

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of these amendments is to ensure that child development home providers remain in compliance with applicable rules and are providing safe care to the children in their environment. Specifically, these amendments identify the required time frame within which a registered child development home provider must inform the Department of changes that have occurred for the following: assistants or substitutes, household members, address changes, and criminal convictions. These amendments also propose new provisions regarding overpayments and recoupments. The new provisions set forth tiered consequences for repeated failure to comply with Child Care Assistance (CCA) rules and 50/50 recoupment for overpayments caused by the client and provider.

Any interested person may make written comments on the proposed amendments on or before January 27, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because 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 234.6.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 110.7(7):

110.7(7) Required notifications to the department.

a. The provider shall, within ten days, notify the department of any of the following:

- (1) Changes in assistants or substitutes;
- (2) Changes in household membership;
- (3) Address changes; and
- (4) Criminal convictions.

b. No assistant, substitute, or coprovider shall be utilized in the care of children and no person shall be permitted to reside in the household until approved by the department.

c. If the provider does not notify the department of changes within ten days, the provider may be subject to revocation of registration or to recoupment of child care assistance provided, or both.

ITEM 2. Amend subrule 170.5(1) as follows:

170.5(1) Provider agreement. The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), if any of the following occur:

- a. The department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the hazard.
- b. The provider has submitted claims for payment for which the provider is not entitled.
- c. The provider fails to cooperate with an investigation conducted by the department of inspections and appeals to determine whether information the provider supplied to the department regarding payment

for child care services is complete and correct. Once the agreement is revoked for failure to cooperate, the department shall not enter into a new agreement with the provider until cooperation occurs.

d. The provider does not meet one of the applicable requirements set forth in subrule 170.4(3).

e. The provider fails to comply with any of the terms and conditions of the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S).

f. The provider submits attendance documentation for payment and the provider knows or should have known that the documentation is false or inaccurate.

g. An overpayment of CCA funds with a balance of \$3,000 or more exists for a provider and that provider fails to enter into a repayment agreement with the department of inspections and appeals (DIA) or does not make payments according to the repayment agreement on file with DIA.

h. The provider is found to have more children in care at one time than allowed for the provider type as found at rule 441—110.4(237A) and 441—subrules 110.8(1), 110.9(1), 110.10(1) and 170.4(3).

ITEM 3. Adopt the following **new** subrule 170.5(5):

170.5(5) Provider agreement sanction. If a Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), is terminated for any of the reasons in subrule 170.5(1), the agreement shall remain terminated for the time periods set forth below:

a. The first time the agreement is terminated, the provider may reapply for another agreement at any time.

b. The second time the agreement is terminated, the provider may not reapply for another agreement for 12 months from the effective date of termination.

c. The third or subsequent time the agreement is terminated, the provider may not reapply for another agreement for 36 months from the effective date of termination.

d. The department shall not act on an application for a child care assistance provider agreement submitted by a provider during the sanction period.

ITEM 4. Adopt the following **new** paragraph **170.9(6)“f”**:

f. Recoupment for overpayments caused by both the provider and client shall be collected from both the provider and client equally, 50 percent from the client and 50 percent from the provider.