

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to medical and remedial services
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 9, “Public Records and Fair Information Practices,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 81, “Nursing Facilities,” and Chapter 153, “Funding for Local Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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These proposed amendments make technical corrections to administrative rules by removing references to outdated programs. In addition, corrections are made to the units of service for intermittent supported community living to bring the language into alignment with current terminology and practice. These amendments also change the number of days, from 30 to 120, a member may be in a medical institution and resume services under the state plan Home- and Community-Based Services (HCBS) Habilitation Program without having to reapply. This change aligns policy implemented in 2018 for all other waiver programs. These amendments clarify what is considered a member’s home for purposes of receiving occupational, physical and speech therapy.

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).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **9.12(1)“a”(3)** as follows:

(3) Data processing systems. Client identifying information, eligibility data, and payment data are kept in the following systems. Some of these records are also kept on microfiche.

<u>System</u>	<u>Function</u>
Automated Benefit Calculation System	Determines eligibility for FIP, food assistance, Medicaid
Automated Child Abuse and Neglect System	Inactive child abuse/neglect system
Appeals Logging and Tracking System	Tracks client appeals
BCCT Program	Establishes Medicaid eligibility for breast and cervical cancer clients
Change Reporting System	Tracks client-reported changes and produces forms needed for client-reported changes
Diversion System	Tracks clients using diversion benefits
Electronic Payment Processing and Inventory Control System	Electronically issues food assistance
Eligibility Tracking System	Tracks clients’ FIP eligibility and hardship status
Family and Children’s Services System	Tracks foster care, adoption, family-centered and family preservation services
Food Stamps Case Reading Application	Food assistance accuracy tool used to record case reading information
Health Insurance Premium Payment System	Health insurance premium payment
Iowa Collection and Reporting System	Tracks child support recovery processes
Iowa Central Employee Registry	Child support new hire reporting system
Iowa Eligibility Verification System	Federal social security number verification and benefits
Iowa Plan Program	Assigns group codes for Iowa Plan clients
Individualized Services Information System	Used to establish facility eligibility, process data to and from ABC and Medicaid fiscal agent, establish waiver services, providers, and eligibility
Issuance History	Displays benefit issuances for FIP and food assistance
KACT System	Authorizes foster care service units

<u>System</u>	<u>Function</u>
MEPD Premium Payment Program	Accounting system for billing and payment for Medicaid for employed people with disabilities program
Managed Health Care Program	Assigns managed health care providers to clients
Medicaid Management Information Systems	Process clients' Medicaid claims and assign Medicaid coverage to clients
Overpayment Recoupment System	Used to recover money from FIP, food assistance, Medicaid, child care assistance, PROMISE JOBS, and hawki clients
Public Information Exchange PJCASE	Data exchange between states Iowa workforce development interface with PROMISE JOBS
Purchase of Social Services System	Purchased services (mostly child care and in-home health clients)
Presumptive Eligibility Program	Establishes Medicaid eligibility for presumptive eligibility clients
Quality Control System	Selects sample for quality control review of eligibility determination
RTS Claims Processing System	Processes rehabilitative treatment claims for federal match
State Data Exchange Display	State data exchange information for supplemental security income recipients
Social Security Buy-In System	Medicare premium buy-in
Social Services Reporting System	Services reporting system for direct and purchased services
Statewide Tracking of Assessment Reports	Tracks child abuse reports

ITEM 2. Amend subrule 78.12(5), introductory paragraph, as follows:

78.12(5) Approval of plan. The behavioral health intervention provider shall contact the ~~Iowa Plan provider~~ member's managed care plan for authorization of the services.

ITEM 3. Amend paragraph **78.12(5)“b,”** introductory paragraph, as follows:

b. Subsequent plans. The ~~Iowa Plan contractor~~ member's managed care plan may approve a subsequent services implementation plan according to the conditions in paragraph 78.12(5)“a” if the services are recommended by a licensed practitioner of the healing arts who has:

ITEM 4. Amend subparagraph **78.19(1)“a”(1)** as follows:

(1) Services are provided in the member's home or in a care facility (other than a hospital) by a speech therapist, physical therapist, or occupational therapist employed by or contracted by the agency. A nursing facility, an intermediate care facility for persons with an intellectual disability, or a hospital where services are provided is not considered a member's home.

1. Services provided to a member residing in a residential care facility licensed under Iowa Code section 135C.4 by the department of inspections and appeals are payable when the residential care facility submits a signed statement that the residential care facility does not have these services available. The statement need only be submitted at the start of care unless the situation changes. Payment

2. Under no circumstances will not be made the IME or managed care organizations (MCOs) make payments to a rehabilitation agency for therapy provided to a member residing in a nursing facility or an intermediate care facility for persons with an intellectual disability since these facilities are responsible for providing or paying for services required by members. Physical, occupational, and speech therapy services for residents of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital are the responsibility of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital.

ITEM 5. Amend subparagraph **78.27(10)“e”(3)** as follows:

(3) Individual supported employment is limited to ~~240~~ 60 hourly units per calendar year.

ITEM 6. Amend subparagraph **78.27(11)“c”(5)** as follows:

(5) The member has received care in a medical institution for ~~30~~ 120 consecutive days in any one stay. When a member has been an inpatient in a medical institution for ~~30~~ 120 consecutive days, the department will issue a notice of decision to inform the member of the service termination. If the member returns home before the effective date of the notice of decision and the member’s condition has not substantially changed, the decision shall be rescinded, and eligibility for home- and community-based habilitation services shall continue.

ITEM 7. Amend rule 441—78.34(249A), introductory paragraph, as follows:

441—78.34(249A) HCBS ~~ill and handicapped health and disability waiver services~~. Payment will be approved for the following services to members eligible for HCBS ~~ill and handicapped health and disability~~ waiver services as established in 441—Chapter 83 and as identified in the member’s service plan. Effective March 17, 2022, payment shall only be made for services provided in integrated, community-based settings that support full access of members receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

ITEM 8. Amend subrule 78.34(8), introductory paragraph, as follows:

78.34(8) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 9. Amend subrule 78.34(14), introductory paragraph, as follows:

78.34(14) *General service standards.* All ~~ill and handicapped health and disability~~ waiver services must be provided in accordance with the following standards:

ITEM 10. Amend subrule 78.41(9), introductory paragraph, as follows:

78.41(9) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 11. Amend subrule 78.43(14), introductory paragraph, as follows:

78.43(14) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 12. Amend paragraph **78.52(4)“b”** as follows:

b. In-home family therapy is exclusive of and cannot serve as a substitute for individual therapy, family therapy, or other mental health therapy that may be obtained through ~~the Iowa Plan~~ Medicaid or other funding sources.

ITEM 13. Amend subrule 79.1(2), provider category “HCBS waiver service providers,” paragraph “1,” as follows:

1. Adult day care

For AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Fee schedule

Effective 7/1/16, for AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Provider’s rate in effect 6/30/16 plus 1%, converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/16 rate: Veterans Administration contract rate or \$1.47 per 15-minute unit, \$23.47 per half day, \$46.72 per full day, or \$70.06 per extended day if no Veterans Administration contract.

For intellectual disability waiver:
Fee schedule for the member’s acuity tier, determined pursuant to 79.1(30)

Effective 7/1/17, for intellectual disability waiver: The provider’s rate in effect 6/30/16 plus 1%, converted to a 15-minute or half-day rate. If no 6/30/16 rate, \$1.96 per 15-minute unit or \$31.27 per half day.

For daily services, the fee schedule rate published on the department’s website, pursuant to 79.1(1) “c,” for the member’s acuity tier, determined pursuant to 79.1(30).

ITEM 14. Amend paragraph **79.1(16)“q”** as follows:

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP services are limited as set forth at 441—subparagraph 78.31(4) “d”(7) and are reimbursed on a fee schedule basis. ~~Mental health NIP services are the responsibility of the managed mental health care and substance abuse (Iowa Plan) contractor for persons eligible for managed mental health care.~~

ITEM 15. Amend subparagraph **79.1(24)“b”(6)** as follows:

(6) If a provider fails to submit a cost report for services provided through June 30, 2013, that meets the requirements of this paragraph, the Iowa Medicaid enterprise ~~or the Iowa Plan for Behavioral Health contractor~~ shall reduce the provider’s rate to 76 percent of the current rate. The reduced rate shall be paid until the provider’s cost report has been received by the Iowa Medicaid enterprise’s provider cost audit and rate setting unit pursuant to subparagraph 79.1(24) “b”(4) but for not longer than three months, after which time no further payments will be made.

ITEM 16. Amend subparagraph **81.13(14)“b”(6)** as follows:

(6) May include:

1. Acute inpatient psychiatric treatment. When inpatient psychiatric treatment may be prevented through specialized services provided in the nursing facility, services provided in the nursing facility are preferred.
2. Initial psychiatric evaluation to determine a resident’s diagnosis and to develop a plan of care.
3. Follow-up psychiatric services by a psychiatrist to evaluate resident response to psychotropic medications, to modify medication orders and to evaluate the need for ancillary therapy services.
4. Psychological testing required for a specific differential diagnosis that will result in the adoption of appropriate treatment services.
5. Individual or group psychotherapy as part of a plan of care addressing specific symptoms.

6. Any clinically appropriate service which is available through the Iowa plan for behavioral health and for which the member meets eligibility criteria.

ITEM 17. Amend paragraph **153.55(2)“d”** as follows:

d. Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, unless the Iowa plan contractor decertifies the member for case management services.