ARC 8319B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments specify how the State Payment Program will implement a waiting list. Implementation of the waiting list is necessary for the state to operate within the reduced appropriation due to Executive Order 19, which mandated a 10 percent across-the-board spending reduction.

Effective November 1, 2009, new applications will be placed on a waiting list until the Department determines there is money to fund another applicant's services. The rules specify the procedures for submitting applications, determining the application date, and determining the priority of services for persons whose applications are on the waiting list.

Placement on the waiting list will not apply to:

- Persons applying to the program for payment of commitment costs.
- Persons waiting for placement who are ready for discharge from an involuntary placement in an inpatient setting (such as a state mental health institute or a private hospital).

Requests for the waiver of any provision of the rules may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on October 30, 2009.

The Department finds that notice and public participation are contrary to the public interest because the need for a waiting list is imminent. The Department is statutorily required to reduce spending obligations to the level of authorized appropriations. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(3), that the normal effective date of these amendments should be waived because of imminent peril to the public welfare that would be caused if appropriations are exhausted and existing clients must be discharged from services.

These amendments are also published herein under Notice of Intended Action as **ARC 8320B** to allow for public comment.

These amendments are intended to implement Executive Order 19 and Iowa Code section 331.440.

These amendments became effective on November 1, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **153.53(2)"a"** as follows:

a. A funding request for the applicant showing ~~the total monthly dollar amount needed for services;~~:

(1) The services being requested,

(2) The total monthly dollar amount needed for the services requested, and

(3) The chart of accounts codes from the county billing system for the requested services.

ITEM 2. Amend subrule 153.53(4) as follows:

153.53(4) *Application date.* ~~The date of application is the date of the CPC application form, the date on court documents, or October 1, 2006, whichever is later. This date may be used as the effective date of eligibility when the complete application is received in the division within 60 business days of the CPC application date or the date on court documents.~~

a. Waiting list not in effect. When a waiting list is not in effect, the application date shall be the latest of the following dates:

(1) The date on court commitment documents,

(2) The date on the CPC application form, or

(3) 60 days before the division receives the complete application, if the complete application is received more than 60 days after the date on the CPC application form.

b. *Waiting list in effect.* When a waiting list is in effect pursuant to subrule 153.54(5), the date of application shall be:

(1) The date on court commitment documents, or

(2) The date the application is moved off the waiting list.

ITEM 3. Amend paragraph **153.54(2)"b"** as follows:

b. ~~The division shall institute a waiting list for state payment program clients if the appropriation becomes fully encumbered. The division shall promptly notify all counties if a waiting list is to be instituted because of a lack of state funding.~~ An application shall be approved only when funds are available. When funds are insufficient, the application shall be placed on a statewide waiting list pursuant to subrule 153.54(5).

ITEM 4. Adopt the following **new** subrule 153.54(5):

153.54(5) *Waiting list.* Funds available for the program shall first be used to continue assistance to persons currently receiving assistance from the program. The department shall start a waiting list when the state payment program appropriation funds are fully encumbered.

a. *Notice of waiting list.* The department shall notify county CPCs:

(1) Before implementing a waiting list, and

(2) Promptly when the department determines a waiting list is no longer required.

b. *Placement on the waiting list.* When a waiting list is in effect, all new applications shall be placed on the waiting list, with the following exceptions:

(1) Applicants who are subject to an involuntary commitment when the CPC includes a copy of the evaluation and placement court order documentation with the application packet to verify that the applicant has been involuntarily placed. If this documentation is not included, the application will be placed on the waiting list.

(2) Applicants awaiting community placement from an involuntary inpatient setting.

c. *Movement off the waiting list.* The department shall review the waiting list every 30 days. As funds are determined available, applications shall be moved off the statewide waiting list. Applicants shall be served on a first-come, first-served basis, as determined by the date and time the complete application is received in the division office.

(1) In cases where applications are received simultaneously, the applicants will be prioritized by the birth month and day (earliest birth date first).

(2) If there are multiple applicants with the same birth month and day, the last four digits of the applicants' social security numbers will be used, with the lowest number being considered first.

d. *Notification of applicant status.* The department shall notify the CPC of each applicant's status quarterly, unless an application can be removed from the waiting list sooner. When the department notifies the CPC that an application can be removed from the waiting list, the CPC shall:

(1) Verify with the applicant that the services are still needed, and

(2) Notify the applicant that service funding is available for services identified.

ITEM 5. Amend subrule 153.58(1) as follows:

153.58(1) Decisions regarding eligibility of any applicant~~, decisions regarding instituting a waiting list because the appropriation has been fully encumbered,~~ and decisions adversely affecting applicants or members who are not eligible may be appealed pursuant to 441—Chapter 7.

ITEM 6. Amend **441—Chapter 153**, implementation sentence for division IV, as follows:

These rules are intended to implement Iowa Code section 331.440 ~~as amended by 2006 Iowa Acts, chapter 1115, division III~~.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/09.