

## 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.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The proposed amendments will affect Medicaid coverage limits and fees for services provided by an ambulatory surgical center. Under current rules, Iowa Medicaid covers the same procedures that are covered by Medicare and reimburses these services based on a fee schedule that depends on the complexity of the procedure.

Medicare used the same reimbursement methodology until January 1, 2008. At that time, Medicare began phasing in a reimbursement methodology based on the hospital Outpatient Prospective Payment System (OPPS). Medicare's change in methodology is being phased in using a blended payment methodology over three years, with full implementation by 2011. Unlike Medicare, Iowa's Medicaid Management Information System (MMIS) cannot process claims using a combination of these methodologies, making a phased-in approach at the state level impossible.

Additionally, Medicare has begun to cover more than 800 procedures that previously were not covered for ambulatory surgical centers, many of which do not have a comparable payment category under Iowa's existing methodology. If Iowa Medicaid were to cover these same procedures using the existing payment methodology, the result would be inflated payments for nearly 500 procedures. For example, Medicaid payment for removal of sutures in a physician's office is \$59.55, while the payment at the lowest ambulatory surgical center category would be \$332.89.

The Department will monitor Medicare implementation of the OPPS methodology and determine if Iowa should adopt that methodology beginning in January 2011. In the interim, these amendments provide for the Department to determine the scope of covered ambulatory surgical center services independently from Medicare and set the fee for newly covered procedures. All services covered under the previous Medicare policy will continue to be covered. The list of covered services will be made available through a fee schedule published on the Iowa Medicaid Enterprise Web site.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 24, 2009. 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 E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us) or by fax to (515)281-4980.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule 441—78.26(249A) as follows:

**441—78.26(249A) Ambulatory surgical center services.** Ambulatory surgical center services are those services furnished by an ambulatory surgical center in connection with a covered surgical procedure or a covered dental procedure. Covered procedures are listed in the fee schedule published on the department's Web site.

**78.26(1)** Covered surgical procedures shall be those medically necessary procedures that are eligible for payment as physicians' services, under the circumstances specified in rule 441—78.1(249A) and performed on ~~an eligible recipient~~ a Medicaid member, that can safely be performed in an outpatient setting as determined by the department upon advice from the ~~department's utilization review and quality assurance firm~~ Iowa Medicaid enterprise medical services unit.

**78.26(2)** Covered dental procedures are those medically necessary procedures that are eligible for payment as dentists' services, under the circumstances specified in rule 441—78.4(249A) and performed on ~~an eligible recipient~~ a Medicaid member, that can safely be performed in an outpatient setting for Medicaid recipients members whose mental, physical, or emotional condition necessitates deep sedation or general anesthesia.

**78.26(3)** The covered services provided by the ambulatory surgical center in connection with a Medicaid-covered surgical or dental procedure shall be those nonsurgical and nondental services ~~covered by the Medicare program as ambulatory surgical center services in connection with Medicare covered surgical procedures.~~ that:

a. Are medically necessary in connection with a Medicaid-covered surgical or dental procedure;  
b. Are eligible for payment as physicians' services under the circumstances specified in rule 441—78.1(249A) or as dentists' services under the circumstances specified in rule 441—78.4(249A);  
and

c. Can safely and economically be performed in an outpatient setting, as determined by the department upon advice from the Iowa Medicaid enterprise medical services unit.

**78.26(4)** Limits on covered services.

**78.26(1) a.** Abortion procedures are covered only when criteria in subrule 78.1(17) are met.

**78.26(2) b.** Sterilization procedures are covered only when criteria in subrule 78.1(16) are met.

**78.26(3) c.** Preprocedure review by the Iowa Foundation for Medical Care (IFMC) is required if ambulatory surgical centers are to be reimbursed for certain frequently performed surgical procedures as set forth under subrule 78.1(19). Criteria are available from IFMC, 3737 Woodland Avenue 1776 West Lakes Parkway, Suite 500, West Des Moines, Iowa 50265 50266-8239, or in local hospital utilization review offices. (Cross-reference 78.28(6))

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend subrule **79.1(2)**, provider category "Ambulatory surgical centers," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulatory surgical centers	<del>Base rate fee</del> <u>Fee schedule as determined by Medicare.</u> See 79.1(3)	Fee schedule in effect 6/30/08 plus 1%.

ITEM 3. Amend subrule 79.1(3) as follows:

**79.1(3)** *Ambulatory surgical centers.*

a. Payment is made for facility services on a fee schedule determined by ~~Medicare~~ the department and published on the department's Web site. These fees are grouped into ~~eight~~ nine categories corresponding to the difficulty or complexity of the surgical procedure involved. ~~Procedures not classified by Medicare shall be included in the category with comparable procedures.~~

b. Services of the physician or the dentist are reimbursed on the basis of a fee schedule (see paragraph 79.1(1)"c"). This payment is made directly to the physician or dentist.