

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to payment and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 45, “Payment,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 239B.4(6).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 239B.2, 239B.3 and 239B.7.

Purpose and Summary

This rulemaking is in response to Executive Order 10. This proposed chapter defines how Family Investment Program (FIP) payments are issued, how to handle underpayments, the limit on payments, and rounding of the standard of need and payment amount.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliance@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2025
1 to 2 p.m.

Microsoft Teams
Meeting ID: 222 847 169 42
Passcode: d7aG7cR9

January 29, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 243 840 908 594
Passcode: a7Jg78UJ

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 45 and adopt the following **new** chapter in lieu thereof:

CHAPTER 45
PAYMENT

441—45.1(239B) Issuing payment. The department may issue assistance payments pursuant to Iowa Code section 239B.3(3).

45.1(1) *Electronic access card.* The department will make payments available through an electronic access card issued to the payee except when:

- a. The recipient requests direct deposit; or
- b. The department determines it is not practicable to issue the payment by electronic access card.

45.1(2) *Direct deposit.* The department will issue payments by direct deposit to the recipient's own account in a financial institution if the recipient completes a form prescribed by the department to request direct deposit.

45.1(3) *Warrant.* The department will issue payments by warrant when the recipient has not requested direct deposit and the department determines it is not practicable to issue payment by electronic access card. These circumstances include but are not limited to the following:

- a. A one-time payment is issued.
- b. The payee is a representative payee, conservator, or guardian who is not part of the family investment program (FIP) assistance unit.
- c. The payee is unable to provide a social security number or an individual taxpayer identification number.

441—45.2(239B) Return. Assistance warrants cannot be forwarded. When warrants cannot be delivered by the post office, they shall be returned to the department.

441—45.3(239B) Held warrants. A warrant may be held by the department only in the following instances:

- 45.3(1)** The recipient's whereabouts is unknown.
- 45.3(2)** The recipient is not in the home due to an emergency and it is not known who will be serving as emergency payee.

441—45.4(239B) Underpayment. A corrective payment will be made when the recipient receives a payment in an amount less than that for which the recipient was eligible due to an administrative or client error or the recipient reports the completion of the federal tax return requiring repayment to Internal Revenue Service of excess advance earned income credit payments received in the prior calendar year.

45.4(1) Attribution of underpayments.

a. An underpayment may be attributed to the department as a result of one of the following circumstances:

- (1) Misfiling or loss of forms or documents.
- (2) Errors in typing or copying.
- (3) Computer input errors.
- (4) Mathematical errors.
- (5) Failure to certify assistance in the correct amount when all essential information was available to the department.
- (6) Failure to make prompt revisions in grants following changes in policies requiring the changes as of a specific date.

b. An underpayment may be attributed to the client as a result of one of the following circumstances:

- (1) Information reported in error, oral or written, regarding the client's income, resources, or other circumstances that may affect eligibility or the amount of assistance received.
- (2) Failure to timely report changes in income, resources, or other circumstances that may affect eligibility or the amount of assistance received.

45.4(2) Conditions under which a retroactive corrective payment may be made.

a. Retroactive corrective payments will be made for all underpayments.

b. Any retroactive corrective payment for which the recipient is eligible will first be applied to any unpaid overpayment before the balance, if any, is paid to the recipient.

c. Retroactive corrective payments will be made for underpayments discovered on and after October 1, 1981, regardless of when the underpayment occurred. Recipients and former applicants and recipients are responsible for supplying any information needed to determine the amount of an underpayment.

45.4(3) The amount of the corrective payment to the recipient for repayment to Internal Revenue Service of excess advance earned income credit payments will be computed on the basis of the earnings considered in determining the family investment program grant for the prior year.

45.4(4) A retroactive corrective payment is:

- a.* Exempt from consideration as income.
- b.* Exempt from consideration as a resource in the month received and the following month.

441—45.5(239B) Deceased payees. A retroactive corrective payment will be made for deceased payees only when the payment was approved by the department before the recipient's death. Payment for a special need will be made only when the payment is entered on the automated benefit calculation system before the effective date of cancellation.

441—45.6(239B) Limitation on payment. A payment will be made to an eligible recipient only when the amount of the assistance is \$10 or more.

441—45.7(239B) Rounding of need standard and payment amount. The need standard and monthly payment amount will be rounded down to the next whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar.

These rules are intended to implement Iowa Code sections 239B.2, 239B.3, and 239B.7.