

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to rent reimbursement program  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to adopt new Chapter 62, “Rent Reimbursement Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code chapter 425.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 425.37.

*Purpose and Summary*

Iowa Code chapter 425 provides for a property tax credit for low-income elderly and disabled Iowans. To provide parity for low-income elderly and disabled Iowans who do not own property, the law also establishes reimbursement for rent constituting property taxes paid by the property owner. Currently, both the property tax credit and the rent reimbursement program are administered by the Iowa Department of Revenue (IDR). Effective January 1, 2023, the Department of Human Services (DHS) will take over administration of the rent reimbursement portion of Iowa Code sections 425.15 through 425.40. The proposed rule making establishes rules for the rent reimbursement program.

*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 July 19, 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](mailto: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:

Adopt the following new 441—Chapter 62:

## CHAPTER 62 RENT REIMBURSEMENT

**441—62.1(425) Eligible claimants.** This rule is effective for rent reimbursement claims filed on or after January 1, 2023.

**62.1(1)** The rent reimbursement program is available to claimants who:

- a. Were at least 23 years of age or a head of household on December 31 of the base year,
- b. Were not or will not be claimed as a dependent on another person’s federal or state income tax return for the base year in the case of a claimant who is not disabled or at least 65 years of age,
- c. Did not have household income in excess of the indexed amount determined pursuant to Iowa Code section 425.23(4) during the base year,
- d. Are domiciled in Iowa at the time the claim is filed or were at the time of the claimant’s death, and occupied and rented the property during any part of the base year.

**62.1(2)** If a homestead is occupied by two or more eligible claimants, each person may file a claim based upon each person’s income and each person’s share of the rent paid.

**62.1(3)** The computed reimbursement shall be determined in accordance with the applicable schedule provided in Iowa Code section 425.23(1) as adjusted by the indexed amount determined in Iowa Code section 425.23(4).

This rule is intended to implement Iowa Code sections 425.17(2) and 425.23.

**441—62.2(425) Dual claims.**

**62.2(1)** A claimant changing homesteads during the base year who will make property tax payments during the fiscal year following the base year and who also made rent payments during the base year is entitled to receive both a property tax credit and rent reimbursement.

**62.2(2)** Separate claim forms for the property tax credit and the rental reimbursement shall be filed with the county treasurer and the Iowa department of human services (DHS), respectively.

**62.2(3)** The claims are to be based on the actual property tax due and rent constituting property tax paid, with a combined maximum of \$1,000 upon which the credit and reimbursement can be calculated.

EXAMPLE: \$800 property tax due

\$400 rent constituting property taxes paid

- a. The claim form for calculating the property tax credit shall reflect the entire \$800 amount.
- b. The claim form for calculating the rent reimbursement shall reflect only the remaining \$200 of the \$1,000 maximum allowance.
- c. DHS will issue refund warrants for rent reimbursement claims. The county treasurer shall apply the credit.

This rule is intended to implement Iowa Code section 425.24.

**441—62.3(425) Multipurpose building.**

**62.3(1)** A multipurpose building is a building which is used for other purposes in addition to being used for living accommodations. If a portion of a homestead property is utilized for business purposes, the property is considered to be a multipurpose building.

**62.3(2)** The portion of the property tax due or rent constituting property tax paid attributable to the homestead only is to be used in determining the allowable credit or reimbursement. This portion is to be calculated by determining the percentage of the homestead square footage to the square footage of the entire multipurpose structure. This percentage is then to be applied to the property tax due in the current fiscal year or rent constituting property tax paid for the base year.

This rule is intended to implement Iowa Code section 425.17(8).

**441—62.4(425) Income.**

**62.4(1)** Income includes the amount of in-kind assistance received by the claimant for housing expenses such as federal rent subsidy payments made directly to the landlord on behalf of the claimant and energy assistance benefits received by the claimant from or through a public utility.

**62.4(2)** In determining income, net operating losses and net capital losses are not to be considered. If the comparison of gains and losses results in a net gain, such amount shall be considered income. If the comparison results in a net loss, the net loss shall be disregarded.

This rule is intended to implement Iowa Code section 425.17(7).

**441—62.5(425) Simultaneous homesteads.** A person who rents one property and also rents another property for a simultaneous period of time is limited to claiming rent reimbursement on the property which is considered the person's domicile.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.6(425) Confidential information.** Information contained on a rent reimbursement claim form is confidential except that the information may be released to an employee of the department of inspections and appeals to assist in the performance of an audit or investigation. Rule 701—6.3(17A) contains guidelines that govern such audits and investigations.

This rule is intended to implement Iowa Code section 425.28.

**441—62.7(425) Mobile, modular, and manufactured homes.** Rent paid by an eligible claimant for occupancy of a mobile, modular, or manufactured home subject to the annual tax as provided in Iowa Code chapter 435 is subject to reimbursement regardless of how the home is taxed.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.8(425) Totally disabled.**

**62.8(1)** A person who is totally disabled must be unable to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment. In addition, the impairment must have lasted or must be reasonably expected to last for a continuous period of 12 months or must be expected to result in death. This disabled condition must be the determining factor in the person's inability to engage in gainful employment.

**62.8(2)** A claimant is considered totally disabled only if the physical or mental impairment or impairments are of such severity that the claimant is not only unable to do work previously performed but cannot, considering the claimant's age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the claimant lives, or whether a specific job vacancy exists, or whether the claimant would be hired if the claimant applied for work. 42 U.S.C. §423 contains more information about disability insurance benefit payments.

**62.8(3)** Examples of physical conditions which could possibly constitute total disability would include, but are not limited to:

- a. Loss of major function of one or both legs or arms;

- b. Progressive diseases which have resulted in the loss of one or both legs or arms or which have caused them to become useless; severe arthritis;
- c. Diseases of the heart, lungs, or blood vessels which have resulted in serious loss of heart or lung reserve;
- d. Diseases of the digestive system which have resulted in severe malnutrition, weakness, or anemia prohibiting gainful employment;
- e. Damage to the brain or brain abnormality which has resulted in severe loss of judgment, intellect, orientation, or memory; or
- f. Paralysis or diseases of the nervous system which prohibit coordination or major functioning of the body so as to prevent gainful employment.

**62.8(4)** For purposes of this rule, a person shall not be considered unable to engage in substantial gainful employment unless the person has attained the age of 18 on or before December 31 of the base year.

This rule is intended to implement Iowa Code section 425.17(11).

**441—62.9(425) Nursing homes.** A claimant whose homestead is a nursing home is eligible to file a reimbursement claim for rent constituting property tax paid unless the person is eligible for a property tax credit on an owned homestead.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.10(425) Household.** “Household” includes the claimant and the claimant’s spouse if living with the claimant at any time during the base year. “Living with” does not include a temporary visit. Only one claimant per household is entitled to a reimbursement.

This rule is intended to implement Iowa Code sections 425.17(5) and 425.22.

**441—62.11(425) Homestead.** A person who owns a homestead but is confined to a care facility shall be considered as occupying the owned homestead provided the person does not lease or otherwise receive profits from others for the use of the homestead. The person shall be eligible for a property tax credit but shall not be eligible for a rent reimbursement.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.12(425) Household income.**

**62.12(1)** Household income includes income of the claimant and the claimant’s spouse and actual monetary payments made to the claimant by any other person living with the claimant. Household income does not include social security benefits received by the claimant’s child and given to the claimant.

**62.12(2)** Monetary payments do not include goods and services provided to the claimant by a person living with the claimant.

This rule is intended to implement Iowa Code sections 425.17(6) and 425.17(7).

**441—62.13(425) Timely filing of claims.** If a timely mailed rent reimbursement claim is not received by DHS or is received after the June 1 filing deadline, the claim will be considered to have been timely filed if the claimant complies with the provisions of Iowa Code section 622.105. The director of DHS or the director’s designee may also extend the filing deadline for rent reimbursement claims through December 31 of the following year.

This rule is intended to implement Iowa Code section 425.20.

**441—62.14(425) Separate homestead—spousal rent reimbursements.** If two spouses are both qualified claimants renting separate and distinct homesteads, and rent is paid by each, each is eligible to file an individual reimbursement claim for rent constituting property tax paid.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.15(425) Gross rent/rent constituting property taxes paid.** “Gross rent” means the total amount of rent paid for use of the homestead by the claimant, and “rent constituting property taxes paid” means 23 percent of the gross rent.

This rule is intended to implement Iowa Code sections 425.17(3) and 425.17(9).

**441—62.16(425) Leased land.** An individual who owns a dwelling located on land owned by another may claim a credit of property taxes due on the dwelling and a reimbursement of rental payments made for the use of the land if the land has been assessed for taxation.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.17(425) Property: taxable status.** In order for a claimant to be eligible to file a rent reimbursement claim, the property upon which the claimant resided during the base year must have been in a taxable status during the base year. If the property was taxable for only part of the base year, the rent reimbursement must be prorated accordingly (OP.ST. BD. Tax Rev. 187). However, this restriction does not apply to property that became tax exempt on or after July 1, 1986, provided the claimant received a reimbursement of rent constituting property taxes paid on the property when it was in a taxable status and continues to reside in the same property.

This rule is intended to implement Iowa Code section 425.17(4).

**441—62.18(425) Income: spouse.** The income of a spouse does not have to be reported on the claimant’s return unless the spouse lived with the claimant at the property upon which rent reimbursement is claimed. If the spouse lived with the claimant for only a portion of the base year, only that portion of the spouse’s income which was received while living with the claimant must be reported as income on the claimant’s return. If the spouse is eligible to claim reimbursement, the spouse does not have to include any income that was reported on the other claimant’s (spouse’s) return.

This rule is intended to implement Iowa Code section 425.17(6).

**441—62.19(425) Common law marriage.**

**62.19(1)** A common law marriage is a social relationship between two persons that meets all the necessary requisites of a marriage except that it was not solemnized, performed, or witnessed by an official authorized by law to perform marriages.

**62.19(2)** The necessary elements of a common law marriage are:

- a. A present intent of both parties freely given to become married,
- b. A public declaration by the parties or a holding out to the public that they are spouses,
- c. Continuous cohabitation together as spouses (this means consummation of the marriage), and
- d. Both parties must be capable of entering into the marriage relationship.

**62.19(3)** No special time limit is necessary to establish a common law marriage.

This rule is intended to implement Iowa Code section 425.17.

**441—62.20(425) Deceased claimant.** A claim for rent reimbursement may be filed on behalf of a deceased person by the person’s spouse, attorney, guardian, or the executor or administrator of the person’s estate.

This rule is intended to implement Iowa Code sections 425.17(2) and 425.18.

**441—62.21(425) Audit of claim.**

**62.21(1) Authority.** DHS may investigate the eligibility of a claimant for rent reimbursement.

**62.21(2) Recomputed rent reimbursement claim.** If DHS determines a computed rent reimbursement is in error, DHS shall collect any overpayment from the claimant or reimburse the claimant for any underpayment. If a claimant fails to reimburse DHS for an overpayment, the amount of overpayment shall be deducted from any future rent reimbursement to which the claimant is entitled.

This rule is intended to implement Iowa Code section 425.27.

**441—62.22(425) Extension of time for filing a claim.** The granting of an extension of time for filing a claim for reimbursement does not extend the time within which or the dates on or by which eligibility requirements must be satisfied.

This rule is intended to implement Iowa Code section 425.20.

**441—62.23(425) Annual adjustment factor.** The income levels used for determining the allowable percent rent reimbursement shall be adjusted each year to reflect the inflation factor as computed pursuant to Iowa Code section 422.4.

This rule is intended to implement Iowa Code sections 425.23 and 435.22(2).

**441—62.24(425) Proration of claims.** If the director of DHS or the director's designee determines that the amount of funding provided pursuant to Iowa Code section 425.39 will be insufficient to pay all rent reimbursement claims filed, the director or the director's designee shall estimate the percentage at which the claims will be paid and shall prorate the payment of each rent reimbursement claim by the same estimated percentage.

This rule is intended to implement Iowa Code sections 25B.7 and 425.39.

**441—62.25(425) Unreasonable hardship.** In order to avoid any unreasonable hardship to a claimant, the director of DHS or the director's designee may review the facts and circumstances of the claim as set forth by the claimant. The director or the director's designee may investigate all factors related to the specific case as deemed appropriate by the director or the director's designee. If the director or the director's designee is satisfied that the claim qualifies as an undue hardship for the claimant, the claim will be approved by the director or the director's designee.

This rule is intended to implement Iowa Code section 425.37.

**441—62.26(425) Appeal.** Notice of adverse action taken by DHS shall be issued in accordance with 441—Chapter 16, and the right to appeal shall be given in accordance with 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.