

COMMUNITY ACTION AGENCIES DIVISION[427]

Adopted and Filed Emergency

Pursuant to Iowa Code section 541A.5, the Commission on Community Action Agencies hereby adopts new Chapter 14, “Individual Development Accounts (IDAs),” Iowa Administrative Code.

Individual development accounts (IDAs) are established in Iowa Code chapter 541A. These rules establish the policies and procedures governing IDAs in replacement of 441—Chapter 10, Iowa Administrative Code.

The IDA is a tax-benefited means for an individual whose annual household income does not exceed 200 percent of the federal poverty level to accumulate assets and earnings on assets for long-term purposes that lead to family self-sufficiency. Withdrawal of funds from an individual’s IDA is intended to be used for any or all of the following purposes: educational costs at an institution of higher learning; job training costs; purchase of a primary residence; capitalization of a small business start-up; an improvement to a primary residence which increases the tax basis of the property; emergency medical costs for the account holder or for a member of the account holder’s family which is limited to a single withdrawal during the life of the account in an amount not to exceed 10 percent of the account balance at the time of the withdrawal; purchase of an automobile; or purchase of assistive technology, home or vehicle modification, or other device or physical improvement to assist an account holder or family member with a disability.

Contributions of up to \$2,000 made to an account by the individual are eligible for state match payments at a 1:1 ratio. Income earned on assets in an account is not subject to state income taxes.

Adults may transfer account assets to another individual’s account without tax or penalty. Transfer of funds from a child’s account is prohibited, and withdrawals must be for purposes approved by the operating organization.

The Division of Community Action Agencies shall administer the IDA program in partnership with local community organizations. The Division will issue requests for proposals (RFPs) for organizations to design and operate local IDA projects. Within the constraints of these rules and the enabling legislation, the local organizations shall have maximum flexibility to design an IDA project that best suits the needs of their local communities. Review criteria used to select local IDA operating organizations will include: safety and security of the investment mechanism, ability to link individual deposits with other services, performance requirements, matching funding for accounts, innovation and creativity in planning and implementation, and reporting and evaluation plans. The Division shall approve the establishment of the local IDA programs through an agreement with the selected operating organizations.

The Division finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to have rules in place governing the administration of IDAs. In addition, in 2008 Iowa Acts, chapter 1178, section 17, the General Assembly authorized the Division to adopt emergency rules.

The Division also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that these rules should become effective immediately upon filing on February 16, 2009, as directed in 2008 Iowa Acts, chapter 1178, section 17(1).

These rules are also published herein under Notice of Intended Action as **ARC 7614B** to allow for public comment.

These rules became effective February 16, 2009.

These rules are intended to implement Iowa Code chapter 541A and 2008 Iowa Acts, chapter 1178, divisions III and IV.

The following amendment is adopted.

Adopt the following **new** 427—Chapter 14:

CHAPTER 14
INDIVIDUAL DEVELOPMENT ACCOUNTS (IDAs)

427—14.1(541A) Definitions.

“*Account holder*” means an individual who is the owner of an individual development account.

“*Administrator*” means the administrator of the division of community action agencies of the Iowa department of human rights.

“*Charitable contributor*” means an individual, company or organization that makes a contribution through a nonprofit association described in Section 501(c)(3) of the Internal Revenue Code, which association makes a deposit to an individual development account and which association is exempt from taxation under Section 501(a) of the Internal Revenue Code.

“*Division*” means the division of community action agencies of the Iowa department of human rights.

“*Federal poverty level*” means the poverty income guidelines established annually for a calendar year and published in the Federal Register by the United States Department of Health and Human Services.

“*Financial institution*” means a financial institution including, but not limited to, a bank, savings and loan, or credit union approved by the division to accept IDAs.

“*Household*” means the adults related by blood, marriage or adoption, or who are unrelated but have maintained a stable family relationship together over a period of time, and individuals under 18 years of age related to the above adults by marriage, blood or adoption who are living together. Living together refers to domicile as evidenced by the parties’ intent to maintain a home for their family and does not include a temporary visit.

“*Individual contributor*” means an individual who makes a deposit to an individual development account and is not the account holder or a charitable contributor.

“*Individual development account*” or “*IDA*” means an investment account which has the characteristics described in Iowa Code section 541A.2 and is operated by the operating organization.

“*Individual development account state match fund*” means the fund established in the state treasury under the authority of the division into which are deposited funds for payment to operating organizations for state match payments to IDAs and administrative costs to implement the IDA program.

“*Minor account holder*” means an account holder who is younger than 18 years of age.

“*Operating organization*” means an entity selected by the division for involvement in operating individual development accounts directed to the eligible target population.

“*Source of principal*” means any of the following sources of a deposit:

1. Deposits made by the account holder.
2. Deposits of state match payments.
3. Deposits of individual development account moneys that are transferred from another individual development account holder. The moneys transferred from another individual development account shall be considered to be a deposit of principal made by the account holder.
4. Deposits made on behalf of the account holder by an individual contributor or a charitable contributor.

427—14.2(541A) Establishment of individual development accounts. An investment account qualifies as an individual development account (IDA) when it is established and operates in accordance with the following:

14.2(1) Operating organization. The investment account shall be established through an operating organization.

14.2(2) Account. The account shall be opened at a financial institution and kept in the name of an individual account holder.

14.2(3) Deposits. Deposits made to an individual development account are also known as sources of principal and shall be made in any of the manners indicated in the definition of “sources of principal” in rule 427—14.1(541A).

14.2(4) Investment of funds. The funds deposited in the individual development account may be invested in any investment that the financial institution is authorized to offer to the public.

14.2(5) Income. The account earns income.

14.2(6) Maximum deposits of principal. The total of all sources of principal in an individual development account may not exceed \$30,000.

427—14.3(541A) Individual development account state match fund. An individual development account state match fund is created in the state treasury under the authority of the division, the administrator of the individual development account (IDA) program. Funds in the state match fund shall be used by the division to provide the state match payment for account holder deposits in accordance with Iowa Code section 541A.3 and for the costs of administration of the IDA program. At least 85 percent of the funds appropriated to the fund shall be used for state match payments, and the remainder may be used for the administrative costs of the operating organization. Interest or earnings on moneys deposited in the fund shall be credited to the fund. Notwithstanding Iowa Code section 8.33, moneys appropriated to the fund shall not revert to any other fund.

427—14.4(541A) Eligibility, state match payments and state tax provisions.

14.4(1) Eligibility based on countable household income level. Eligibility shall be based on the account holder’s household income for the calendar year preceding the calendar year in which the IDA will be opened. The household income shall not exceed 200 percent of the federal poverty level as published in the same year. If an account holder’s household income exceeds 200 percent of the federal poverty level in any subsequent year following the year that the account holder established the account, the account shall remain open, but the account holder shall not be eligible to receive the state savings match payment for deposits made during the year following the year when the household income exceeds 200 percent of the federal poverty level. If the prospective account holder files an income tax return on a fiscal-year basis, the household income must nonetheless be computed on a calendar-year basis.

14.4(2) Countable household income. The household’s countable income shall be the Iowa net income as defined in Iowa Code section 422.7 with the following inclusions and exclusions:

- a. Inclusions to the extent not already included in Iowa net income are as follows:
 - (1) Capital gains.
 - (2) Alimony.
 - (3) Child support money.
 - (4) Cash public assistance and relief, except property tax relief under Iowa Code chapter 425, division II.
 - (5) The gross payment amount of any pension or annuity including, but not limited to, railroad retirement benefits.
 - (6) Military retirement and veterans’ disability pensions.
 - (7) Interest which is received from local, state or federal government securities.
 - (8) Workers’ compensation.
 - (9) The gross amount of disability income or “loss of time” insurance.
- b. Exclusions are as follows:
 - (1) Gifts from nongovernmental sources.
 - (2) Surplus foods, including food assistance.
 - (3) Payments received by an individual under the age of 18 under the federal Social Security Act.
 - (4) Other in-kind relief supplied by a governmental agency.
- c. Income shall not be reduced by either a net operating loss carryover or by a capital loss carryover.

14.4(3) Determination of income status and eligibility.

a. In lieu of calculating countable household income as provided in subrule 14.4(2) to determine income status and eligibility of an individual to hold an IDA, the operating organization may use evidence of the individual's enrollment in a program with income eligibility restrictions that are equal to or less than the maximum household income provided in subrule 14.4(1) as sufficient for determining an individual's eligibility to hold an IDA.

b. In order to determine the amount of countable household income of the individual seeking to open an IDA and to maintain household income records on an annual basis, the operating organization shall use any of the following methods or other methods deemed appropriate by the operating organization to obtain accurate income information:

(1) The operating organization shall ask both the individual who wishes to establish an IDA and other members of the individual's household who have filed federal or state income tax returns to furnish a copy of the returns with attached W-2 statements, to sign a release of information form permitting the operating organization to receive from the Iowa department of revenue summary information indicating the Iowa net income, or to receive a copy of the state income tax return for the specific calendar year used to establish income eligibility to participate in the IDA program and for specified successive calendar years during which the IDA account is open. The operating organization shall protect the confidentiality of this information.

(2) If the individual and members of the individual's household have not filed federal or state income tax returns for the calendar year used to determine eligibility, the operating organization shall ask the individual to provide copies of available financial records of the household to determine the amount of countable income for the calendar year used to determine eligibility.

(3) The operating organization may also ask the individual seeking to hold an IDA to sign a release of information form allowing the operating organization to obtain individual and household income records held by agencies administering the programs as referenced in paragraph 14.4(3) "a" above. The operating organization shall use this information to verify and maintain household income records of individuals seeking to hold an IDA, thereby facilitating the administration of the IDA program. The operating organization shall maintain the confidentiality of this information. Countable household income determinations shall include the amount of the cash assistance provided through the programs referred to in paragraph 14.4(3) "a."

(4) If an individual has minimal or no financial records and the operating organization determines that the totality of the individual's circumstances corroborates a credible explanation for the absence of said records, the operating organization may accept a written self-declaration from the individual as sufficient to document initial income eligibility to hold an IDA.

c. The operating organization shall obtain and maintain income information records from the account holder and all members of the account holder's family on a yearly basis to determine continued IDA eligibility.

14.4(4) Exemption from income tax for income earned on assets in an IDA. Income earned on principal in an IDA shall be exempt from state income tax even if the account holder's household income is greater than 200 percent of the federal poverty level for the tax year.

14.4(5) State match payments. The operating organization shall determine the account holder's countable household income and account deposits on an annual basis for the purpose of computing the state match payment. The operating organization shall file with the division a claim for a state match payment on behalf of the account holder by April 30 of the year following the year in which the account holder made deposits into the IDA. The claim shall be filed on a form provided by the division. The division shall make a payment of a savings match on a 1:1 ratio on amounts of up to \$2,000 that an eligible account holder deposited in the account holder's account the previous year. The total state savings match for all years shall not exceed \$2,000 for any IDA. Neither the moneys transferred to an IDA from another IDA nor the state match received by the account holder pursuant to this subrule shall be considered an account holder deposit for purposes of determining a state match payment. The division or operating organization shall make the state match payment directly to the IDA in the manner deemed appropriate by the division.

14.4(6) Tax implications. IDAs shall be subject to department of revenue rule 701—40.44(422, 541A).

427—14.5(541A) Requests for proposals—operation of IDAs.

14.5(1) Issuance of requests for proposals. The division shall issue requests for proposals (RFPs) for operating organizations interested in operating an IDA program. The RFP shall require the operating organization to provide information in its proposal regarding the financial institution that the operating organization will use for the proposed IDA program. The division shall include such information in evaluating proposals submitted in response to the RFP.

14.5(2) Review criteria used to evaluate and select proposals responding to the RFP. The division shall evaluate and select proposals submitted by operating organizations in response to the RFP based upon, but not limited to, the criteria as provided in the RFP and the following criteria, which shall be ongoing responsibilities of the operating organization:

a. The project shall provide for a safe and secure investment mechanism for IDAs using a financial institution approved by the division. This provision shall include assurances to contributors that a process is in place to ensure that contributions will be used for approved purposes as provided in subrule 14.6(1).

b. The proposed project shall link the making of an account holder's contributions to an IDA with other services provided by or outcomes identified by the operating organization in the proposal. The proposed project shall include mechanisms for the operating organizations to monitor and enforce the identified outcomes and services.

c. The operating organization shall provide documentation establishing experience and ability to execute the project as proposed. Minimum capabilities shall include: an ability to provide financial education including asset-specific education, ability to link with tax preparation assistance, familiarity and ability to work with the proposed target population, and a strong record of successful management.

d. The operating organization's proposal shall include a commitment by the operating organization to provide independent matching funds for contributions made by account holders to an IDA on not less than a 1:1 ratio.

e. The proposal shall include a monitoring and evaluation plan for certifying the proposed project's outcomes.

f. The proposal shall include agreement and acknowledgment by the operating organization that it shall have ongoing responsibility for:

(1) Certifying that an investment account is an IDA based on its having the characteristics described in Iowa Code section 541A.2.

(2) Certifying annually the income eligibility of each account holder and the amount of contributions made by the account holder to the IDA during the preceding tax year, in order to determine the account holder's eligibility for the state match payment for such year.

(3) Recording annually the contributions made by the account holder, individual and charitable contributors, and the state.

(4) Submitting information regarding the IDA and account holders to the division as requested.

14.5(3) Additional evaluation criteria in the RFP. The division may include additional evaluation criteria in the RFP including, but not limited to: ability to network with other agencies or to form a communitywide consortium of agencies, if desirable, to operate IDAs; ability to form an effective working relationship with banks or other financial institutions; and ability to raise funds to provide an independent match on account holder deposits.

14.5(4) Other considerations and guidelines. Other considerations and guidelines in implementing IDAs are:

a. The division shall have authority to designate and limit the number of locations where IDA projects shall be implemented, taking into account demographic characteristics and geographic considerations.

b. The division shall require all IDA operating organizations and projects to comply with any federal individual development account program requirements for drawing federal funding.

c. The division and the operating organization shall enter into an agreement that specifies the responsibilities of both parties, which agreement shall incorporate by reference the provisions of the RFP.

d. The operating organization shall maintain a clear and precise audit trail of all deposits and withdrawals of funds in IDAs. All withdrawals from an IDA shall require a signature of approval from the operating organization. Upon the termination of the agreement between the operating organization and the division or upon the discontinuance of the IDA program for any reason, the IDA accounts under the management of that operating organization shall terminate and the funds in the IDAs shall be distributed to the account holders, unless the operating organization and a successor operating organization located in the same geographic area and operating an IDA program approved by the division enter into an agreement for the transfer of IDA accounts to the successor operating organization. The division shall have authority to review and approve in advance the agreement between the two operating organizations.

e. Upon the termination of an operating organization's relationship with the financial institution holding its IDA accounts, the operating organization managing the accounts shall enter into an agreement with a division-approved successor financial institution to hold the accounts and shall arrange for the transfer of the accounts to the new financial institution. The new agreement shall be subject to the division's review and advance approval.

f. If an account holder moves to another location in the state not served by the operating organization but which is served by another operating organization with a division-approved IDA program, the original operating organization shall arrange for the transfer of the account to a financial institution that has an agreement with the operating organization in the new location. If there is no operating organization in the new location, the IDA account shall be closed, with funds in the account distributed to the account holder; alternatively, the operating organization and the account holder may jointly agree to maintain the account under the management of the existing operating organization and financial institution. The operating organization shall provide a written notification to the division of all transfers of IDA accounts to the management of a new operating organization.

427—14.6(541A) Authorized withdrawals of principal and income.

14.6(1) *Approved purposes for withdrawal of funds from an IDA.* An account holder may withdraw principal and income earned on principal from an IDA only with the written approval of the operating organization and only for the following approved purposes:

a. Educational costs at an accredited institution of higher education, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books and other supplies.

b. Training costs for an accredited or licensed training program, or training program approved by the division, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books and other supplies.

c. Purchase of a primary residence.

d. Capitalization of a small business start-up.

e. An improvement to a primary residence which increases the tax basis of the property.

f. Emergency medical costs for the account holder or for a member of the account holder's family. However, only one withdrawal from an IDA can be made for this purpose, and the amount of the withdrawal shall not exceed 10 percent of the account balance at the time of the withdrawal.

g. Purchase of an automobile.

h. Purchase of assistive technology, home or vehicle modification, or other device or physical improvement to assist an account holder or family member with a disability.

14.6(2) *Conditions on withdrawals of principal and income.* An account holder may withdraw funds from the account holder's IDA subject to the following conditions:

a. Any amount of principal and income earned on principal, provided the sum is authorized under subrule 14.6(1) and in accordance with the procedure for authorized withdrawals set forth under subrule 14.6(3).

b. If the account holder is 59½ years of age or older, any amount of principal and income earned on principal. Such withdrawals shall not require the approval of the operating organization.

14.6(3) Procedures for account holder deposits and withdrawals. The following procedures (or such other procedures as agreed upon by the operating organization and financial institution to facilitate authorized withdrawals) shall apply to account holder deposits and withdrawals from an IDA:

a. For deposits, the account holder shall fill out and sign a deposit form provided by the operating organization, indicating the amount and date of a deposit by the account holder into the IDA and shall submit the form to the financial institution. The form shall be signed by the financial institution, which shall send copies to the account holder and the operating organization.

b. For a withdrawal, the account holder shall fill out and sign a withdrawal form provided by the operating organization, indicating the amount, date, and the purpose of the withdrawal. The account holder shall submit the form to the operating organization or its designated agent for approval and signature. The operating organization shall retain a copy and submit the withdrawal form to the financial institution to implement the electronic transfer of the funds or issuance of a check, payable to the account of the vendor as payment for an approved purpose for the withdrawal; or, if neither electronic transfer nor check issuance is possible or cost-effective, then the financial institution shall issue a two-party payee check made out to the account holder and to the vendor. If the approved purpose is for capitalization of a small business, the check shall be payable to the account holder's business account at a financial institution and to the vendor requiring payment for providing the service or product relative to the account holder's business.

427—14.7(541A) Notice of nonapproved withdrawals and closure of the account.

14.7(1) Nonapproved withdrawals and attempted withdrawals for nonapproved purposes. The financial institution shall notify the operating organization within five calendar days of any withdrawals or attempted withdrawals that appear to be nonapproved. The financial institution shall refuse to release any funds that do not have the written authorization of approval from the operating organization.

14.7(2) Closure of an IDA by the operating organization. The operating organization may close an IDA if the operating organization determines any of the following:

a. The account holder has withdrawn funds from the account for a purpose not authorized by subrule 14.6(1), or funds have been withdrawn under false pretenses and have been used for purposes other than for the approved purposes indicated at the time of the withdrawal.

b. There has been no activity in the IDA during the preceding 12 months.

c. The account holder has not complied with terms of an IDA participation agreement between the account holder and the operating organization, after being provided notice of the requirement to comply with the agreement by the operating organization.

427—14.8(541A) Transfers of assets of an IDA.

14.8(1) Transfers by an adult account holder: An adult account holder may transfer all or part of the assets in the adult account holder's IDA to any other account holder's IDA. Upon compliance by the operating organization and financial institution with the requirements of rule 427—14.6(541A), IDA account holders who have transferred funds into another individual's IDA account and any beneficiaries of the transferee's IDA account shall sign a waiver of liability form releasing the operating organization and the financial institution from civil liability and responsibility for the wrongful withdrawals of funds by the account holder due to the account holder's false representation of the purpose of the withdrawal, resulting in the loss to the account balance of deposited principal funds, including individual and charitable contributions, transferred funds, and the state match payments.

14.8(2) No transfers of assets from a minor account holder's IDA. Neither a minor account holder nor the parents or legal guardian of such minor account holder shall have the right or ability to transfer assets from the minor account holder's IDA to the IDA of any other account holder.

14.8(3) Transfers when the account holder dies. At the time an IDA is established, the account holder shall name a contingent beneficiary(ies) or an account holder transferee to whom the assets of the account holder's IDA shall be transferred upon the account holder's death. Upon the account holder's death, the account assets shall be transferred to the named contingent beneficiary or to the transferee's IDA, as applicable. A named beneficiary or transferee may be changed at the discretion of the account holder. If

the named beneficiary or transferee is deceased or otherwise does not accept the transfer, the assets of the deceased account holder's IDA shall be transferred to the IDA state match fund.

These rules are intended to implement Iowa Code chapter 541A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/11/09.