

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Pursuant to subrule 79.1(15), providers of home- and community-based services (HCBS) must complete a financial cost report for certain HCBS services annually. The fiscal year cost reports cover the 12 months of July through June, and the cost reports must be submitted to the Department by September 30 each year. The cost report accounts for all direct service and indirect administrative costs that have been incurred by a provider over the previous 12 months of service delivery, and the allowable costs in the report are used to establish future reimbursement rates. Staff training costs have historically been considered an indirect administrative expense for cost-reporting purposes. And for Medicaid rate-setting purposes, indirect administrative costs are limited pursuant to 79.1(15)“b”(3) to 20 percent of other costs. This amendment provides that, to the extent funding is appropriated, the reasonable costs of staff training will be treated as direct costs, rather than as indirect administrative costs subject to the 20 percent limit. 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, provides as follows:

“The department of human services shall adopt rules pursuant to chapter 17A to provide that reasonable costs of staff training incurred by providers of home and community-based services under the medical assistance program are reimbursable as direct costs. Such reimbursement shall include reimbursement of the reasonable costs associated with the learning management system utilized under the college of direct support training program.”

Since 2011, the Department has been funding the College of Direct Support training program referenced in the 2013 legislation. Due to that funding, the College of Direct Support has been free to providers and has reduced training costs. Nonetheless, the provider community has estimated that training expenses are 1 to 2 percent of other expenses. And providers have also indicated that other indirect administrative costs equal or exceed the 20 percent limit. Based on that information, the Department estimates that treating the reasonable costs of staff training as direct costs would increase provider reimbursement by \$3.4 to \$6.8 million annually (state share \$1.5 to \$3.0 million). In 2013, the Legislature appropriated \$300,000 for that purpose for the six months of January through June of 2014. See 2013 Iowa Acts, chapter 138 (Senate File 446), section 12(24). But that is just 40 percent of the state share for the minimum estimated six-month cost (\$750,000). Further, the Iowa Association of Community Providers (IACP), which represents HCBS providers, objected to the implementation of a change in how costs are allocated in the middle of a cost-reporting period, which would have required providers to submit two cost reports for that period. Rather, the IACP requested that any change to cost reporting be postponed until July 1, 2014. Due to the inadequate appropriation and the timing concerns, the Department postponed any change until July 1, 2014.

However, the Department’s appropriation for the state fiscal year beginning July 1, 2014, did not include any additional funds for treatment of staff training costs as direct costs. Therefore, the Department had not taken any action to amend the rules as directed by 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, though the Department has continued to fund the College of Direct Support, thus reducing providers’ staff training costs.

On October 6, 2014, the Department received a petition for rule making to implement 2013 Iowa Acts, chapter 140 (Senate File 452), section 12. The Department believes that the Legislature needs to address the extent to which staff training costs should be treated as direct costs, in light of the College of Direct Support, and provide appropriate funding. Therefore, pursuant to the petition for rule making, the Department proposed an amendment providing for treatment of the reasonable costs of staff training as direct costs to the extent funding is specifically appropriated for that purpose.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1818C** on January 7, 2015.

The Department received comments from 18 respondents regarding this amendment. All of the comments from the respondents were in opposition to the proposed amendment as written in the Notice of Intended Action. The respondents stated that staff training is crucial to ensure the provision of high-quality services to individuals. In addition, the respondents stated that the legislation was a clear directive for the Department to write rules to allow providers to include staff training as a direct expense and to date has not been implemented. Respondents stated that the proposed amendment did not follow the intent of legislation as it was approved in 2013 Iowa Acts, chapter 140 (Senate File 452), section 12.

Respondents also stated that the Department treats training as an indirect expense in the HCBS waiver programs, which is inconsistent with how the Department has developed rates and paid for training costs with other Medicaid providers. Finally, the respondents asked that proposed language found in the amendment, specifically the words “to the extent that funding is specifically appropriated by the legislature for this purpose for a state fiscal year,” be removed.

The Department has revised the proposed amendment as a direct result of the comments received during the public comment period. The Department agrees with the respondents that the treatment of staff training as a direct care cost was intended to be limited to direct care staff. Subparagraph 79.1(15)“b”(9) now reads as follows:

“(9) The reasonable costs of direct care staff training shall be treated as direct care costs, rather than as indirect administrative costs.”

This amendment was adopted by the Council on Human Services on April 8, 2015.

This amendment does 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.

This amendment is intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, chapter 140 (Senate File 452), section 12.

This amendment will become effective July 1, 2015.

The following amendment is adopted.

Adopt the following **new** subparagraph **79.1(15)“b”(9)**:

(9) The reasonable costs of direct care staff training shall be treated as direct care costs, rather than as indirect administrative costs.

[Filed 4/8/15, effective 7/1/15]

[Published 4/29/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/29/15.