

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Inspections and Appeals Department (Department) hereby proposes to amend Chapter 22, “Health Care Facility Audits,” and Chapter 72, “Economic Fraud Control Bureau,” to rescind Chapter 75, “Divestiture Unit,” and to amend Chapter 90, “Public Assistance Debt Recovery Unit,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 10A.104.

Purpose and Summary

The Department completed a comprehensive review of Chapters 22, 75, and 90 in accordance with the requirements in Iowa Code section 17A.7(2). This proposed rule making updates terminology used in Chapters 22 and 90, clarifies current processes in Chapter 90, and eliminates the Divestiture Unit set forth in Chapter 75.

Chapter 75 sets forth the process by which the Department receives referrals from the Department of Human Services to establish a medical assistance debt. The Department ceased this activity in 2019 upon the cessation of new program referrals communicated by the Department of Human Services. The Department continues related debt recovery work through its Public Assistance Debt Recovery Unit. As a result, Chapter 75 of the Department’s rules is being rescinded. This rule making also eliminates other references to the divestiture unit and updates terminology in Chapter 72 to be consistent with Chapter 90.

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 481—Chapter 6.

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 August 2, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

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 subrule 22.2(1) as follows:

22.2(1) Information may be added to an audit file by the subject of the audit when the subject notifies the Audits ~~Division~~ Unit, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 2. Amend rule ~~481—72.1(10A)~~, definitions of “EBT,” “EBT trafficking or misuse” and “Public assistance,” as follows:

“EBT” or “*electronic benefit transfer*” means the electronic process that allows a client to authorize transfer of the client’s benefits from a financial account to a retailer to pay for eligible items received. Clients are issued an EBT card similar to a bank ATM or debit card to receive and use their ~~food assistance~~ supplemental nutrition assistance program (SNAP) benefits.

“*EBT trafficking or misuse*” means the use of ~~food assistance~~ SNAP benefits for something other than their intended use.

“*Public assistance*” means child care assistance, family investment program, ~~food assistance~~ SNAP, medical assistance, state supplementary assistance, refugee cash assistance, or any other state or federal assistance program.

ITEM 3. Amend rule ~~481—72.2(10A)~~ as follows:

~~481—72.2(10A) Economic fraud control bureau (EFCB).~~ ~~The EFCB is comprised of two units, the program integrity/EBT unit and the divestiture unit. The functions of each unit are described in 481—paragraph 1.4(1)“c.” Generally, the EFCB conducts investigations of public assistance fraud in order to maintain integrity and accountability in the administration of public assistance benefits. Divestiture unit rules are found in 481—Chapter 75.~~

ITEM 4. Rescind and reserve ~~481—Chapter 75~~.

ITEM 5. Amend rule ~~481—90.1(10A)~~, definitions of “Allotment reduction” and “Public assistance,” as follows:

“*Allotment reduction*” means an amount withheld from a financial or ~~food assistance~~ supplemental nutrition assistance program (SNAP) benefit. More specifically, “grant reduction” refers to the family investment program (FIP) and to refugee cash assistance (RCA), and “benefit reduction” refers to ~~the food assistance (FA) program~~ SNAP.

“Public assistance” means any program that DHS administers that confers a financial, medical, or ~~food-assistance~~ SNAP benefit.

ITEM 6. Rescind the definition of “FA” in rule **481—90.1(10A)**.

ITEM 7. Adopt the following new definition of “SNAP” in rule **481—90.1(10A)**:

“SNAP” means the supplemental nutrition assistance program and refers to the benefits provided by the federal program administered through 7 CFR Parts 270 through 283 as set forth in rule 441—65.1(234).

ITEM 8. Amend rule 481—90.2(10A) as follows:

481—90.2(10A) Recovery process. The recovery process begins when data is successfully entered on the ~~DHS designated~~ overpayment recovery system and a notice of debt is issued to the debtor. The data specifies which public assistance program(s) is owed a debt.

ITEM 9. Rescind and reserve rule **481—90.4(10A)**.

ITEM 10. Amend rule 481—90.5(10A) as follows:

481—90.5(10A) Debt repayment. A notice of debt or Form 470-0495, Agreement to Pay a Debt, is used to initiate payments of a debt. The minimum rate of payment is determined by each program (~~unless unless set by a court order~~) and is order or otherwise negotiated by the debtor and recovery unit DHS. All recoveries are transmitted to the DHS cashier. Payments are made directly ~~in~~ by cash, check, or money order or through an online payment portal by the debtor except as otherwise provided in this rule. The amount of allotment reduction for a FIP overpayment caused by an agency error shall be different from the amount of allotment reduction for a client error, as determined by DHS.

90.5(1) Active cases—PROMISE JOBS program. For payment reduction for the PROMISE JOBS program, the debtor must provide written permission to effectuate a FIP reduction.

90.5(2) Active cases—FIP, RCA, ~~EA~~ SNAP. Allotment reduction shall be used, except that cash payment pursuant to a repayment agreement may be used when the repayment amount exceeds the amount that may be collected by allotment reduction. For ~~the food-assistance program SNAP~~, debt repayment may also be made in accordance with subrule 90.5(3).

90.5(3) ~~Food-assistance program SNAP~~ with electronic benefit balances. ~~Food-assistance SNAP~~ payments may be made by returning electronic benefits to pay the debt.

ITEM 11. Amend subrule 90.6(2) as follows:

90.6(2) For ~~food-assistance SNAP~~ debts. In addition to the above actions, federal offsets (taxes, federal payments) may be used for the collection of ~~food-assistance SNAP~~ debts in accordance with rule 441—11.5(234).