

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 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments implement the changes in employment service definitions as provided by the Centers for Medicaid and Medicare Services (CMS) in its September 16, 2011, Informational Bulletin and in the CMS 2015 Technical Guide.

These amendments also change the provider qualifications, scope of services, duration, limitation and reimbursement methodologies for the home- and community-based services (HCBS) prevocational and supported employment services within the habilitation services program and the intellectual disability (ID) and brain injury (BI) waivers.

Any interested person may make written comments on the proposed amendments on or before September 8, 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 chapter 249A.

The following amendments are proposed.

ITEM 1. Rescind subrule 77.25(8) and adopt the following **new** subrule in lieu thereof:

77.25(8) Prevocational habilitation.

a. The following providers may provide prevocational services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) An agency that is accredited by the Council on Quality and Leadership.

(3) An agency that is accredited by the International Center for Clubhouse Development.

(4) An agency that is certified by the department to provide prevocational services under:

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers’ compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent degree. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment service training through the College of Direct Support, College of Employment Services online training program.

ITEM 2. Rescind subrule 77.25(9) and adopt the following **new** subrule in lieu thereof:

77.25(9) Supported employment habilitation.

a. The following agencies may provide supported employment services:

(1) An agency that is certified by the department to provide supported employment services under:

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

(2) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(3) An agency that is accredited by the Council on Accreditation.

(4) An agency that is accredited by the Joint Commission.

(5) An agency that is accredited by the Council on Quality and Leadership.

(6) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree in (or commensurate experience in) human resources, marketing, sales or business. The person must also hold a certified employment support professional credential from the Association of People Supporting Employment First or must earn this credential within 12 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and two years' experience in delivering services and supports. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training through the College of Direct Support, College of Employment Services online training program. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.

ITEM 3. Rescind subrule 77.37(16) and adopt the following **new** subrule in lieu thereof:

77.37(16) Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider, or a provider of a similar service.

- (2) An agency that is accredited by the Council on Accreditation for similar services.
- (3) An agency that is accredited by the Joint Commission for similar services.
- (4) An agency that is accredited by the Council on Quality and Leadership for similar services.
- (5) An agency that is accredited by the International Center for Clubhouse Development.
- b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:
 - (1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.
 - (2) Member vacation, sick leave and holiday compensation.
 - (3) Procedures for payment schedules and pay scale.
 - (4) Procedures for provision of workers' compensation insurance.
 - (5) Procedures for the determination and review of commensurate wages.
- c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.
- d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:
 - (1) Individual supported employment: bachelor's degree in (or commensurate experience in) human resources, marketing, sales or business. The person must also hold a certified employment support professional credential from the Association of People Supporting Employment First or must earn this credential within 12 months of hire.
 - (2) Long-term job coaching: associate degree, or high school diploma or its equivalent and two years' experience in delivering services and supports. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.
 - (3) Small-group supported employment: A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training through the College of Direct Support, College of Employment Services online training program. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.

ITEM 4. Rescind subrule 77.37(26) and adopt the following **new** subrule in lieu thereof:

77.37(26) Prevocational service providers.

- a. Providers of prevocational services must be accredited by one of the following:
 - (1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.
 - (2) The Council on Quality and Leadership accreditation in supports for people with disabilities.
- b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:
 - (1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.
 - (2) Member vacation, sick leave and holiday compensation.
 - (3) Procedures for payment schedules and pay scale.
 - (4) Procedures for provision of workers' compensation insurance.
 - (5) Procedures for the determination and review of commensurate wages.
- c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:
 - (1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.
 - (2) A person providing direct support shall not be an immediate family member of the member.
- d. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training through the College of Direct Support, College of Employment Services online training program.

ITEM 5. Rescind subrule 77.39(15) and adopt the following **new** subrule in lieu thereof:

77.39(15) Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation for similar services.

(3) An agency that is accredited by the Joint Commission for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.

d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree in (or commensurate experience in) human resources, marketing, sales or business. The person must also hold a certified employment support professional credential from the Association of People Supporting Employment First or must earn this credential within 12 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or its equivalent and two years' experience in delivering services and supports. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training through the College of Direct Support, College of Employment Services online training program. The person must also hold or obtain, within 12 months of hire, nationally recognized certification in job training and coaching.

ITEM 6. Rescind subrule 77.39(22) and adopt the following **new** subrule in lieu thereof:

77.39(22) Prevocational services providers.

a. Providers of prevocational services must be accredited by one of the following:

(1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) The Council on Quality and Leadership accreditation in supports for people with disabilities.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training through the College of Direct Support, College of Employment Services online training program.

ITEM 7. Adopt the following **new** definitions in subrule **78.27(1)**:

“Career exploration,” also referred to as “career planning,” means a person-centered, comprehensive employment planning and support service that provides assistance for waiver program participants to obtain, maintain or advance in competitive employment or self-employment. Career exploration is a focused, time-limited service engaging a participant in identifying a career direction and developing a plan for achieving competitive, integrated employment at or above the state’s minimum wage. The outcome of this service is documentation of the participant’s stated career objective and a career plan used to guide individual employment support.

“Career plan” means a written plan documenting the member’s stated career objective and used to guide individual employment support services for achieving competitive, integrated employment at or above the state’s minimum wage.

“Customized employment” means an approach to supported employment which individualizes the employment relationship between employees and employers in ways that meet the needs of both. Customized employment is based on an individualized determination of the strengths, needs, and interests of the person with a disability and is also designed to meet the specific needs of the employer. Customized employment may include employment developed through job carving, self-employment or entrepreneurial initiatives, or other job development or restructuring strategies that result in job responsibilities being customized and individually negotiated to fit the needs of the individual with a disability. Customized employment assumes the provision of reasonable accommodations and supports necessary for the individual to perform the functions of a job that is individually negotiated and developed.

“Individual employment” means employment in the general workforce where the member interacts with the general public to the same degree as nondisabled persons in the same job, and for which the member is paid at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons without disabilities.

“Individual placement and support” means an evidence-based supported employment model that helps people with mental illness to seek and obtain employment.

“Integrated community employment” means work (including self-employment) for which an individual with a disability is paid at or above minimum wage and not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by employees who are not disabled, where the individual interacts with other persons who are not disabled to the same extent as others who are in comparable positions, and which presents opportunities for advancement that are similar to those for employees who are not disabled. In the case of an individual who is self-employed, the business results in an income that is comparable to the income received by others who are not disabled and are self-employed in similar occupations.

“Supported self-employment” includes services and supports that assist the participant in achieving self-employment through the operation of a business; however, Medicaid funds may not be used to defray the expenses associated with starting up or operating a business. Assistance for self-employment may include aid to the individual in identifying potential business opportunities; assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business; identification of the supports necessary for the individual to operate the business; and ongoing assistance, counseling and guidance once the business has been launched.

ITEM 8. Rescind subrule 78.27(9) and adopt the following **new** subrule in lieu thereof:

78.27(9) Prevocational service habilitation. “Prevocational services” means services that provide career exploration, learning and work experiences, including volunteer opportunities, where the member can develop non-job-task-specific strengths and skills that lead to paid employment in individual community settings.

a. Scope. Prevocational services are provided to persons who are expected to be able to join the general workforce with the assistance of supported employment. Prevocational services are intended to develop and teach general employability skills relevant to successful participation in individual employment. These skills include but are not limited to the ability to communicate effectively with supervisors, coworkers and customers; an understanding of generally accepted community workplace conduct and dress; the ability to follow directions; the ability to attend to tasks; workplace problem-solving skills and strategies; general workplace safety and mobility training; the ability to navigate local transportation options; financial literacy skills; and skills related to obtaining employment.

Prevocational services include career exploration activities to facilitate successful transition to individual employment in the community. Participation in prevocational services is not a prerequisite for individual or small-group supported employment services.

(1) Career exploration. Career exploration activities are designed to develop a career plan and facilitate the member’s experientially based, informed choice regarding the goal of individual employment. Career exploration may be authorized for up to 34 hours, to be completed over a 90-day period in the member’s local community or nearby communities and may include but is not limited to the following activities: business tours, informational interviews, job shadows, benefits information, assistive technology assessment, and attendance at career fairs or other job exploration events.

(2) Expected outcome of service.

1. The expected outcome of prevocational services is individual employment in the general workforce, or self-employment, in a setting typically found in the community, where the member interacts with individuals without disabilities, other than those providing services to the member or other individuals with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other persons; and for which the member is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

2. The expected outcome of the career exploration activity is a written career plan that will guide employment services which lead to community employment or self-employment for the member.

b. Setting. Prevocational services shall take place in community-based nonresidential settings.

c. Concurrent services. A member’s individual service plan may include two or more types of nonresidential habilitation services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of time (e.g., the same hour).

d. Exclusions. Prevocational services payment shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving prevocational services.

(2) Services available to the individual that duplicate or replace education or related services defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

(3) Compensation to members for participating in prevocational services.

(4) Support for members volunteering in for-profit organizations or businesses or volunteering to benefit the service provider.

(5) The provision of vocational services delivered in facility-based settings where individuals are supervised for the primary purpose of producing goods or performing services or where services are aimed at teaching skills for specific types of jobs rather than general skills.

(6) A prevocational service plan with the goal or purpose of the service documented as maintaining or supporting the individual in continuing prevocational services or any employment situation similar to sheltered employment.

e. Limitations.

(1) Time limitation for members starting prevocational services. For members starting prevocational services after [the effective date of this subrule], participation in these services is limited to 24 calendar months. This time limit can be extended to continue beyond 24 months if one or more of the following conditions apply:

1. The member is working in individual or small-group community employment for at least the number of hours per week desired by the member and as identified in the member's current service plan; or

2. The member is working in individual or small-group community employment for less than the number of hours per week identified in the member's current service plan and has a defined employment goal to increase the number of hours the member is working; or

3. The member is actively engaged in seeking individual or small-group supported employment, or self-employment, or similar services funded through another identifiable funding source documented in the member's service plan; and evidence of a plan to obtain individual employment through one of these funding sources is submitted with the request for prior authorization; or

4. The member has requested supported employment services and has been denied or placed on a waiting list within the past 24 months by another identifiable funding source; or

5. The member has been receiving supported employment service for at least 12 of the past 24 months without obtaining individual or small-group employment, and evidence of this is submitted with the request for prior authorization; or

6. The member is participating in career exploration activities as described in subparagraph 78.27(9) "a"(1).

(2) Time limitation for members enrolled in prevocational services. For members enrolled in prevocational services on or before [the effective date of this subrule], participation in these services is limited to 90 days beyond the completion of the career exploration activity including the development of the career plan described in subparagraph 78.27(9) "a"(1). This time limit can be extended as stated in paragraphs 78.27(9) "e"(1) "1" through "6." If the criteria in paragraphs 78.27(9) "e"(1) "1" through "6" do not apply, the member will not be reauthorized to continue prevocational services.

ITEM 9. Rescind subrule 78.27(10) and adopt the following **new** subrule in lieu thereof:

78.27(10) Supported employment services.

a. Individual supported employment. Individual supported employment involves supports provided to, or on behalf of, the member that enable the member to obtain and maintain individual employment. Services are provided to members who need support because of their disabilities.

(1) Scope. Individual supported employment services are services provided to, or on behalf of, the member that enable the member to obtain and maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.

(2) Expected outcome of service. The expected outcome of this service is sustained employment, or self-employment, paid at or above the minimum wage or the customary wage and level of benefits paid by an employer, in an integrated setting in the general workforce, in a job that meets personal and career goals. Successful transition to long-term job coaching, if needed, is also an expected outcome of this service. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time, not to exceed 36 months.

(3) Setting. Individual supported employment services shall take place in integrated work settings. For self-employment, the member's home can be considered an integrated work setting. Employment in the service provider's organization (not including a sheltered workshop or similar type of work setting where members are paid for the production of goods or services) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where

interactions are predominantly with coworkers or business associates who do not have disabilities or with the general public.

(4) Individual employment strategies include but are not limited to: customized employment, individual placement and support, and supported self-employment. Service activities are individualized and may include any combination of the following:

1. Benefits planning.
2. Career exploration (e.g., tours, informational interviews, job shadows).
3. Employment assessment.
4. Assistive technology assessment.
5. Trial work experience.
6. Person-centered employment planning.
7. Development of visual/traditional résumés.
8. Job-seeking skills training and support.
9. Outreach to prospective employers on behalf of the member (e.g., job development; negotiation with prospective employers to customize, create or carve out a position for the member; employer needs analysis).
10. Job analysis (e.g., work site assessment or job accommodations evaluation).
11. Identifying and arranging transportation.
12. Career advancement services (e.g., assisting a member in making an upward career move or seeking promotion from an existing employer).
13. Re-employment services (if necessary due to job loss).
14. Financial literacy and asset development.
15. Other employment support services deemed necessary to enable the member to obtain employment.
16. Systematic instruction and support during initial on-the-job training.
17. Engagement of natural supports during initial period of employment.
18. Implementation of assistive technology solutions during initial period of employment.
19. Transportation of the member during service hours.

(5) Self-employment. Individual employment may also include support to establish a viable self-employment opportunity, including home-based self-employment. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time. In addition to the activities listed under subparagraph 78.27(10) "a"(4), assistance to establish self-employment may include:

1. Aid to the member in identifying potential business opportunities.
 2. Assistance in the development of a business plan, including identifying potential sources of business financing and other assistance in developing and launching a business.
 3. Identification of the long-term supports necessary for the individual to operate the business.
- b. Long-term job coaching.* Long-term job coaching is support provided to, or on behalf of, the member that enables the member to maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.

(1) Scope. Long-term job coaching services are provided to or on behalf of members who need support because of their disabilities and who are unlikely to maintain and advance in individual employment absent the provision of supports. Long-term job coaching services shall provide individualized and ongoing support contacts at intervals necessary to promote successful job retention and advancement.

(2) Expected outcome of service. The expected outcome of this service is sustained employment paid at or above the minimum wage in an integrated setting in the general workforce, in a job that meets the member's personal and career goals. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time.

(3) Setting. Long-term job coaching services shall take place in integrated work settings. For self-employment, the member's home can be considered an integrated work setting. Employment in

service provider's organization (not including a sheltered workshop or similar type of work setting) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where interactions are predominantly with coworkers or business associates who do not have disabilities, or with the general public, and if the position would exist within the provider's organization were the provider not being paid to provide the job coaching to the member.

(4) Service activities. Long-term job coaching services are designed to assist the member with learning and retaining individual employment, resulting in workplace integration, and which allows for the reduction of long-term job coaching over time. Services are individualized and may include any combination of the following activities with or on behalf of the member:

1. Job analysis.
2. Job training and systematic instruction.
3. Training and support for use of assistive technology/adaptive aids.
4. Engagement of natural supports.
5. Transportation coordination.
6. Job retention training and support.
7. Benefits planning and ongoing support.
8. Supports for career advancement.
9. Financial literacy and asset development.
10. Employer consultation and support.
11. Negotiation with employer on behalf of the member (e.g., accommodations; employment conditions; access to natural supports; and wage and benefits).
12. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the job setting.
13. Transportation of the member during service hours.

(5) Self-employment long-term job coaching. Self-employment long-term job coaching may include support to maintain a self-employment opportunity, including home-based self-employment. In addition to the activities listed under subparagraph 78.27(10) "b"(4), assistance to maintain self-employment may include:

1. Ongoing identification of the supports necessary for the individual to operate the business;
2. Ongoing assistance, counseling and guidance to maintain and grow the business; and
3. Ongoing benefits support.

c. Small-group supported employment. Small-group supported employment services are training and support activities provided in regular business or industry settings for groups of two to eight workers with disabilities. The outcome of this service is sustained paid employment experience, skill development, career exploration and planning leading to referral for services to obtain individual integrated employment or self-employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(1) Scope. Small-group supported employment services must be provided in a manner that promotes integration into the workplace and interaction between members and people without disabilities (e.g., customers, coworkers, natural supervisors) in those workplaces. Examples include but are not limited to mobile crews and other business-based workgroups employing small groups of workers with disabilities in employment in integrated business settings; and small-group activities focused on career exploration and planning, discovery, or development of strengths and skills that contribute to successful participation in individual community employment.

(2) Expected outcome of service. Small-group supported employment services are expected to enable the member to make reasonable and continued progress toward individual employment. Participation in small-group supported employment services is not a prerequisite for individual supported employment services. The expected outcome of the service is sustained paid employment and skill development which leads to individual employment in the community.

(3) Setting. Small-group supported employment services shall take place in integrated, community-based nonresidential settings separate from the member's residence.

(4) Service activities. Small-group supported employment services may include any combination of the following activities:

1. Employment assessment.
2. Person-centered employment planning.
3. Job placement (limited to service necessary to facilitate hire into individual employment paid at minimum wage or higher for a member in small-group supported employment who receives an otherwise unsolicited offer of a job from a business where the member has been working in a mobile crew or enclave).
4. Job analysis.
5. On-the-job training and systematic instruction.
6. Job coaching.
7. Transportation planning and training.
8. Benefits information.
9. Career planning services leading to career advancement outcomes.
10. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the individual or community setting.
11. Transportation of the member during service hours.

d. Service requirements for all supported employment services.

(1) Community transportation options (e.g., transportation provided by family, coworkers, carpools, volunteers, self or public transportation) shall be identified by the member's interdisciplinary team and utilized before the service provider provides the transportation to and from work for the member. If none of these options are available to a member, transportation between the member's place of residence and the employment or service location may be included as a component part of supported employment services.

(2) Personal care or personal assistance and protective oversight may be a component part of supported employment services, but may not comprise the entirety of the service.

(3) Activities performed on behalf of a member receiving long-term job coaching or individual or small-group supported employment shall not comprise the entirety of the service.

(4) Concurrent services. A member's individual service plan may include two or more types of nonresidential services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of time (e.g., the same hour).

(5) Integration requirements. In the performance of job duties, the member shall have regular contact with other employees or members of the general public who do not have disabilities, unless the absence of regular contact with other employees or the general public is typical for the job as performed by persons without disabilities.

(6) Compensation. Members receiving these services are compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. For supported self-employment, the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time, not to exceed 36 months. For small-group supported employment, if the member is not compensated at or above minimum wage, the compensation to the member shall be in accordance with all applicable state and federal labor laws and regulations.

e. Limitations. Supported employment services are limited as follows:

(1) Total monthly costs of supported employment may not exceed the monthly cap on the cost of waiver services set for the individual waiver program.

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed \$3,029.00 per month.

(3) Individual supported employment is limited to 240 units per calendar year.

(4) Long-term job coaching is limited in accordance with 441—subrule 79.1(2).

(5) Small-group supported employment is limited to 160 units per week.

f. Exclusions. Supported employment services payments shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that the service is not available to the individual under these programs shall be maintained in the service plan of each member receiving individual supported employment or long-term job coaching services.

(2) Incentive payments, not including payments for coworker supports, made to an employer to encourage or subsidize the employer's participation in a supported employment program.

(3) Subsidies or payments that are passed through to users of supported employment programs.

(4) Training that is not directly related to a member's supported employment program.

(5) Services involved in placing and stabilizing members in day activity programs, work activity programs, sheltered workshop programs or other similar types of vocational or prevocational services furnished in specialized facilities that are not a part of the general workplace.

(6) Supports for placement and stabilization in volunteer positions or unpaid internships. Such volunteer learning and unpaid training activities that prepare a person for entry into the general workforce are addressed through prevocational services and career exploration activities.

(7) Tuition for education or vocational training.

(8) Individual advocacy that is not related to integrated individual employment participation or is not member-specific.

(9) Medicaid funds may not be used to defray the expenses associated with starting up or operating a business.

ITEM 10. Rescind subrule 78.41(7) and adopt the following **new** subrule in lieu thereof:

78.41(7) Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 11. Rescind subrule 78.41(13) and adopt the following **new** subrule in lieu thereof:

78.41(13) Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 12. Rescind subrule 78.43(4) and adopt the following **new** subrule in lieu thereof:

78.43(4) Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 13. Rescind subrule 78.43(11) and adopt the following **new** subrule in lieu thereof:

78.43(11) Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 14. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by rescinding paragraphs “19” and “23” and adopting the following **new** paragraphs in lieu thereof:

| Provider category | Basis of reimbursement | Upper limit |
|--|------------------------|---|
| 19. Supported employment: | | |
| Individual supported employment | Fee schedule | Fee schedule in effect 12/16/15. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month. |
| Long-term job coaching | Fee schedule | Fee schedule in effect 12/16/15. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month. |
| Small-group supported employment (2 to 8 individuals) | Fee schedule | Fee schedule in effect 12/16/15. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month. |
| 23. Prevocational services, including career exploration | Fee schedule | Fee schedule in effect 12/16/15. |

ITEM 15. Amend subrule **79.1(2)**, provider category “Home- and community-based habilitation services,” as follows:

| Provider category | Basis of reimbursement | Upper limit |
|--|--|--|
| Home- and community-based habilitation services: | | |
| 1. to 3. No change. | | |
| 4. Prevocational habilitation <u>Career exploration</u> | See 79.1(24)“d” <u>Fee schedule</u> | Effective 7/1/13: \$13.47 per hour or \$48.22 per day. Fee schedule in effect 12/16/15. |
| 5. Supported employment: | | |
| Activities to obtain a job: | | |
| <u>Job development</u> | See 79.1(24)“d” | \$909 per unit (job placement). Maximum of two units per 12 months. |

| Provider category | Basis of reimbursement | Upper limit |
|--|------------------------|---|
| <u>Individual supported employment</u> | <u>Fee schedule</u> | <u>Fee schedule in effect 12/16/15. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u> |
| Employer development | See 79.1(24)“d” | \$909 per unit (job placement). Maximum of two units per 12 months |
| <u>Long-term job coaching</u> | <u>Fee schedule</u> | <u>Fee schedule in effect 12/16/15. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u> |
| Enhanced job search | See 79.1(24)“d” | Effective 7/1/13: Maximum of \$8.75 per 15-minute unit and 104 units per 12 months. |
| <u>Small-group supported employment (2 to 8 individuals)</u> | <u>Fee schedule</u> | <u>Fee schedule in effect 12/16/15. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u> |
| Supports to maintain employment | See 79.1(24)“d” | Effective 7/1/13: \$1.55 per 15-minute unit for services in an enclave setting; \$4.95 per 15-minute unit for personal care; and \$8.75 per 15-minute unit for all other services. Total not to exceed \$2,883.71 per month. Maximum of 160 units per week. |

ITEM 16. Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; ~~HCBS supported employment enhanced job search activities;~~ and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency.

ITEM 17. Rescind subparagraphs **79.1(24)“a”(4)** and **(5)**.

ITEM 18. Renumber subparagraph **79.1(24)“a”(6)** as **79.1(24)“a”(4)**.

ITEM 19. Amend **441—Chapter 83**, preamble, as follows:

Medicaid waiver services are services provided to maintain persons who would otherwise require care in a medical institution in their own homes or communities ~~who would otherwise require care in medical institutions~~, including support for working age persons (aged 18 to 65) to seek and maintain employment in the community. Provision of these services must be cost-effective. Services are limited to certain targeted client groups for whom a federal waiver has been requested and approved. Services provided through the waivers are not available to other Medicaid recipients as the services are beyond the scope of the Medicaid state plan.

ITEM 20. Amend subrule 83.61(1) as follows:

83.61(1) Eligibility criteria. All of the following criteria must be met. The person must:

a. to f. No change.

g. For individual supported employment and long-term job coaching services:

(1) Be at least 16 years of age.

(2) ~~Rescinded IAB 7/1/98, effective 7/1/98.~~

~~(3)~~ (2) ~~Not be eligible for supported employment service funding under Public Law 94-142 or for the Rehabilitation Act of 1973.~~ The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

~~(4)~~ (3) Not reside in a medical institution.

(4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.

h. For small-group supported employment services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.

(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.

(5) Not reside in a medical institution.

i. For prevocational services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Not reside in a medical institution.

~~h.~~ j. Choose HCBS intellectual disability waiver services rather than ICF/ID services.

~~i.~~ k. To be eligible for interim medical monitoring and treatment services the consumer member, must be:

(1) Under the age of 21;

(2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses interim medical monitoring and treatment.);

(3) Residing in the consumer's family home or foster family home; and

(4) In need of interim medical monitoring and treatment as ordered by a physician.

~~j.~~ l. Be assigned an HCBS intellectual disability payment slot pursuant to subrule 83.61(4).

~~k.~~ m. For residential-based supported community living services, meet all of the following additional criteria:

(1) Be less than 18 years of age.

(2) Be preapproved as appropriate for residential-based supported community living services by the bureau of long-term care. Requests for approval shall be submitted in writing to the DHS Bureau of Long-Term Care, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, and shall include the following:

1. Social history;

2. Case history that includes previous placements and service programs;

3. Medical history that includes major illnesses and current medications;

4. Current psychological evaluations and consultations;

5. Summary of all reasonable and appropriate service alternatives that have been tried or considered;

6. Any current court orders in effect regarding the child;
 7. Any legal history;
 8. Whether the child is at risk of out-of-home placement or the proposed placement would be less restrictive than the child's current placement for services;
 9. Whether the proposed placement would be safe for the child and for other children living in that setting; and
 10. Whether the interdisciplinary team is in agreement with the proposed placement.
- (3) Either:
1. Be residing in an ICF/ID;
 2. Be at risk of ICF/ID placement, as documented by an interdisciplinary team assessment pursuant to paragraph 83.61(2)“a”; or
 3. Be a child whose long-term placement outside the home is necessary because continued stay in the home would be a detriment to the health and welfare of the child or the family, and all service options to keep the child in the home have been reviewed by an interdisciplinary team, as documented in the service file.
- ~~l. n.~~ For day habilitation, be 16 years of age or older.
- ~~m. o.~~ For the consumer choices option as set forth in 441—subrule 78.41(5)₂ not be living in a residential care facility.

- ITEM 21. Adopt the following **new** paragraphs **83.82(1)“n”** to **“p”**:
- n.* For individual supported employment and long-term job coaching services:
- (1) Be at least 16 years of age.
 - (2) The services must not be available to the member through one of the following:
 1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
 2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
 - (3) Not reside in a medical institution.
 - (4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in this outcome.
- o.* For small-group supported employment services:
- (1) Be at least 16 of age.
 - (2) The services must not be available to the member through one of the following:
 1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
 2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
 - (3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.
 - (4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.
 - (5) Not reside in a medical institution.
- p.* For prevocational services:
- (1) Be at least 16 of age.
 - (2) The services must not be available to the member through one of the following:
 1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
 2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
 - (3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in community employment.