

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to medical assistance advisory council**

The Human Services Department hereby amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

These amendments update Medical Assistance Advisory Council (MAAC) and executive committee meeting rules regarding MAAC membership, voting and duties and include removal of the executive committee and responsibilities.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 18, 2019, as **ARC 4818C**. One respondent provided comments. A summary of the comments and the Department’s responses follows.

**1. Comment regarding the roles of voting and nonvoting members.** The respondent suggested that there should be an explicit change to allow the professional or business entity members, who are not elected as voting members, to be identified as nonvoting members of the MAAC.

**Department response:** 2019 Iowa Acts, House File 766, revised the membership and voting provisions and duties of the MAAC. House File 766 specified the number of voting members as five professional or business entity members and five public members. The legislation also designated the 41 entities eligible for election as voting members of the MAAC. All 41 entities are eligible to participate and cast a ballot in the election of the five voting members. The legislation also specifically identifies the nonvoting members.

The legislation does not describe the role of the remaining 36 entities not elected as voting members of the MAAC. The Department will distribute meeting information and materials to all 41 entities. It is expected that the representatives of the remaining 36 entities will attend MAAC meetings and be engaged with all MAAC committee members regarding policy development, program administration and recommendations. Those 36 entity representatives have voted the five members to the committee and should work collaboratively with the voting members outside of meetings to share their thoughts on advising the Medicaid agency. The representatives of the 36 entities will be responsible for electing new members annually or when any vacancy occurs.

The legislation specifically describes the nonvoting members, who do not include the remaining 36 professional or business entities.

These amendments are consistent with the legislation, and no changes from the Notice have been made.

**2. Public hearing information requested.** The respondent requested information regarding how to request a public hearing and the required time frames for requesting a public hearing.

**Department response:** A request for a public hearing must be made during the time frame provided in the Notice of Intended Action. For this rule making, a request for public hearing would need to have been made by the close of business on January 7, 2020. This information was provided to the respondent by

email. The respondent's request regarding information on a public hearing does not necessitate changes to these amendments.

No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on February 12, 2020.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### *Effective Date*

This rule making will become effective on April 15, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 79.7(1) as follows:

**79.7(1) Officers.**

~~a. Definitions.~~

~~“Co-chairpersons” means the public health director co-chairperson and the public co-chairperson.~~

~~“Public co-chairperson” means the individual selected by the other publicly appointed members of the council to serve as a co-chairperson of the council.~~

~~“Public health director co-chairperson” means the director of the department of public health, who serves as a co-chairperson of the council.~~

~~b. a.~~ The public co-chairperson's term of office shall be two years. A public co-chairperson shall serve no more than two consecutive terms.

~~e. b.~~ The public co-chairperson shall have the right to vote on any issue before the council. The public health director co-chairperson serves as a nonvoting member of the council.

~~d. c.~~ The position of public co-chairperson shall be held by one of the ~~ten publicly appointed~~ five public council members. Ballots will be distributed to the public council members at the quarterly meeting closest to the beginning of the next state fiscal year and will be collected in paper and electronic format and administered by department of human services staff. The initial ballot following July 1, 2019, will be distributed by email prior to the first meeting in that fiscal year in order to identify the public co-chairperson prior to the council's first meeting.

~~e. d.~~ The co-chairpersons shall appoint members to other committees approved by the council.

~~f.~~ ~~The co-chairpersons shall also serve on the executive committee and will serve as the co-chairpersons of that committee.~~

~~g. e.~~ Responsibilities.

(1) The co-chairpersons shall be responsible for development of the agendas for meetings of the ~~full~~ council. Agendas will be developed and distributed in compliance with the advance notice requirements of Iowa Code section 21.4. Agendas will be developed in consultation with the staff and director of human services, taking into consideration the following:

1. Workplans. Items will be added to the council's agenda as various tasks for the council are due to be discussed based on calendar requirements. Council deliberations are to be conducted within a time frame to allow the ~~executive committee~~ council to receive ~~the council's feedback~~ and make recommendations to the director and for the director to consider those recommendations as budgets and policy for the medical assistance program are developed for the review of the council on human services and the governor, as well as for the upcoming legislative session.

2. Requests from the director of human services.

3. Discussion and action items from council members. The co-chairpersons will review any additional suggestions from council members at any time, including after the draft agenda has been distributed. The agenda will be distributed in draft form five business days prior to the council meeting, and the final agenda will be distributed no later than 24 hours prior to the council meeting.

(2) The co-chairpersons shall preside over all council ~~and executive committee~~ meetings, calling roll, determining a quorum, counting votes, and following the agenda for the meeting.

(3) The co-chairpersons shall consult with the department of human services on other administrative tasks to oversee the council and shall participate in workgroups and subcommittees as appropriate.

ITEM 2. Rescind subrule 79.7(2) and adopt the following new subrule in lieu thereof:

**79.7(2) Membership.** The membership of the council shall be as prescribed in Iowa Code section 249A.4B.

a. Council membership of professional and business entities shall number five and be identified from a vote among those entities outlined in Iowa Code section 249A.4B(3). Professional and business entities shall vote every year to identify the entities and their subsequent representatives that will represent the body of professional and business stakeholders on the council. Professional and business entities will also report their contact information to the department of human services.

(1) An initial election in SFY 2020 of five professional and business members shall be held. From this initial election of five members, three members with the most votes shall serve a three-year term and the other two members shall serve a two-year term. Once these members have served their initial term, the length of term for all following elected members shall be two years.

(2) Elections shall be organized along the following guidelines.

1. Ballots will be distributed at the quarterly meeting closest to the beginning of the next state fiscal year and will be collected in paper and electronic format and counted by department of human services staff.

2. The entities that receive the most votes shall serve on the council.

(3) Should any vacancy occur on the council, the entity that received the next highest number of votes in the most recent election shall serve on the council.

(4) If a voting entity's representative does not attend more than three consecutive meetings, the department of human services will notify the entity and representative and verify whether an alternative contact is needed. If a fourth consecutive meeting is missed after the notification, the voting entity's seat will be considered vacant and will be filled as outlined in subparagraph 79.7(2) "a"(3).

b. Council membership of public representatives shall consist of five representatives, of which one must be a recipient of medical assistance. All five public representatives will be appointed by the governor for staggered terms of two years each. All five public representatives will be voting members of the council.

c. A member of the hawki board, created in Iowa Code section 514I.5, selected by the members of the hawki board, shall be a member of the council. The hawki board member representative will be a nonvoting member of the council.

d. Council membership shall also consist of state agency and medical school partners, including representatives from the department of public health, the department on aging, the office of the long-term care ombudsman, Des Moines University and the University of Iowa College of Medicine.

(1) Partner agency and medical school representatives will be nonvoting members of the council.

(2) If an agency's or school's representative does not attend more than three consecutive meetings, the department of human services will notify the agency or school.

(3) Partner agencies and medical schools shall determine the length of appointment of their representatives. The department of human services will confirm each representative's participation every two years.

e. The following members of the general assembly shall be members of the council, each for a term of two years as provided in Iowa Code section 69.16B. Members appointed from the general assembly will serve as nonvoting members of the council.

(1) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives from their respective parties.

(2) Two members of the senate, one appointed by the president of the senate after consultation with the majority leader of the senate and one appointed by the minority leader of the senate from their respective parties.

ITEM 3. Amend subrules 79.7(3) to 79.7(5) as follows:

**79.7(3) Responsibilities, duties and meetings.** The responsibility of the medical assistance advisory council is to provide recommendations on the medical assistance program to the department of human services ~~through the executive committee of the council.~~

a. *Recommendations.* Recommendations made by ~~the executive committee from~~ the council shall be advisory and not binding upon the department of human services or the professional and business entities represented. The director of the department of human services shall consider the recommendations in the director's preparation of medical assistance budget recommendations to the council on human services, pursuant to Iowa Code section 217.3 and implementation of medical assistance program policies.

b. *Council.* The council shall be provided with information to deliberate and provide input on the medical assistance program. ~~The executive committee will use that input in making final recommendations to the department of human services.~~ The council will use that input in making final recommendations to the department of human services.

(1) to (5) No change.

~~(6) The council shall review the recommendations submitted by the executive committee regarding feedback received at the IA Health Link statewide public comment meetings outlined in 2016 Iowa Acts, chapter 1139, section 102.~~

~~c. *Executive committee.*~~

~~(1) Executive committee meetings.~~

~~1. The executive committee shall meet on a monthly basis.~~

~~2. Meetings may be called by the co-chairpersons; upon written request of at least 50 percent of executive committee members; or by the director of the department of human services.~~

~~3. Meetings shall be held in the Des Moines, Iowa, area unless other notification is given. Meetings will also be made available via teleconference, when available.~~

~~4. In a month when a council meeting is held, the executive committee shall meet after the council meeting, allowing committee members to discuss and make recommendations based on the topics discussed by council members.~~

~~(2) Based on the deliberations of the full council, the executive committee shall make recommendations to the director of human services regarding the budget, policy, and administration of the medical assistance program. Such recommendations may include:~~

~~1. Recommendations on the reimbursement for medical services rendered by providers of services.~~

~~2. Identification of unmet medical needs and maintenance needs which affect health.~~

~~3.—Recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.~~

~~4.—Recommendations for ways in which needed medical supplies and services can be made available most effectively and economically to program recipients.~~

~~5.—Advice on such administrative and fiscal matters as the director of human services may request.~~

~~(3) Pursuant to 2016 Iowa Acts, chapter 1139, section 102, the executive committee shall review the compilation of the input and recommendations from the public meetings convened statewide and shall submit recommendations based upon the compilation to the director of human services on a quarterly basis through December 31, 2017.~~

**79.7(4) Procedures.**

~~a.—Procedures shall apply to both the council and the executive committee.~~

~~b. a.~~ A quorum shall consist of 50 percent (five persons) of the current voting members.

~~e. b.~~ Where a quorum is present, a position is carried by two-thirds of the present council members present.

~~d. c.~~ Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member of the full council.

~~e. d.~~ In cases not covered by these rules, Robert's Rules of Order shall govern.

**79.7(5) Expenses, staff support, and technical assistance.** Expenses of the council ~~and executive committee~~, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of human services. The department shall arrange for a meeting place, related services, and accommodations. The department shall provide staff support and independent technical assistance to the council ~~and the executive committee~~.

~~a. to c.~~ No change.

~~d.~~ The department shall maintain a current list of members on the council ~~and executive committee~~.

~~e.~~ The department shall be responsible for the organization of all council ~~and executive committee~~ meetings and notice of meetings.

~~f.~~ As required in Iowa Code section 21.3, minutes of the meetings of the council ~~and of the executive committee~~ will be kept by the department. The ~~co-chairpersons~~ council will review minutes before distribution to the public.

~~g.—The department shall compile input and recommendations received at the public meetings established in 2016 Iowa Acts, chapter 1139, section 102, and submit the information to the executive committee for review.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/11/20.