

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to family support statewide database and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 155, “Child Abuse Prevention Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 235A.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 235A.1.

Purpose and Summary

The proposed amendment modifies language around the Department’s use of the Family Support Statewide Database, maintained by the Iowa Department of Public Health. The current rule requires the Department grantees to input participant data into the system. However, it does not authorize the Department to release the data to other state agencies, including the Iowa Department of Public Health. Under the proposed rule making, the Department would cause the Iowa Department of Public Health to access the participant data entered by Department grantees for the purposes of system quality assurance.

The proposed amendment is necessary given the Department’s role as a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), a law designed to protect patients’ medical and other health information records provided to health plans, doctors, hospitals and other health care providers. There will continue to be a memorandum of understanding with the Iowa Department of Public Health to address the privacy and security of the Department’s data and to outline the expectations of both parties, but this proposed amendment will prevent the need for individual patient authorization. Department services are not intended to be medical treatment. However, case records may include participants’ self-reported data about the family that could be classified as protected health information. For example, information about a child’s developmental screening results is often a part of a home visiting program’s record.

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 November 10, 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 action is proposed:

Amend subrule 155.4(2) as follows:

155.4(2) ~~Grantees, or the identified service providers, that provide family support services under the program shall enter participant data in~~ The department shall cause participant data to be entered into the state-administered, Internet-based data collection system identified in Iowa Code section 256I.13(3) and maintained by the Iowa department of public health. This release of information by the department is required by law, and as such, data entered into the system maintained by the Iowa department of public health will no longer be protected by the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and associated implementing regulations found at 45 CFR Parts 160, 162, and 164. In addition, no information gathered by grantees and disclosed pursuant to this subrule is gathered for purposes of treating individuals for substance abuse. As such, the data disclosed pursuant to this subrule is not protected by 42 U.S.C. § 290dd-2 or by the implementing regulations found at 42 CFR 2. In addition, the substance abuse treatment information so released is not subject to the confidentiality provisions of Iowa law found at Iowa Code sections 125.37 and 125.93.