hours than those calculated under paragraph ~~“d” of this subrule.~~ 93.7(4)“d.” Only hours up to or less than that calculation can be included in the participant's FIA.

(2) If two or more members of the same household participate in work experience, the total required hours of participation of the household cannot exceed the hours calculated according to paragraph ~~“d” of this subrule.~~ 93.7(4)“d.”

(3) No change.

ITEM 24. Amend subparagraph **93.7(4)“f”(1)** as follows:

(1) Child care and transportation. ~~Participants assigned to work experience shall receive a child~~ Child care payment, if required, and a transportation payment for each month or part thereof as described at subrules 93.11(2) and 93.11(3). ~~The portion of the transportation payment for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.11(3)~~ assistance and transportation payments shall be provided as described at rule 441—93.11(239B) when needed for participation in work experience.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 25. Amend paragraph **93.7(4)“i”** as follows:

i. Failure to participate in work experience. A participant who without good cause does not participate in work experience as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 26. Amend subparagraph **93.7(5)“c”(1)** as follows:

(1) For a participant who is a single parent with a child under the age of six, the maximum hours that can be required are determined by adding the value of the participant’s ~~food assistance~~ SNAP to the FIP grant amount before dividing by the minimum wage.

ITEM 27. Amend paragraph **93.7(5)“e”** as follows:

e. Supportive payments. ~~A child~~ Child care payment assistance and a transportation payment for each month of participation or part thereof shall be paid as described at rule 441—93.11(239B) ~~if these services are required when needed for participation in unpaid community service.~~

ITEM 28. Amend paragraph **93.7(5)“g”** as follows:

g. Failure to complete unpaid community service. Participants who without good cause do not participate in unpaid community service as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 29. Amend subrule 93.8(1), introductory paragraph, as follows:

93.8(1) Participant requirements. The decision to include education in an FIA shall take into account the results of the educational evaluation pursuant to paragraph ~~“b” of this subrule 93.8(1)“b”~~ and the current educational level of the participant. Prior academic or vocational training is not, in itself, a reason for denial or approval of educational services. All family members who are approved for education shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same educational facility and in the same program. For education to be approved for inclusion in an FIA, the following requirements shall be met.

ITEM 30. Amend paragraph **93.8(1)“b,”** introductory paragraph, as follows:

b. Evaluation Educational evaluation. An educational evaluation shall be completed according to subrule 93.5(3) before postsecondary education is included as an FIA activity. A participant under the age of 19 does not need to complete an educational evaluation in order to have high school completion included in the FIA. ~~For every other training activity, an educational evaluation shall be completed according to this paragraph before the activity is included as part of a participant’s FIA.~~

ITEM 31. Amend paragraph **93.8(2)“b”** as follows:

b. Time and attendance. The provider must verify the participant’s actual hours attending of attendance in an educational activity must be verified with Form 470-2617 pursuant to subrule 93.10(2). If the educational activity is structured in such a way that verification cannot be obtained or the educational provider is unwilling to provide time and attendance verification, the educational activity cannot be included in the participant’s FIA. Exceptions apply for distance learning as described at paragraph 93.10(2)“f” and for participants under age 20 as described at subparagraph 93.10(2)“b”(3).

ITEM 32. Amend paragraph **93.8(3)“f”** as follows:

f. ~~On-line~~ Online or distance learning. Distance learning includes training such as, but not limited to, that conducted over the Iowa communications network, ~~on-line~~ online courses, virtual courses, or Web conferencing. The training:

- (1) Must include interaction between the instructor and the student, such as required chats or message boards;
- (2) Must include mechanisms for evaluation and measurement of student achievement; and
- (3) Must be offered in Iowa unless the conditions in paragraph ~~“g” of this subrule 93.8(3)“g”~~ apply. An ~~on-line~~ online training program shall be considered an out-of-state training program when any of the required training or testing occurs out-of-state.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 33. Amend subrule 93.8(4), introductory paragraph, as follows:

93.8(4) *Nonapprovable training activities.* Nonapprovable training activities shall not be included in the FIA. When an activity in which the participant is enrolled becomes nonapprovable, PROMISE JOBS shall cancel the current training plan and require the participant to renegotiate the FIA to include other activities. Form 470-0602, ~~Notice of Decision: Services~~, shall be issued to inform the participant that the request for education is canceled. Nonapprovable activities include the following:

ITEM 34. Amend paragraph **93.8(5)“a,”** introductory paragraph, as follows:

a. Academic enrollment hours. Participants are encouraged to maintain as full an academic workload as is possible in order to complete their education in a timely manner. However, a person may choose to participate in education along with other activities such as employment, ~~job-seeking~~ job readiness skills training, other job readiness activities, or other FIA activities.

ITEM 35. Amend paragraph **93.8(6)“a”** as follows:

a. Eligibility.

- (1) No change.
- (2) Participant eligibility for ~~payment of~~ child care assistance and transportation and child care payments begins as described in subparagraph 93.8(6)“a”(1) and shall be terminated when a training plan is canceled.
- (3) Each participant in postsecondary vocational training is limited to 24 fiscal months of PROMISE JOBS payment of expenses needed for participation. The 24 fiscal months do not have to be consecutive. See paragraph ~~“b” of this subrule~~ 93.8(6)“b” for additional limits on child care expenses.
- (4) No change.

ITEM 36. Amend paragraph **93.8(6)“b”** as follows:

b. Child care. ~~Participants assigned to educational activities shall receive a child~~ Child care ~~payment, if required, for each month or part thereof~~ assistance shall be provided as described at subrule 93.11(2) and 441—Chapter 170 when needed for participation in education and training activities except as described in subparagraphs 93.8(6)“b”(1) and 93.8(6)“b”(2). ~~EXCEPTION: Each PROMISE JOBS participant is limited to 24 fiscal months of child care assistance.~~

- (1) ~~All child~~ Child care ~~assistance payments issued under the PROMISE JOBS program count toward this limit~~ needed for participation in postsecondary education activities are limited to 24 fiscal months.
- (2) ~~All child care assistance payments issued for child care provided on or after March 1, 2009, for participation in postsecondary education activities count toward this limit, including payments issued while the person was not a PROMISE JOBS participant, pursuant to 441—subparagraph 170.2(2)“b”(1).~~

ITEM 37. Amend paragraph **93.8(6)“c,”** introductory paragraph, as follows:

c. Transportation. ~~Participants assigned to educational activities shall receive a transportation payment for each month or part thereof~~ Transportation payments shall be provided as described at subrule 93.11(3) when needed for participation in educational activities unless transportation payments are available from another source. Transportation needed for participation in education activities is subject to the limits described in paragraph 93.8(6)“a.”

ITEM 38. Amend paragraph **93.8(9)“a”** as follows:

a. Failure to participate. The participant fails to maintain education activities or follow training plan requirements as specified in the participant's FIA, and the participant does not have good cause. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 39. Amend paragraph **93.9(1)“a”** as follows:

a. Parents aged 20 or older. For parents who are aged 20 or older when the FIA is signed, activities that strengthen the participant's ability to be a better parent can be considered approvable training under PROMISE JOBS and may be included in the FIA as long as the participant is active in at least one other PROMISE JOBS component. Parents aged 20 or older who do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan, unless good cause exists

HUMAN SERVICES DEPARTMENT[441](cont'd)

or family circumstances warrant renegotiation and amendment of the FIA. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 40. Amend subparagraph **93.9(1)“c”(3)**, introductory paragraph, as follows:

(3) Area education agencies; child abuse prevention programs; child and adult food program sponsors; child care resource and referral agencies; family resource centers; maternal and child health centers; family development and self-sufficiency program grantees and other family development providers; Head Start, Head Start parent and child centers, and Early Head Start programs; Iowa State University Extension services ~~such as, but not limit to, the “Best Beginnings” program~~; private nonprofit social service agencies; and young parent support and information organizations. Services shall be limited to:

ITEM 41. Amend paragraph **93.9(1)“e,”** introductory paragraph, as follows:

e. Supportive payments. For participants described in paragraphs 93.9(1)“a” and 93.9(1)“b,” a child care ~~payment assistance~~ and a transportation ~~payment for each month of participation, or part thereof,~~ payments shall be provided as described at subrule 93.11(3), shall be paid if these services are when needed for participation in parenting skills training and not available from another entity and are required for participation source.

ITEM 42. Amend paragraph **93.9(1)“g”** as follows:

g. Failure to complete parenting skills training. Parents aged 19 or younger who do not include parenting skills training in the FIA or do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 43. Amend paragraph **93.9(2)“b”** as follows:

b. Inclusion of family development services by participants as a family investment agreement activity is voluntary except for ~~unmarried parents aged 17 and younger under the age of 18 who are not married and~~ who do not live with a parent or legal guardian as described at subparagraph 93.4(4)“c”(4).

ITEM 44. Amend paragraph **93.9(3)“a,”** introductory paragraph, as follows:

a. ~~The department of human services worker or the~~ PROMISE JOBS worker shall:

ITEM 45. Amend paragraph **93.10(1)“a”** as follows:

a. *Notice of meetings, assignments, and issues.* PROMISE JOBS shall notify participants in writing of all scheduled meetings, of FIA activity and work-site assignments, and of any participation issues as described at rule 441—93.13(239B). PROMISE JOBS shall also notify the participant in writing when the participant is required to provide medical documentation, verification of hours of participation, employment verification, or any other verification.

(1) PROMISE JOBS shall allow a participant ~~five ten~~ working days from the date notice is mailed to appear for scheduled meetings unless the participant agrees to an appointment that is scheduled to take place in less than ~~five ten~~ working days.

(2) PROMISE JOBS shall allow a participant ~~five ten~~ working days from the date notice is mailed to appear for an FIA activity or work-site assignment or to provide medical documentation, employment verification, or any other verification, except as otherwise specified in subrule 93.10(2).

(3) No change.

ITEM 46. Amend subrule 93.10(2) as follows:

93.10(2) Verification of participation and progress. Hours of participation and a participant’s progress in FIA activities must be documented and verified. When the participant is responsible for providing the verification, PROMISE JOBS shall notify the participant in writing as required in subrule 93.10(1).

a. *FIA activities directly monitored by PROMISE JOBS.* When the FIA activities are provided or directly monitored by PROMISE JOBS staff, such as job ~~club~~ readiness skills training or ~~workplace essentials~~ structured job search, the staff ~~will~~ shall document the participant’s hours of attendance and progress in the case file.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. FIA activities not directly monitored by PROMISE JOBS. When FIA activities are provided by a service provider other than PROMISE JOBS, the provider shall verify the participant's hours of attendance with Form 470-2617, ~~PROMISE JOBS Time and Attendance Report~~, unless another method is required by this rule.

(1) The provider is expected to specify the participant's hours of attendance and to sign and date the Time and Attendance Report form.

(2) The participant is responsible for providing the signed and dated Time and Attendance form to PROMISE JOBS within ten calendar days following the end of each month, unless the provider provides the form to PROMISE JOBS within this time frame.

(3) EXCEPTION: If the participant is under age 20 and in high school or high school equivalency classes, the participant may verify the hours by completing and submitting the PROMISE JOBS Form 470-2617, Time and Attendance, Report monthly. The training provider does not need to sign the form.

c. Documentation of job search. The participant shall complete and provide documentation of any job search activities that cannot be verified by the PROMISE JOBS worker. The participant shall provide Form 470-3099, ~~Job Search Record~~, within ten calendar days following the end of each month during which the participant has made a job search. The PROMISE JOBS worker shall consider the Job Search Record Activity Log complete if the form includes:

(1) to (4) No change.

d. Employment verification. Participants shall verify actual hours of employment at the time that employment begins, upon FIP approval if employed at the time of application, when changes in hours occur, and no less than once every six months thereafter. Participants may use employer statements or copies of pay stubs, ~~Employer Statement of Earnings~~ Form 470-2844, or may sign Form 470-0429, ~~Consent to Obtain and Release Information~~, so that the employer may provide information directly to the PROMISE JOBS worker. Participants shall provide verification of actual hours of employment within five ten working days of the written request from PROMISE JOBS.

e. Documentation of self-employment. At the time of the participant's FIA review, a self-employed participant shall provide documentation of actual hours worked and gross income and business expenses from the last 30 days. Data from more than 30 days may be requested if the last month is not indicative of normal business. The participant shall provide documentation within five ten working days of the written request from PROMISE JOBS.

f. No change.

g. Failure to provide required documentation or verification. Participants who fail to provide documentation or verification as described in this subrule after written notification from PROMISE JOBS as described in subrule 93.10(1) shall be considered to have chosen the limited benefit plan. Procedures at ~~rule~~ subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

ITEM 47. Amend subrule 93.10(3) as follows:

93.10(3) Verification of problems or barriers. Participants may be required to provide written verification or supporting documentation of reported problems or barriers to participation, such as but not limited to lack of transportation, family emergency, or existence of a mental or physical disability or limitation or substance abuse.

a. Medical documentation. A participant shall secure and provide written documentation signed by a qualified medical or mental health professional to verify a claimed illness or disability within five ten working days of a written request by PROMISE JOBS. This time limit may be extended due to individual circumstances, such as the need to obtain an updated evaluation. Acceptable verification includes Form 470-0447, ~~Report on Incapacity~~, or other statement signed by a qualified medical or mental health professional to verify the existence of an illness, disability, or limitation.

b. Other documentation. A participant shall secure and provide written documentation to verify a claimed problem or barrier to participation within five ten working days of a written request by PROMISE JOBS. Acceptable documentation may include a signed statement from a third party with knowledge of the problem or barrier.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Failure to verify problem or barrier or to provide medical documentation. Failure to provide verification of a problem or barrier or to provide medical documentation as described at subrule 93.10(3) does not directly result in the imposition of a limited benefit plan. Examples of actions that do not directly result in a limited benefit plan include, but are not limited to, failure to provide Form 470-0447, ~~Report on Incapacity~~, or other statement from a medical or mental health professional to verify the existence of an illness or disability, or a statement from a third party with knowledge about the problem or barrier.

(1) Participants who claim an inability to participate on a full-time basis due to a claimed problem or barrier and who fail to provide verification or medical documentation upon written request may be required to renegotiate the FIA to include full-time participation in FIA activities. Failure to renegotiate the FIA may result in a limited benefit plan. Procedures at subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

(2) No change.

ITEM 48. Amend rule 441—93.11(239B), introductory paragraph, as follows:

441—93.11(239B) Supportive payments. In order to facilitate successful participation, PROMISE JOBS may provide payment for the expenses listed in this rule. Participants Upon written request from PROMISE JOBS, participants shall submit Form 470-0510, ~~Estimate of Cost~~, or other acceptable estimate of costs, to initiate payments or change the amount of payment for expenses other than child care.

ITEM 49. Amend subparagraph **93.11(2)“a”(1)** as follows:

(1) Care is needed for participation in any PROMISE JOBS activity other than orientation or assessment activities that occur before the FIA is signed,

ITEM 50. Amend paragraph **93.11(3)“a”** as follows:

a. Exclusions.

(1) A transportation payment is not available for orientation or for assessment activities that occur ~~on the same day as orientation~~ before the FIA is signed.

(2) A transportation payment is not available for employment. Participants who are employed shall be entitled to the ~~work expense~~ earned income deduction described at 441—paragraph 41.27(2)“a” to cover transportation costs associated with employment.

ITEM 51. Amend paragraph **93.11(5)“d”** as follows:

d. Workforce ~~Investment~~ Innovation and Opportunity Act. PROMISE JOBS funds may also be used to pay expenses for PROMISE JOBS participants enrolled in federal Workforce ~~Investment~~ Innovation and Opportunity Act (WIA WIOA) funded services or activities when those expenses are allowable under these rules.

ITEM 52. Amend subrule 93.12(3), introductory paragraph, as follows:

93.12(3) A PROMISE JOBS overpayment shall be recovered through repayment in part or in full. Repayments received by the PROMISE JOBS unit shall be transmitted to the Department of Human Services, Cashier’s Office, ~~Room 14~~, 1305 E. Walnut Street, Des Moines, Iowa ~~50319-0144~~ 50319-0114.

ITEM 53. Amend subrule 93.12(5) as follows:

93.12(5) When a participant or a provider has been referred to the DIA to initiate recovery, the DIA shall use the same methods of recovery as are used for the FIP program, described at DIA administrative rules ~~481—71.1(10A)~~ 481—90.1(10A) to ~~71.9(10A)~~ 481—90.9(10A), except that the FIP grant shall not be reduced to effect recovery without the participant’s written permission.

a. When the participant requests grant reduction on Form 470-0495, ~~Repayment Contract~~, the grant will be reduced for repayment as described in ~~441—subrule 46.25(3), paragraphs “a,”~~ 441—paragraphs 46.25(3)“a,” “b,” and “c.”

b. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 54. Amend subrule 93.13(1), introductory paragraph, as follows:

93.13(1) Notification of participation issue. When participants appear to be choosing a limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder ~~or~~ letter as specified in subrule 93.10(1). The written reminder or letter shall:

ITEM 55. Amend subrule 93.13(2) as follows:

93.13(2) Participation issues. Actions that may cause participants to be considered as having chosen the limited benefit plan when the participant does not have a problem or barrier to participation as defined at paragraph 93.4(5) “a” or rule 441—93.14(239B) are:

a. *Tardiness.* Participants who are more than 15 minutes late to a scheduled FIA activity for a third time within three months of the first tardiness, after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the time the second tardiness occurred.

b. *Failure to attend scheduled activities.* Participants who do not, for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence, appear for scheduled appointments, participate in assessment activities, including taking required vocational or aptitude tests, complete or provide required forms other than those described at subrule 93.10(3) or are absent from activities designated in the FIA.

c. *Absence from work experience.* Participants who do not, for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence, notify work experience sponsors or the PROMISE JOBS worker of an absence within one hour of the time at which they are due to appear.

d. *Disruptive behavior.* Participants who exhibit disruptive behavior for a second time after ~~receiving~~ PROMISE JOBS sends one written reminder letter at the first occurrence. “Disruptive behavior” means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

e. *Unsatisfactory performance or participation.* Participants whose performance or participation in an FIA activity continues to be unsatisfactory after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

f. *Physical threats.* Participants who make physical threats to other participants or staff and do not demonstrate that the participant is not at fault by providing written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

(1) and (2) No change.

g. *Accepting work experience assignments.* Participants who do not accept work experience assignments when the work experience is part of the FIA and do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

h. *Work experience interviews.* Participants who do not appear for work experience interviews for a second time after ~~receiving a~~ PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence.

i. *Employment and other work activity issues.* Participants who do not follow up on job referrals, who refuse offers of employment or other work activity, who reduce hours of employment or other work activity, who terminate employment or other work activity, or who are discharged from employment or other work activity due to misconduct.

(1) No change.

(2) At the time of the occurrence, PROMISE JOBS shall send a letter to the participant regarding the misconduct. The letter shall give the participant an opportunity to resolve the issue by accepting a previously refused employment offer if available, returning to previously terminated employment, if available, obtaining comparable employment, or demonstrating a problem or barrier that caused the failure.

j. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

k. Inappropriate use of funds. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts and who do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter.

l. No change.

m. Failure to renegotiate the FIA. When a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA because the participant has not attained self-sufficiency by the date established in the FIA, after PROMISE JOBS sends one written reminder letter, a limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the FIA.

ITEM 56. Amend paragraph **93.14(2)“m”** as follows:

m. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include ~~food stamp~~ SNAP benefits and in-kind income.

ITEM 57. Renumber subrule **93.15(5)** as **93.15(6)**.

ITEM 58. Adopt the following **new** subrule 93.15(5):

93.15(5) Recovery of assistance when a new limited benefit plan is established. Assistance issued pending the final decision of the appeal is not subject to recovery when a new limited benefit plan period is established. A new limited benefit plan period shall be established when the department is affirmed in a timely appeal of the establishment of the limited benefit plan. All of the following conditions shall exist:

a. The appeal is filed either:

(1) Before the effective date of the intended action on the notice of decision or notice of action establishing the beginning date of the limited benefit plan, or

(2) Within ten days from the date on which a notice establishing the beginning date of the limited benefit plan is received. The date on which notice is received is considered to be five days after the date on the notice, unless the intended recipient shows that the recipient did not receive the notice within the five-day period.

b. Assistance is continued pending the final decision of the appeal.

c. The department's action is affirmed.

ITEM 59. Amend renumbered paragraph **93.15(6)“a”** as follows:

a. When any involved party is dissatisfied with the department's final decision, the dissatisfied party shall be informed of the right to appeal the issue to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, ~~Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036~~, within 20 days of receipt of the decision. The department may assist with the appeal upon request.

ITEM 60. Amend subrule 93.17(3), introductory paragraph, as follows:

93.17(3) Any dissatisfied party shall be informed of the right to appeal the decision of the department to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, ~~Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036~~, within 20 days of the receipt of the department's final decision.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6626C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to child care centers, child development homes and child care homes**

The Human Services Department hereby amends Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.12.

Purpose and Summary

Pursuant to 2022 Iowa Acts, House File 2589, this rule making amends rules to allow persons defined as physicians under Iowa Code section 135C.1 to conduct well-child checks, to expand to include chiropractors, because well-child checks are within their scope of practice.

These amendments also modify other regulatory reductions to licensed child care center regulations in an effort to ease burdens on licensed child care centers. The regulatory reductions are based on a survey that was conducted with licensed child care center directors in response to the Governor’s Child Care Task Force. These amendments include modifications to written policies, changes in allowable points for director and supervisor eligibility, updates in radon requirements, reducing training requirements for those in school-age-only populations, and allowing information sharing regarding completed record checks.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6476C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

HUMAN SERVICES DEPARTMENT[441](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 109.4(2) as follows:

109.4(2) Required written policies. The child care center owner, board or director shall:

- a. No change.
- b. Develop and implement policies for enrollment and discharge of children, field trips and non-center activities, ~~transportation~~, discipline, nutrition, ~~and~~ health and safety policies and, if transporting children, transportation policy.
- c. to f. No change.
- g. ~~Develop~~ When serving children under the age of three, develop and implement a policy for responding to incidents of biting that includes the following elements.
 - (1) to (8) No change.
 - h. and i. No change.

ITEM 2. Amend paragraph **109.6(1)“e”** as follows:

e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT-RELATED TRAINING
Bachelor’s or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20 <u>25</u>	One point per contact hour of training
Associate’s degree in child development or bachelor’s degree in a child-related field	50 <u>60</u>	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40 <u>45</u>	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor’s or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate’s degree in a non-child-related field or completion of at least two years of a four-year degree	20 <u>25</u>	Registered child development home provider	10	
		Nonregistered family home provider	5	

(1) to (4) No change.

ITEM 3. Amend subrule 109.6(2) as follows:

109.6(2) On-site supervisor. The on-site supervisor is required to be present when the program has multiple sites or when a director is not routinely present for six hours daily. The center director must identify a person in charge during the on-site supervisor’s absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of ~~eight~~ six hours of the center’s hours of operation. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination

HUMAN SERVICES DEPARTMENT[441](cont'd)

shall be made by the department. Information shall be submitted sufficient to determine that the on-site supervisor meets the following minimum qualifications:

a. to c. No change.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)	CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50 60	Part-time (less than 20 hours per week) in a child care center or preschool setting	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40 45	Full-time (20 hours or more per week) child development-related experience	10
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20 25	Registered child development home provider	10
		Nonregistered family home provider	5

(1) to (4) No change.

ITEM 4. Amend subrule 109.6(3) as follows:

109.6(3) Director and on-site supervisor functions combined. In a center where the functions of the center director and the on-site supervisor are accomplished by the same person, the educational and experience requirements for a center director shall apply. If the center director is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least ~~eight~~ six hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

ITEM 5. Amend subparagraph **109.6(6)“d”(6)** as follows:

(6) A center considering involvement of a person who has had a national criminal history check at another center may request information from that center. That center may provide ~~the following that~~ information in writing upon a center's request, using Form 470-4896, ~~National Criminal History Check Confirmation~~. If the person being considered for employment has not had involvement with child care in the past six months, a new national criminal history check must be completed.

~~1. Date of most recent national criminal history check conducted by the center on the person in question, and~~

~~2. Whether or not the national check process resulted in clearance of the person for involvement with child care.~~

ITEM 6. Amend paragraph **109.7(1)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) to (10) No change.

Minimum health and safety training may be required if content has significant changes which warrant that the training be renewed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(1)“e”(2) and 109.7(1)“e”(6).

ITEM 7. Amend paragraph **109.7(3)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:
(1) to (10) No change.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(3)“e”(2) and 109.7(3)“e”(6).

ITEM 8. Amend paragraph **109.10(1)“a”** as follows:

a. Preschool-age children. For each child five years of age and younger not enrolled in kindergarten, the child care center shall require an admission physical examination report, submitted within 30 days from the date of admission, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner. The date of the physical examination shall be no more than 12 months prior to the first day of attendance at the center. The written report shall include past health history, status of present health including allergies, medications, and acute or chronic conditions, and recommendations for continued care when necessary. Annually thereafter, a statement of health condition, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner, shall be submitted that includes any change in functioning, allergies, medications, or acute or chronic conditions.

ITEM 9. Amend paragraph **109.10(15)“a”** as follows:

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood), and plans for responding to ~~intruders within the center~~, intoxicated parents, and lost or abducted children. In addition, the center shall have guidelines for responding or evacuating in case of blizzards, power failures, bomb threats, chemical spills, ~~earthquakes~~, or other disasters that could create structural damage to the center or pose health hazards. If the center is located within a ten-mile radius of a nuclear power plant or research facility, the center shall also have plans for nuclear evacuations. Emergency plans shall include written procedures including plans for the following:
(1) to (7) No change.

ITEM 10. Amend subrule 109.11(4) as follows:

109.11(4) Bathroom facilities. At least one functioning toilet and one sink for each 15 children ages two years and older shall be provided in a room with natural or artificial ventilation. Training seats or chairs may be used for children under two years of age. New construction after November 1, 1995, shall provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink shall be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

ITEM 11. Amend subrule 109.11(7) as follows:

109.11(7) Environmental hazards.

a. No change.

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing performed as ~~prescribed by the state department of public health at 641—Chapter 43. Retesting shall be accomplished at least every two years from the date of the initial measurement outlined in a nationally recognized radon measurement protocol.~~ If testing determines confirmed radon gas levels in excess of 4.0 picocurie per liter, ~~a plan using radon mitigation procedures established by the state department of public health shall be developed with and approved by the state department of public health prior to a full license being issued.~~

(1) If radon mitigation is in place, retesting shall occur at least every two years from initial measurements to confirm radon gas levels are below 4.0 picocurie per liter.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) If initial testing confirmed radon gas levels are below 4.0 picocurie per liter, retesting shall occur at least every five years from initial measurements.

c. No change.

d. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are exempted from testing for lead, ~~radon~~, and carbon monoxide.

e. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are required to follow radon testing requirements outlined in Iowa Code section 280.32 as enacted by 2022 Iowa Acts, House File 2412, section 1.

ITEM 12. Amend paragraphs **110.9(4)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or a designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner.

(1) to (4) No change.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~ licensed medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner and submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physieian~~ statement of health.

ITEM 13. Amend paragraph **110.15(1)“c”** as follows:

c. In addition to the 14 children not in school, no more than 4 2 children who attend school may be present.

ITEM 14. Amend paragraphs **120.9(2)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or the designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~ licensed medical doctor, doctor of osteopathy, chiropractor, physician’s assistant or advanced registered nurse practitioner submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physieian~~ statement of health.

[Filed 10/13/22, effective 3/1/23]

[Published 11/2/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6627C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 116, “Licensing and Regulation of Residential Facilities for Children With an Intellectual Disability or Brain Injury,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 217.6 and 237.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 217.6 and 237.3.

Purpose and Summary

Chapter 116 is amended as part of the Department's five-year rules review. This rule making updates a cross-reference to the Iowa Code section that contains the definition of "brain injury." Updating the cross-reference makes it easier for a user to find the definition. The change streamlines the rules by referring directly to the definition of "brain injury" and is consistent with the mental health and disability services redesign legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6457C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making action is adopted:

Amend rule **441—116.2(237)**, definitions of "Community residential facility for children with an intellectual disability or brain injury" and "Comprehensive residential facility for children with an intellectual disability or brain injury," as follows:

"*Community residential facility for children with an intellectual disability or brain injury*" means a community residential facility as defined in rule 441—114.2(237) which serves children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code ~~chapter 225C~~ section 135.22.

"*Comprehensive residential facility for children with an intellectual disability or brain injury*" means a comprehensive residential facility as defined in rule 441—115.2(237) which serves

HUMAN SERVICES DEPARTMENT[441](cont'd)

children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code ~~chapter 225C~~ section 135.22.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6628C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 119, "Record Check Evaluations for Certain Employers and Educational Training Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135B.34 and 135C.14.

Purpose and Summary

Chapter 119 was reviewed as part of the Department's five-year rules review. This rule making provides the form number of the document that must be submitted by a requesting entity when submitting a request for a record check evaluation. The amendment identifies the ways the form and documentation may be submitted to include mail, electronic mail or facsimile.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6473C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making action is adopted:

Amend subrule 119.3(1) as follows:

119.3(1) Required documentation. The requesting entity and the prospective employee or student shall complete and submit ~~the record check evaluation form~~ Form 470-2310 to the department to request an evaluation. The requesting entity shall submit the form and required documentation to the Department of Human Services, Central Abuse Registry, P.O. Box 4826, Des Moines, Iowa 50305-4826 by regular mail, electronic mail or facsimile. The department shall not process evaluations that are not signed by the prospective employee or student. The position sought or held must be clearly written on the first page of the record check evaluation form. The form shall be accompanied by the following documents:

a. to d. No change.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6635C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed****Rule making related to five-year rules review**

The Human Services Department hereby rescinds Chapter 168, "Child Care Expansion Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

Chapter 168 was reviewed as part of the Department's five-year rules review. This rule making rescinds the chapter because it contains outdated rules no longer in use for wrap-around child care programs and expansion of school-age child care programs. Funding has not been allocated for these expansion programs for over ten years.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6456C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 13, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making action is adopted:

Rescind and reserve **441—Chapter 168**.

[Filed 10/13/22, effective 1/1/23]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6608C

LOTTERY AUTHORITY, IOWA[531]

Adopted and Filed

Rule making related to licensing

The Board of Directors of the Iowa Lottery Authority hereby amends Chapter 12, "Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 99G.9(3).

LOTTERY AUTHORITY, IOWA[531](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 99G.24 and 272D.8.

Purpose and Summary

This rule making reflects changes related to the Authority's five-year rules review.

The purpose of these amendments is to align the Authority's rules with Iowa Code chapter 272D. These amendments update the Authority's license eligibility criteria to deny or suspend a license if the Authority has received a certificate of noncompliance regarding an applicant or licensee from the centralized collection unit of the Iowa Department of Revenue.

These amendments also remove references to the Iowa Code Supplement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6445C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Directors of the Iowa Lottery Authority on September 27, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waiver provision is included because Iowa Code section 272D.8 does not provide for one.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 531—12.1(99G,252J), parenthetical implementation statute, as follows:

531—12.1(99G,252J,272D) License eligibility criteria.

ITEM 2. Adopt the following **new** subrule 12.1(4):

12.1(4) The lottery will deny a license to any applicant defined by this chapter if the lottery has received a certificate of noncompliance from the centralized collection unit of the department of revenue with regard to the individual, until the unit furnishes the lottery with a withdrawal of the certificate of noncompliance.

LOTTERY AUTHORITY, IOWA[531](cont'd)

ITEM 3. Amend rule **531—12.1(99G,252J)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 99G.7(1), 99G.9(3), 99G.21(2), 99G.24, 252J.2 and Iowa Code Supplement sections 99G.7(1), 99G.9(3), 99G.21(2), and 99G.24, and 272D.8.

ITEM 4. Amend rule 531—12.4(99G,252J), parenthetical implementation statute, as follows:

531—12.4(99G,252J,272D) Lottery licenses.

ITEM 5. Amend subrule 12.4(7) as follows:

12.4(7) The lottery will grant, deny, or place on hold all applications within 60 days of acceptance of an application. Applications placed on hold shall be considered denied for purposes of appeal.

a. If an application is denied because the lottery has received a certificate of noncompliance from the child support recovery unit in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

b. If an application is denied because the lottery has received a certificate of noncompliance from the centralized collections unit of the department of revenue regarding an applicant or person as defined by this chapter, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the applicant.

ITEM 6. Amend rule **531—12.4(99G,252J)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(3), 99G.21(2), 99G.24, 99G.30, 252J.2, and 252J.8 and Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.21(2), 99G.24, and 99G.30, and 272D.8.

ITEM 7. Amend rule 531—12.12(99G,252J), parenthetical implementation statute, as follows:

531—12.12(99G,252J,272D) Suspension or revocation of a license.

ITEM 8. Adopt the following **new** paragraph **12.12(1)“v”**:

v. When the lottery receives a certificate of noncompliance from the centralized collection unit of the department of revenue in regard to nonpayment of a state debt, unless the unit furnishes the lottery with a withdrawal of the certificate of noncompliance. This paragraph applies both to sole proprietorships and to persons with the requisite ownership interest in or relation to any other organized business entity as set forth in 531—12.3(99G). This paragraph applies in addition to the procedures set forth in Iowa Code chapter 272D.

ITEM 9. Amend subrules 12.12(2) and 12.12(3) as follows:

12.12(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee. All The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, for nonpayment of state debt, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee. The effective date for all other notices of revocation or suspension shall be 20 days following service upon a licensee.

12.12(3) If a retailer's license is suspended for more than 180 days from the effective date of the suspension, the lottery will revoke the retailer's license upon 15 days' notice served in conformance with 531—12.13(99G,252J,272D).

ITEM 10. Amend rule **531—12.12(99G,252J)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30(3), 99G.35, 252J.8, and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30(3), and 99G.35 272D.8(2).

LOTTERY AUTHORITY, IOWA[531](cont'd)

ITEM 11. Amend rule 531—12.13(99G,252J) as follows:

531—12.13(99G,252J,272D) Methods of service.

12.13(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

12.13(2) The notice required by Iowa Code section 272D.8 shall be served upon the licensee by certified mail, return receipt requested; by personal service in accordance with Iowa Rule of Civil Procedure 1.305; or through authorized counsel. Alternatively, the licensee may accept service personally or through authorized counsel.

12.13(3) Notice of a license revocation or a suspension for the reasons described in 531—12.12(99G,252J,272D) shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel. The notice shall set forth the reasons for the suspension or revocation and provide for an opportunity for a hearing. If requested by the licensee, a hearing on the suspension or revocation shall be held within 180 days or less after the notice has been served.

This rule is intended to implement Iowa Code ~~section~~ sections 99G.9(3), 99G.21(2), 99G.24, 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.24, and 272D.8.

ITEM 12. Amend rule 531—12.14(99G,252J) as follows:

531—12.14(99G,252J,272D) Licensee's obligation. Licensees and license applicants ~~shall~~ must keep the lottery informed of all court actions and all child support recovery unit actions or centralized collection unit actions taken under or in connection with Iowa Code chapter 252J ~~and shall or 272D.~~ Licensees and applicants must also provide the lottery with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9 or 272D.9, all court orders entered in such actions, and any withdrawals of certificates of noncompliance by the child support recovery unit or centralized collections unit.

This rule is intended to implement Iowa Code ~~section~~ sections 99G.9(3), 99G.21(2), 252J.8 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2), and 272D.8.

ITEM 13. Amend rule 531—12.15(99G,252J) as follows:

531—12.15(99G,252J,272D) Calculating the effective date. In the event a licensee or applicant files a timely district court action following service of a lottery notice pursuant to Iowa Code sections 252J.8 and 252J.9 or sections 272D.8 and 272D.9, the lottery shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the lottery to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the lottery shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21(2), 252J.8, and 252J.9 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2), 272D.8, and 272D.9.

[Filed 10/4/22, effective 12/7/22]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6614C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to contested cases**

The Transportation Department hereby amends Chapter 13, “Contested Cases,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

The amendments to Chapter 13 change “office” to “bureau” to match the current organization of the Department and add a new subrule, which was requested by the Department of Inspections and Appeals. This subrule permits the Department of Inspections and Appeals to allow service by email or notice of electronic filing to an attorney if an appellant is represented.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6447C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 11, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

TRANSPORTATION DEPARTMENT[761](cont'd)

The following rule-making actions are adopted:

ITEM 1. Strike “office” wherever it appears in rules **761—13.4(17A)** and **761—13.7(17A)** and insert “bureau” in lieu thereof.

ITEM 2. Adopt the following **new** subrule 13.12(3):

13.12(3) Notwithstanding subrule 13.12(2), any notices, communications and decisions regarding the contested case issued and sent directly by the department of inspections and appeals may be sent by email or notice of electronic filing as defined by rule 481—16.2(10A) to the party’s attorney at the latest email address which the party’s attorney has provided to the department of inspections and appeals.

[Filed 10/11/22, effective 12/7/22]

[Published 11/2/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6615C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to persons with disabilities parking permits

The Transportation Department hereby amends Chapter 411, “Persons with Disabilities Parking Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321L.2 and 321L.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321L.2 as amended by 2022 Iowa Acts, House File 2259, section 2.

Purpose and Summary

The amendments to Chapter 411 conform the rules with 2022 Iowa Acts, House File 2259, which adds licensed occupational therapists and physical therapists to the list of medical professionals authorized under the Iowa Code to provide a statement of disability for a person applying for a persons with disabilities parking permit. This legislation also allows certain licensed medical professionals in any state to prepare the statement of disability. As required by current law, the statement of disability must be on the medical professional’s stationery.

Prior to this legislation, occupational therapists and physical therapists were not authorized under the law to provide statements of disability for persons with disabilities; only certain medical professionals licensed in Iowa or a state contiguous to Iowa were allowed to provide the statement of disability. This rule making will make it easier for customers to obtain a persons with disabilities parking permit, especially if the person’s primary health care provider or specialist is licensed in a state that is several states away from Iowa or if the person is already working with a licensed physical therapist or occupational therapist as part of the person’s recovery.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6465C**. No public comments were received. No changes from the Notice have been made.

TRANSPORTATION DEPARTMENT[761](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on October 11, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule **411.2(2)**, definition of “Health care provider,” as follows:

“*Health care provider*” means a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, a chiropractor licensed under Iowa Code chapter 151, an occupational therapist licensed under Iowa Code chapter 148B, a physical therapist licensed under Iowa Code chapter 148A, or a physician, physician assistant, nurse practitioner, ~~or~~ chiropractor, ~~occupational therapist, or physical therapist~~ licensed to practice in ~~a contiguous~~ another state as set forth in Iowa Code section 321L.2(1) as amended by 2022 Iowa Acts, House File 2259, section 2.

ITEM 2. Amend **761—Chapter 411**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321L.1, 321L.2 as amended by 2022 Iowa Acts, House File 2259, section 2, 321L.3, ~~to~~ 321L.4 and 321L.8.

[Filed 10/11/22, effective 12/7/22]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6617C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to driver's licenses
for active duty military service members and veterans**

The Transportation Department hereby amends Chapter 605, "License Issuance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.182 and 321.196.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.191 as amended by 2022 Iowa Acts, Senate File 2383, section 25.

Purpose and Summary

This rule making conforms Chapter 605 with 2022 Iowa Acts, Senate File 2383, section 25, which waives the fee for a chauffeur driver's license (Class D) or a commercial driver's license (Class A, B or C) for an active duty military service member or a veteran who was issued an honorable discharge or general discharge (under honorable conditions). The legislation also waives the fee for an operator driver's license (Class C noncommercial) or a motorcycle driver's license (Class M or endorsement L) for veterans with a service-connected disability rating of 100 percent. An eligible applicant may qualify for more than one fee waiver.

The amendments describe the type of proof an eligible veteran or military service member must provide to the Department to qualify for the applicable driver's license fee waiver. The amendments also provide that only an active duty military service member must provide proof of the service member's eligible status at each issuance or renewal transaction because active duty status can change more frequently than military discharge status or a service-connected disability rating of 100 percent. Because proof of active duty status will be required at each license issuance or renewal transaction, an active duty military service member will not be able to renew a driver's license electronically if the service member wants to receive the fee waiver because the electronic license renewal system cannot verify active duty status in real time.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6466C**.

The Department received a comment from the Polk County Veterans Affairs office, which requested that the Department allow the operator and motorcycle fee waivers to apply to a veteran who does not have a permanent disability rating of 100 percent but who is compensated by the Department of Veterans Affairs at the 100 percent disability rate. The Department determined that a change to the Iowa Code would be required to accomplish that request.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 11, 2022.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

The following rule-making action is adopted:

Amend rule 761—605.10(321) as follows:

761—605.10(321) Fees for driver's licenses. Fees for driver's licenses are specified in Iowa Code section 321.191. A license fee may be paid by cash, check, credit card, debit card or money order.

605.10(1) and 605.10(2) No change.

605.10(3) An applicant who is on federal active duty or state active duty, a veteran with a permanent service-connected disability rating of 100 percent, or a veteran who was issued an honorable discharge or general discharge under honorable conditions is eligible for a waiver of the fees for a driver's license as provided in Iowa Code section 321.191 as amended by 2022 Iowa Acts, Senate File 2383, section 25. An eligible applicant may qualify for more than one fee waiver.

a. An applicant must provide proof of eligibility for the fee waiver to the department in the following ways as applicable to the applicant's active duty, veteran or disability status:

(1) An active duty service member must present an unexpired Armed Forces of the United States Geneva Conventions identification card, also known as a common access card (CAC), issued by the U.S. Department of Defense under 32 CFR Part 161. A federal or state military member who is a reservist may instead present an unexpired Uniformed Services identification card (USID) issued by the U.S. Department of Defense under 32 CFR Part 161 indicating a reserve affiliation.

(2) An applicant with a permanent service-connected disability rating of 100 percent must present proof that the applicant is the subject of a certification of disability of 100 percent from the U.S. Department of Veterans Affairs.

(3) An applicant who has been discharged from military service must present certification of release or discharge from active duty, DD form 214, indicating that the applicant received an honorable discharge or a general discharge under honorable conditions.

b. An applicant who qualifies for the fee waiver under subparagraph 605.10(3)“a”(2) or 604.10(3)“a”(3) or both subparagraphs is required to submit proof of eligibility only once unless the proof is invalid or not accepted by the department.

TRANSPORTATION DEPARTMENT[761](cont'd)

c. An applicant who qualifies for the fee waiver under subparagraph 605.10(3)“a”(2) or 604.10(3)“a”(3) or both subparagraphs, who has presented proof of eligibility to the department during a previous license issuance transaction and who is otherwise eligible under subrule 605.25(7) or 605.25(8) to renew the applicant’s driver’s license electronically, will be waived from the applicable fees during the electronic renewal. An applicant who qualifies under subparagraph 605.10(3)“a”(1) will not receive the applicable fee waivers if the applicant chooses to renew the driver’s license electronically under subrule 605.25(7) or 605.25(8).

This rule is intended to implement Iowa Code section 321.191 as amended by 2022 Iowa Acts, Senate File 2383, section 25.

[Filed 10/11/22, effective 12/7/22]

[Published 11/2/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

ARC 6616C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to aircraft registration and special certificates for aircraft

The Transportation Department hereby amends Chapter 720, “Iowa Airport Registration,” and Chapter 750, “Aircraft Registration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 328.12 and section 328.19 as amended by 2022 Iowa Acts, House File 2124.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 328.19 as amended by 2022 Iowa Acts, House File 2124, and section 328.28 as amended by 2022 Iowa Acts, Senate File 2370, section 1.

Purpose and Summary

This rule making conforms Chapters 720 and 750 with 2022 Iowa Acts, House File 2124 and Senate File 2370.

House File 2124 removes outdated Iowa Code language related to establishing airport traffic patterns, as well as language requiring burdensome, redundant and unnecessary site approval requirements for new airports. The Federal Aviation Administration has become the authority on airspace that identifies standard airport traffic patterns for aircraft operations used when taking off and landing at airports.

The amendments to Chapter 720 also correct the scope of the chapter, revise the wording to use “certificate of registration” and add contact information.

Senate File 2370 limits the period a manufacturer or dealer may operate an aircraft under a special certificate to three years. Prior to the adoption of this rule making, rule 761—750.30(328) limited the time to 24 months.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6477C**. No public comments were received. No changes from the Notice have been made.

TRANSPORTATION DEPARTMENT[761](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on October 11, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—720.1(328) as follows:

761—720.1(328) Scope. This chapter establishes ~~site approval~~, registration and registration renewal requirements and minimum safety standards for airports open for use by the public. It also establishes ~~site approval~~ airport closing requirements for airports maintained for private use.

ITEM 2. Amend rule 761—720.3(328) as follows:

761—720.3(328) Airport site approval required Contact information. ~~A person or governmental subdivision planning to construct or establish an airport shall obtain a certificate of airport site approval from the department before the site is acquired or before the airport is constructed or established~~ Questions regarding this chapter may be directed to the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1468; or through the department's website at www.iowadot.gov.

ITEM 3. Amend rule 761—720.4(328) as follows:

761—720.4(328) Public-use airport. ~~The site approval requirements of this rule apply to proposed public-use airports. The remaining Airport registration requirements apply to existing public-use airports.~~

~~**720.4(1) Application for site approval.** The sponsor shall complete Iowa Department of Transportation Form 300025, "Airport Site Approval and New Registration Application," and submit it to the modal transportation bureau. This form is available from the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1468; or through the department's website at www.iowadot.gov.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~720.4(2) Site requirements.~~ Before issuing a certificate of airport site approval, the department shall:

~~a. Review the application and, if necessary, inspect the site. The sponsor shall ensure access to the site for the inspection at a reasonable time convenient for department personnel.~~

~~b. Require a current airspace determination issued by the FAA which concludes that the proposed site will not adversely affect the safe and efficient use of airspace.~~

~~720.4(3) Certificate of site approval.~~

~~a. After the application, inspection and FAA approval requirements have been met, the department shall issue a certificate of site approval for the airport if it complies with the minimum airport safety standards established by the department.~~

~~b. The certificate of site approval shall locate the proposed airport by geographical coordinates; section, township and range; and distance and direction from an established nearby community.~~

~~c. The certificate of site approval shall be valid for two years from the date of issuance.~~

~~d. Aircraft operations shall not be permitted at the proposed site prior to airport registration.~~

~~720.4(4) 720.4(1) Registration.~~ When construction of a new airport is ~~complete~~ completed, the sponsor shall notify the department. The department shall inspect the airport and, if the airport is in compliance with the minimum safety standards designated by the department, shall issue the airport a public-use airport certificate of registration certificate.

~~720.4(5) 720.4(2) Registration renewal.~~ Each public-use airport shall apply annually for a registration renewal on a form provided by the department. The department shall issue a registration public-use airport certificate of registration to a public-use airport if the airport is in compliance with the minimum safety standards designated by the department.

~~720.4(6) 720.4(3) Airport inspection.~~ Each registered public-use airport is subject to inspection by the department at any reasonable time. If the inspection by the department reveals an unsafe condition or a failure to meet the minimum safety standards, the department shall record that fact and shall notify the airport sponsor in writing with necessary corrective actions. Failure to implement corrective actions may result in airport registration revocation or denial. An FAA inspection of an airport certified under 14 CFR Part 139 may be accepted in lieu of an inspection by the department.

~~720.4(7) 720.4(4) Posting.~~ The airport certificate of registration certificate shall be posted in a prominent place available to the public at the airport. If there are no buildings at the airport, the registration certificate shall be displayed at the office of the airport manager or caretaker.

~~720.4(8) Revocation.~~ Rescinded IAB 7/4/07, effective 8/8/07.

ITEM 4. Rescind and reserve rule ~~761—720.5(328)~~.

ITEM 5. Amend ~~761—Chapter 720~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 328.1, 328.12, 328.19 as amended by 2022 Iowa Acts, House File 2124, and 328.35 and 2016 Iowa Acts, chapter 1131, section 3.

ITEM 6. Amend rule ~~761—750.30(328)~~ as follows:

761—750.30(328) Application for special certificate. When applying to the department for a special certificate, the applicant must submit reasonable proof of bona fide status as a manufacturer, transporter or dealer. ~~Dealer Manufacturer or dealer~~ applicants must verify that no aircraft have been held in a dealer special certificate inventory for a period of more than ~~24 calendar months~~ three years.

This rule is intended to implement Iowa Code section 328.28 as amended by 2022 Iowa Acts, Senate File 2370, section 1, and section 328.29.

[Filed 10/11/22, effective 12/7/22]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.

Fifty-eight Revenue Department chapters have been editorially renumbered within agency identification number 701 in accordance with the chart below. The renumbered chapters can be found in the November 2, 2022, Iowa Administrative Code Supplement and will be published concurrently in the Iowa Administrative Code on the same date. The Department plans to adopt a rule in the near future to establish a reference table of chapters that have been editorially renumbered as well as those renumbered by the Department in recent rule-making documents.

Old Number	Subject	New Number
Ch. 9	Filing and Extension of Tax Liens and Charging Off Uncollectible Tax Accounts	Ch. 20
Ch. 15	Determination of a Sale and Sale Price	Ch. 288
Ch. 17	Exempt Sales	Ch. 284
Ch. 18	Taxable and Exempt Sales Determined by Method of Transaction or Usage	Ch. 285
Ch. 20	Sales Tax on Food, Drugs, and Other Medical Devices	Ch. 287
Ch. 31	Receipts Subject to Use Tax	Ch. 280
Ch. 32	Receipts Exempt from Use Tax	Ch. 281
Ch. 33	Receipts Subject to Use Tax Depending on Method of Transaction	Ch. 282
Ch. 37	Underground Storage Tanks	Ch. 289
Ch. 38	Administration	Ch. 300
Ch. 39	Filing Return and Payment of Tax	Ch. 301
Ch. 40	Determination of Net Income	Ch. 302
Ch. 41	Determination of Taxable Income	Ch. 303
Ch. 42	Adjustments to Computed Tax and Tax Credits	Ch. 304
Ch. 43	Assessments and Refunds	Ch. 305
Ch. 44	Penalty and Interest	Ch. 306
Ch. 45	Partnerships	Ch. 401
Ch. 46	Withholding	Ch. 307
Ch. 48	Composite Returns	Ch. 404
Ch. 49	Estimated Income Tax for Individuals	Ch. 308
Ch. 50	Apportionment of Income for Resident Shareholders of S Corporations	Ch. 403
Ch. 51	Administration	Ch. 500
Ch. 52	Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits	Ch. 501
Ch. 53	Determination of Net Income	Ch. 502
Ch. 54	Allocation and Apportionment	Ch. 503
Ch. 55	Assessments, Refunds, Appeals	Ch. 504
Ch. 56	Estimated Tax for Corporations	Ch. 505
Ch. 57	Administration	Ch. 600
Ch. 58	Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits	Ch. 601
Ch. 59	Determination of Net Income	Ch. 602
Ch. 60	Assessments, Refunds, Appeals	Ch. 603
Ch. 61	Estimated Tax for Financial Institutions	Ch. 604
Ch. 70	Replacement Tax and Statewide Property Tax	Ch. 101
Ch. 71	Assessment Practices and Equalization	Ch. 102

Ch. 72	Examination and Certification of Assessors and Deputy Assessors	Ch. 103
Ch. 73	Property Tax Credit and Rent Reimbursement	Ch. 104
Ch. 74	Mobile, Modular, and Manufactured Home Tax	Ch. 105
Ch. 75	Property Tax Administration	Ch. 100
Ch. 76	Determination of Value of Railroad Companies	Ch. 106
Ch. 77	Determination of Value of Utility Companies	Ch. 107
Ch. 78	Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities	Ch. 108
Ch. 79	Real Estate Transfer Tax and Declarations of Value	Ch. 109
Ch. 80	Property Tax Credit and Exemptions	Ch. 110
Ch. 86	Inheritance Tax	Ch. 900
Ch. 87	Iowa Estate Tax	Ch. 901
Ch. 88	Generation Skipping Transfer Tax	Ch. 902
Ch. 89	Fiduciary Income Tax	Ch. 700
Ch. 120	Reassessment Expense Fund	Ch. 116
Ch. 122	Administration	Ch. 111
Ch. 123	Certification	Ch. 112
Ch. 124	Courses	Ch. 113
Ch. 125	Review of Agency Action	Ch. 114
Ch. 126	Property Assessment Appeal Board	Ch. 115
Ch. 150	Federal Offset for Iowa Income Tax Obligations	Ch. 21
Ch. 151	Collection of Debts Owed the State of Iowa or a State Agency	Ch. 22
Ch. 152	Debt Collection and Selling of Property to Collect Delinquent Debts	Ch. 23
Ch. 153	License Sanctions for Collection of Debts Owed the State of Iowa or a State Agency	Ch. 24
Ch. 154	Challenges to Administrative Levies and Publication of Names of Debtors	Ch. 25