

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to mental health institutes and resource centers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 28, “Policies for Mental Health Institutes and Resource Centers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 218.4 and 222.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 218.4 and 222.6.

Purpose and Summary

The Department proposes to update rules in Chapter 28 to align with current practices and eliminate outdated terminology. This is part of the Department’s five-year rules review process required under Iowa Code section 17A.7(2).

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 March 29, 2022. 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 rule **441—28.1(218)**, definitions of “Catchment area,” “Informed consent” and “Superintendent,” as follows:

“*Catchment area*” means the group of counties, designated by the division administrator, that each ~~mental health institute or state resource center~~ is assigned to serve.

“*Informed consent*” means an agreement by an individual or by the individual’s parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.
2. A description of the ~~attendant~~ discomforts and risks.
3. A description of the benefits to be expected.
4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.
5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“*Superintendent*” means the superintendent of any of the ~~four~~ two mental health institutes and the two state resource centers.

ITEM 2. Rescind the definitions of “Central point of coordination process,” “Family contact” and “Official designated agent” in rule **441—28.1(218)**.

ITEM 3. Amend rule 441—28.2(218,222) as follows:

441—28.2(218,222) Selection of facility. Application for voluntary admission to a resource center shall be made to the facility in the catchment area within which the individual for whom admission is sought has a county of residence. The individual may be admitted to a state resource center in another catchment area if that facility has a more suitable opening.

~~**28.2(1)** Application for voluntary admission to a state mental health institute or resource center shall be made to the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual for whom admission is sought has a county of residence.~~

~~**28.2(2)** Court commitment of an individual shall be made:~~

~~*a.*—To the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual who is being committed has a county of residence; or~~

~~*b.*—As designated by the division administrator.~~

~~**28.2(3)** The division administrator shall consider granting exceptions to the established catchment areas when requested by the individual seeking a voluntary admission or by the committing court. The division administrator’s decision shall be made within 48 hours of receipt of the request. The decision shall be based on:~~

~~*a.*—The clinical needs of the individual;~~

~~*b.*—The availability of appropriate program services;~~

~~*c.*—Available bed space within the program at the requested facility; and~~

~~*d.*—The consent of the superintendents of both facilities involved.~~

~~This rule is intended to implement Iowa Code sections 218.19, and 218.20, and 222.6.~~

ITEM 4. Adopt the following **new** implementation sentence in rule **441—28.7(218)**:

This rule is intended to implement Iowa Code chapter 218.