

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments document the requirement for brain injury (BI) waiver providers and employees providing direct care to BI waiver recipients to complete the Department’s online brain injury training. These amendments also remove the cost of case management and home and vehicle modifications from the total monthly cost of services for the brain injury waiver, elderly waiver and physical disability waiver. These amendments also remove the cost of environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services for the children’s mental health waiver. Finally, these amendments remove the age limit of 65 from the BI waiver, thereby enabling members to continue to receive services through the BI waiver beyond the age of 65.

The administrative rules currently require home- and community-based BI waiver providers and each of their staff members involved in direct consumer service to have training regarding, or experience with, individuals who have a brain injury. Currently, the training content varies among providers. By providing a standardized training that is required of each person working with individuals receiving services through the waiver, the Department can ensure that providers and their employees have consistent information regarding brain injuries before the provision of care.

Exceptions have routinely been granted to allow brain injury waiver, elderly waiver, health and disability waiver, physical disability waiver and children’s mental health waiver members to exceed the monthly cap for services. As a result of the removal of the cost of case management, home and vehicle modifications, environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services for applicable waivers, members will have additional dollars available each month for direct face-to-face services per member per month.

Exceptions have routinely been granted to allow BI waiver services beyond the age of 65. The amendments allow BI waiver services to members beyond the age of 65 without the need for an exception to policy.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1366C** on March 5, 2014.

The Department received comments from one respondent. The respondent noted that the health and disability waiver was inadvertently left out of the proposed amendments. The respondent also supported the fact that the proposed amendments would remove the cost of case management, home and vehicle modifications, specialized medical equipment and environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services.

The Department agreed with the respondent that the health and disability waiver was inadvertently left out of the rule making. The Department added new Item 2 amending paragraph 83.2(3)“b” to rectify the omission of the health and disability waiver from the proposed amendments.

The Department also clarified the second sentence of rule 441—77.39(249A) in Item 1 to read as follows: “Beginning January 1, 2015, providers and each of their staff members involved in direct consumer service must have completed the department’s online brain injury training course prior to service provision, with the exception of staff members who are certified through the Academy of Certified Brain Injury Specialists (ACBIS) as a certified brain injury specialist (CBIS) or certified brain injury specialist trainer (CBIST), providers of home and vehicle modification, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.”

These amendments do not provide for waivers in specified situations because these amendments provide a benefit to elderly, BI, physical disability, health and disability, and children’s mental health

waiver participants. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective July 1, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.39(249A), introductory paragraph, as follows:

441—77.39(249A) HCBS brain injury waiver service providers. Providers shall be eligible to participate in the Medicaid brain injury waiver program if they meet the requirements in this rule and the subrules applicable to the individual service. ~~Providers Beginning January 1, 2015, providers and each of their staff members involved in direct consumer service must have training regarding or experience with consumers who have a brain injury~~ completed the department’s online brain injury training course prior to service provision, with the exception of staff members who are certified through the Academy of Certified Brain Injury Specialists (ACBIS) as a certified brain injury specialist (CBIS) or certified brain injury specialist trainer (CBIST), providers of home and vehicle modification, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.

ITEM 2. Amend paragraph **83.2(2)“b”** as follows:

b. Except as provided below, the total monthly cost of the health and disability waiver services, excluding the cost of home and vehicle modification services, shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care	Nursing level of care	ICF/ID
\$2,765	\$950	\$3,365

(1) and (2) No change.

ITEM 3. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs, excluding the cost of case management and home and vehicle modifications, are limited as follows:

Skilled level of care	Nursing level of care
\$2,765	\$1,339

ITEM 4. Amend paragraph **83.82(1)“c”** as follows:

c. ~~Be aged 1 month to 64 years~~ at least one month of age.

ITEM 5. Amend paragraph **83.82(2)“d”** as follows:

d. The total cost of brain injury waiver services, excluding the cost of case management and home and vehicle modifications, shall not exceed \$2,954 per month. ~~If more than \$520 is paid for home and vehicle modification services, the service worker shall encumber up to \$520 per month within the monthly dollar cap allowed for the member until the total amount of the modification is reached within a 12-month period.~~

ITEM 6. Amend paragraph **83.102(2)“b”** as follows:

b. The total cost of physical disability waiver services, excluding the cost of home and vehicle modifications, shall not exceed \$692 per month. ~~If more than \$520 is paid for home and vehicle modification services, the service worker shall encumber up to \$520 per month within the monthly dollar cap allowed for the member until the total amount of the modification is reached within a 12-month period.~~

ITEM 7. Amend paragraph **83.122(6)“b”** as follows:

b. The total cost of children’s mental health waiver services needed to meet the member’s needs, excluding the cost of environmental modifications, adaptive devices and therapeutic resources, may not exceed \$1,967 per month.

[Filed 4/9/14, effective 7/1/14]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.