

PUBLIC HEALTH DEPARTMENT[641]

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 135.11(13), the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 80, “Local Public Health Services,” Iowa Administrative Code, and to adopt a new Chapter 80 with the same title.

The rules in Chapter 80 describe the requirements for local public health services funding. The proposed changes simplify the language in Chapter 80 and make changes necessary due to legislation. The following definitions have been removed because the terms are not utilized in the rules: “administrative expense,” “appropriation formula,” “care coordination,” “dependent nursing,” “direct care worker,” “independent nursing,” “nursing process,” “outcome measures,” “poverty,” “pre-service education,” “process,” “program,” “quality improvement,” “resources,” “service management,” “state grant,” and “workforce development.” The following definitions have been revised to provide clarification: “authorized agency,” “consumer,” “contractor,” “personal health services,” “protective services,” “restricted assets,” and “unrestricted assets.” The following new definitions are proposed: “allocation,” “appropriation,” “elderly,” “financial resources,” “formula,” “home care aide,” “low income,” “LPHS,” and “orientation.”

In addition to the definition changes, the rules include updated funding language to reflect the two current appropriations for community capacity/local board of health and healthy aging. The rules also include revised funding formulas as recommended by a workgroup representing local public health agencies. Proposed Chapter 80 also updates Iowa Code references, minimum agency requirements for coordination of services, and qualifications for home care aides and case management services.

Any interested person may make written comments or suggestions on the proposed rules on or before February 10, 2015. Such written comments should be directed to Dawn Mouw, Bureau of Local Public Health Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to Dawn.Mouw@idph.iowa.gov.

There will also be a public hearing on February 10, 2015, from 1:30 to 2:30 p.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/register/238776977>. The use of microphone and speakers (VoIP) or a headset is recommended. Interested persons may also join the meeting by telephone in the United States and Canada, toll-free, at 1-866-952-8437; the access code is 325-155-880, and an audio PIN will be shown after the person joins the meeting. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

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 of Public Health and advise of specific needs.

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

These rules are intended to implement Iowa Code section 135.11(13).

The following amendment is proposed.

Rescind 641—Chapter 80 and adopt the following **new** chapter in lieu thereof:

CHAPTER 80
LOCAL PUBLIC HEALTH SERVICES

641—80.1(135) Purpose. The purpose of the local public health services (LPHS) contract is to implement the core public health functions, deliver essential public health services, and increase the capacity of local boards of health (LBOH) to promote healthy people and healthy communities.

641—80.2(135) Definitions. For the purposes of these rules, the following definitions apply:

“*Allocation*” means the process to distribute funds.

“*Appropriation*” means the funding category.

“*Authorized agency*” means a contractor or a private nonprofit or governmental organization delivering all or part of the LPHS funded by the LPHS contract.

“*Community*” means the aggregate of persons with common characteristics such as race, ethnicity, age, or occupation or other similarities such as location.

“*Consumer*” means an individual, family, or community utilizing essential public health services through the LPHS contract.

“*Contractor*” means a local board of health (LBOH).

“*Core public health functions*” means the scope of activities which serve as a broad framework for public health agencies. Core public health functions are:

1. Assessment, which means to regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs and personal health services and epidemiologic and other studies of health problems.

2. Policy development, which means efforts to serve the public interest in the development of comprehensive public health policies by promoting the use of a scientific knowledge base in decision making about public health and by taking the lead in comprehensive public health policy development.

3. Assurance, which means public health efforts to assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging actions by other entities (private or public sector), by requiring such action through regulation, or by providing services directly.

“*Department*” means the Iowa department of public health.

“*Elderly*” means an individual aged 60 years and older.

“*Essential public health services*” means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services include:

1. Monitoring health status and understanding health issues facing the community.

2. Protecting people from health problems and health hazards.

3. Giving people information they need to make healthy choices.

4. Engaging the community to identify and solve health problems.

5. Developing public health policies and plans.

6. Enforcing public health laws and regulations.

7. Helping people receive health services.

8. Maintaining a competent public health workforce.

9. Evaluating and improving programs and interventions.

10. Contributing to and applying the evidence base of public health.

“*Evaluation*” means the process to measure the effectiveness of interventions by measuring outcomes against previously established goals and objectives.

“*Financial resources*” means the unrestricted assets owned by a consumer and, if applicable, the consumer’s spouse. The place of residence and one vehicle are exempt from consideration of resources.

“*Formula*” means the mathematical calculation applied to the state appropriation to determine the amount of available funds to be distributed to each county.

“*Health promotion*” means organizational, economic and environmental supports and education to stimulate healthy behaviors in individuals, groups or communities.

“*Home care aide*” means an individual who is trained and supervised to provide services, care, and emotional support to consumers in the home or in the community.

“*Income*” means all sources of revenue for the consumer and, if applicable, the consumer’s spouse.

“*Local board of health*” or “*LBOH*” means a county, city or district board of health as defined in Iowa Code section 137.102.

“*Low income*” means the U.S. Census Bureau’s Small Area Income and Poverty Estimates (SAIPE) (All Ages in Poverty) used to determine low income.

“*LPHS*” means local public health services.

“*Nonprofit*” means an entity meeting the requirements for tax-exempt status under the U.S. Internal Revenue Code.

“*Orientation*” means a period or process of introduction and adjustment to adapt the individual’s knowledge and skills from prior education to the individual’s current job duties.

“*Outcome*” means an action or event that follows as a result or consequence of the provision of a service or support.

“*Personal health services*” means health services delivered to individuals, including primary care, specialty care, hospital care, emergency care, and rehabilitative care. For the purpose of the LPHS contract, personal health services include nursing and home care aide activities.

“*Population-based services*” means interventions or activities for a community to promote health and to prevent disease, injury, disability, premature death, and exposure to environmental hazards.

“*Procedures*” means the steps to be taken to implement a policy.

“*Protective services*” means interventions or activities for a child or adult to alleviate, protect against, or prevent situations which could lead to abuse or neglect. For the purposes of the LPHS contract, protective services require an order from the justice system.

“*Restricted assets*” means assets typically involving a penalty for early withdrawal, such as IRA accounts, KEOGH accounts, 401(k) accounts, employee retirement accounts, and other deferred tax protected assets involving a penalty for early withdrawal.

“*Sliding fee scale*” means a scale of consumer fee responsibility based on an assessment of the consumer’s ability to pay all or a portion of the charge for services.

“*Unrestricted assets*” means assets that can be converted to cash.

“*Vulnerable population*” means individuals or groups in the community who are unable to promote and protect their personal or environmental health.

641—80.3(135) Local public health services (LPHS). Local public health services improve the health of the entire community; prevent illness; enhance the quality of life; provide services to safeguard the health and wellness of the community; reduce, prevent, and delay institutionalization of consumers; and preserve and protect families.

80.3(1) Priority population. The LPHS contract serves individuals throughout the lifespan and prioritizes service to vulnerable populations in Iowa.

80.3(2) Appropriations. The fiscal appropriations which assist in supporting LPHS are determined annually by the general assembly.

80.3(3) Contractor assurance. In order to receive funding, the contractor shall provide to the department assurance that authorized agencies meet all applicable federal, state, and local requirements. The contractor may directly provide or subcontract all or part of the delivery of services. The contractor shall ensure that each authorized agency complies with Title IV of the Civil Rights Act, the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973 and with affirmative action requirements. In addition, the contractor shall ensure that each authorized agency has, at a minimum, the following:

- a. A governing board;
- b. Program policies and procedures;
- c. A consumer appeals process;
- d. Records appropriate to the level of consumer care;
- e. Personnel policies and procedures which, at a minimum, include:
 - (1) Delegation of authority and responsibility for agency administration;
 - (2) Staff supervision;
 - (3) A staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to Iowa Code sections 232.69 and 235B.3;
 - (4) An employee grievance procedure;

- (5) Annual employee performance evaluations;
- (6) A nondiscrimination policy;
- (7) An employee orientation program; and
- (8) Current job descriptions;

f. Fiscal management, which shall, at a minimum, include:

- (1) An annual budget;
- (2) Fiscal policies and procedures which follow generally accepted accounting practices; and
- (3) An annual audit performed according to usual and customary accounting principles and practices;

g. Evaluation of agency and program activities which shall, at a minimum, include:

- (1) Evidence of an annual evaluation; and
- (2) Methods of reporting outcomes of evaluation to the LBOH.

80.3(4) *Coordination of public health services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating public health services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) who is licensed to practice nursing in the state of Iowa and who has a recommended minimum of two years of related public health experience; or
- (2) Possess a bachelor's degree or higher in public health, health administration, nursing or other applicable field from an accredited college or university; or
- (3) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of public health services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(4) "a."

80.3(5) *Coordination of home care aide services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals performing coordination of home care aide services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or
- (2) Possess a bachelor's degree in social work, sociology, family and consumer science, education, or other health or human services field; or
- (3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa; or
- (4) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of home care aide services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(5) "a."

80.3(6) *Home care aide services.*

a. The authorized agency shall ensure that each individual assigned to perform home care aide services meets one of the following:

(1) Be an individual who has completed orientation to home care in accordance with agency policy. At a minimum, orientation shall include four hours on the role of the home care aide; two hours on communication; two hours on understanding basic human needs; two hours on maintaining a healthy environment; two hours on infection control in the home; and one hour on emergency procedures. The individual shall have successfully passed an agency written test and demonstrated the ability to perform skills for the assigned tasks; or

(2) Be an individual who is in the process of receiving education or has completed the educational requirements but is not licensed as an LPN or RN, has documentation of successful completion of coursework related to the tasks to be assigned, and has demonstrated the ability to perform the skills for the assigned tasks; or

(3) Be an individual who possesses a license to practice nursing as an LPN or RN in the state of Iowa; or

(4) Be an individual who is in the process of receiving education or who possesses a degree in social work, sociology, family and consumer science, education, or other health and human services

field; has documentation of successful completion of coursework related to the tasks to be assigned; and has demonstrated the ability to perform the skills for the assigned tasks.

b. The authorized agency shall ensure that services or tasks assigned are appropriate to the individual's prior education and training.

c. The authorized agency shall ensure documentation of each home care aide's completion of at least 12 hours of annual in-service (prorated to employment).

d. The authorized agency shall establish policies for supervision of home care aides.

e. The authorized agency shall maintain records for each consumer. The records shall include:

- (1) An initial assessment;
- (2) A plan of care;
- (3) Assignment of home care aide;
- (4) Assignment of tasks;
- (5) Reassessment;
- (6) An update of the plan of care;
- (7) Home care aide documentation; and
- (8) Documentation of supervision of home care aides.

80.3(7) Coordination of case management services.

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating case management services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or
- (2) Possess a bachelor's degree with at least one year of experience in the delivery of services to vulnerable populations; or
- (3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa.

b. A home care aide with an equivalent of two years' experience may be delegated coordination of case management services as long as a qualified individual who meets one of the criteria in paragraph 80.3(7) "a" retains responsibility and provides supervision.

c. Individuals who are responsible for the coordination of case management services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(7) "a."

d. Case management services shall be provided at the direction of the consumer. The documentation to support the case management services shall include at a minimum:

- (1) An initial assessment of the consumer's needs;
- (2) Development and implementation of a service plan to meet the identified needs;
- (3) Linking of the consumer to appropriate resources and natural supports; and
- (4) Reassessment and updating of the consumer's service plan at least annually.

641—80.4(135) Utilization of LPHS contract funding. The contractor may bill public health activities to the LPHS contract based on the identified needs of the community.

80.4(1) Planning process. Annually, the contractor shall initiate a planning process with input from authorized agencies in order for the contractor to identify the utilization of LPHS contract funding.

80.4(2) Funder of last resort. The LPHS contract shall be billed as the funder of last resort.

a. The LPHS contract shall be billed at the authorized agency's cost or charge, whichever is less.

b. The LPHS contract shall not be billed for services eligible for third-party reimbursement (e.g., Medicare, Medicaid, private insurance, approved Iowa waivers, or other federal or state funds).

c. The LPHS contract shall not be billed for the balance between the authorized agency cost or charge, whichever is less, and the allowed reimbursement from a third-party payer.

d. The LPHS contract shall not be billed for fees waived by the authorized agency.

e. The LPHS contract shall not be billed for services provided in a previous fiscal year.

80.4(3) Cost analysis. The authorized agency shall complete, at a minimum, an annual cost report for each approved LPHS contract activity using a method approved by the department. The authorized agency shall maintain documentation to support each cost report. Expenses to be included in an annual

cost report must be documented by the agency as received before the expenses can be included in the cost report.

80.4(4) Fees and donations.

a. Authorized agencies shall use fees billed and donations received from consumers to support the activities billed to the LPHS contract.

b. Fees for services provided shall be based on a financial assessment which determines the consumer's financial responsibility.

c. Fees for services may be established by the authorized agency except for services described in subparagraph 80.4(4) "*f*"(6).

d. Donations shall be accepted.

e. A financial assessment that considers financial resources and income and determines the consumer's financial responsibility shall be completed for nursing (skilled and health maintenance) activities and all home care aide activities.

(1) The financial assessment shall be updated annually by the authorized agency.

(2) An authorized agency may consider additional health care-related expenses or financial resources above \$10,000 when determining the consumer's fee according to an agency's policy.

(3) Restricted assets shall not be considered as a resource in the determination of a consumer's financial responsibility for services.

(4) Unrestricted assets shall be considered in the determination of a consumer's financial responsibility for services in the sliding fee calculation.

f. Sliding fee scale. The following instructions apply to the use of the sliding fee scale.

(1) The authorized agency shall establish a sliding fee scale for all home care aide activities and nursing (skilled and health maintenance) activities.

(2) The sliding fee scale shall be based on the authorized agency's charge for services.

(3) The authorized agency shall determine the amount the consumer will pay according to the sliding fee scale prior to providing the service.

(4) A fee shall be charged to consumers who have an income at or above 200 percent of the most recent federal poverty guidelines.

(5) No fee shall be charged to consumers who have an income at or below 75 percent of the most recent federal poverty guidelines and have financial resources of \$10,000 or less.

(6) No fee shall be charged for protective services or communicable disease follow-up services.

(7) An authorized agency may charge a fee according to the authorized agency's policy for services other than those described in subparagraphs 80.4(4) "*f*"(1) to (6).

80.4(5) Alternative plan. A request and written plan is required for the use of the LPHS contract funds for any activity that is not one of the current activities identified in the contract documents. The request and plan shall be based on an assessment of the needs of the community and shall be submitted by the contractor to the department for approval. The plan shall:

a. Identify essential public health services to be delivered;

b. Describe the activity to be delivered;

c. Identify target populations to be served; and

d. Describe the anticipated impact due to the use of an alternative plan.

80.4(6) Reallocation. The department will annually determine the potential for unused funds from contracts. If funds are available, reallocation of the funds shall be at the discretion of the department.

641—80.5(135) Right to appeal.

80.5(1) Denial, reduction or termination of services.

a. When an authorized agency denies, reduces or terminates services funded by the LPHS contract against the wishes of a consumer, the authorized agency shall notify the consumer of the following:

(1) The action taken;

(2) The reason for the action; and

(3) The consumer's right to appeal.

b. If a consumer files an appeal, the authorized agency shall provide services to the consumer throughout the appeals process, unless the agency receives a waiver from the department pending the outcome of the appeal.

80.5(2) Local appeals process.

a. The authorized agency shall have a written procedure through which consumers funded by the LPHS contract may appeal to the contractor. The written procedure shall, at a minimum, include:

- (1) The method of notification of the right to appeal;
- (2) The procedure for conducting the appeal;
- (3) Time limits for each step;
- (4) Notification of the consumer's right to appeal to the contractor (that is, the local board of health (LBOH)); and
- (5) Notification of the outcome of the appeal. The notification shall include the facts used to reach the decision and the conclusions drawn from the facts to support the decision of the authorized agency.

b. The written appeals procedure and the record of appeals filed (including the record and disposition of each) shall be available for inspection by authorized representatives of the department.

80.5(3) Appeal to department.

a. If a consumer is dissatisfied with the decision of the local appeal, the consumer may appeal to the Iowa department of public health within 15 days of the receipt of the local contractor's appeal decision. The appeal shall be made in writing and sent by certified mail, return receipt requested, to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Department review. The department shall evaluate the appeal based upon the merits of the local appeal documentation. A department decision affirming, reserving, or modifying the local appeal decision shall be issued within 30 days of the receipt of all local appeal documentation. The department decision shall be in writing and sent by certified mail, return receipt requested, to the consumer, the contractor, and the authorized agency.

80.5(4) Further appeal. The consumer may appeal the department's decision within 10 days of the receipt of the department's decision. The appeal shall be made in writing and sent to the Director, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Upon receipt of an appeal that meets contested case status, the department shall forward the appeal within 5 working days to the department of inspections and appeals pursuant to the rules adopted by the department of inspections and appeals regarding the transmission of contested cases. The continued process for appeals shall be governed by 641—Chapter 173, Iowa Administrative Code.

641—80.6(135) Community capacity/local board of health and healthy aging funds. The purpose of community capacity/local board of health and healthy aging funds is to assist an LBOH in implementing core public health functions, providing essential public health services that promote healthy aging throughout the lifespan, and enhancing health promotion and disease prevention services with a priority given to older Iowans and vulnerable populations.

80.6(1) Allocation for community capacity/local board of health. The appropriation to each county board of health is determined by the following formula: 40 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 60 percent shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.

80.6(2) Allocation for healthy aging. The allocation for the healthy aging appropriation is determined by the following formula: 15 percent of the total appropriation shall be divided so that an equal amount is available for use in each county in the state. The remaining 85 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:

a. Sixty percent of the funds shall be allocated according to the number of elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).

b. Forty percent of the funds shall be allocated according to the number of low-income persons living in the county based upon the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE).

These rules are intended to implement Iowa Code subsection 135.11(13).