

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.3, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendments change Medicaid eligibility requirements related to assignment of rights to medical payments from third parties. Federal regulations at 42 CFR 433.146 require that assignment of rights to medical payments be a condition of Medicaid eligibility. 2008 Iowa Acts, Senate File 249, amended Iowa Code section 249A.6 to require the assignment of rights to medical payments as a condition of Medicaid eligibility and require cooperation in obtaining medical payments.

Under these amendments, a client's signature on any Medicaid application or review form shall constitute agreement for assignment of third-party medical benefits to the Department of Human Services.

These amendments do not provide for waivers in specified situations because federal regulations and Department rules require that Medicaid pay only claims that are not the responsibility of any other entity.

Any interested person may make written comments on the proposed amendments on or before December 10, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.6 as amended by 2008 Iowa Acts, Senate File 249, section 2.

The following amendments are proposed.

ITEM 1. Amend subrule 75.2(2) as follows:

~~75.2(2) When a medical resource may be obtained by filing a claim or an application and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist. As a condition of eligibility for medical assistance, a person who has the legal capacity to execute an assignment shall do all of the following:~~

~~a. The member, or one acting on the member's behalf, shall file a claim or submit an application for any reasonably available medical resource, and shall also cooperate in the processing of the claim or application. Failure to do so without good cause shall result in the termination of medical assistance benefits. Assign to the department any rights to payments of medical care from any third party. The applicant's signature on any form listed in 441—subrule 76.1(1) shall constitute agreement to the assignment. The assignment shall be effective for the entire period for which medical assistance is paid.~~

~~b. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated. Cooperate with the department in obtaining third-party payments. The member or one acting on the member's behalf shall:~~

~~(1) File a claim or submit an application for any reasonably available medical resource, and~~

~~(2) Cooperate in the processing of the claim or application.~~

c. Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

ITEM 2. Amend subrule 75.2(4) as follows:

75.2(4) Failure to cooperate as required in subrule 75.2(2) without good cause as defined in subrule 75.2(3) shall result in the termination of medical assistance benefits. The department shall make the determination of good cause based on information and evidence provided by the member, or by one acting on the member's behalf.

a. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources.

b. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated.