

AGING, DEPARTMENT ON[17]

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 sections 231.23 and 17A.3, the Iowa Department on Aging hereby gives Notice of Intended Action to rescind Chapter 10, “Senior Internship Program (SIP),” Iowa Administrative Code, and to adopt a new Chapter 10 with the same title.

The proposed rules in Chapter 10 are necessary to respond to a 25 percent reduction in federal program funding. The new Chapter 10 has been updated to comply with recent changes in regulations and policy as mandated by the United States Department of Labor. The majority of the changes are the result of updated terminology and change in policy related to monitoring and grievance procedures.

Any interested person may make written suggestions or comments on the proposed rules on or before September 27, 2011. Such written comments or suggestions should be directed to Kimberly Murphy, Iowa Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kimberly.murphy@iowa.gov.

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

These rules are intended to implement Iowa Code section 231.52.

The following amendment is proposed.

Rescind 17—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10

SENIOR INTERNSHIP PROGRAM (SIP)

17—10.1(231) Scope and purpose. The senior internship program (SIP) fosters individual economic self-sufficiency, promotes useful opportunities in community service activities for unemployed and low-income persons who are aged 55 or older, and increases the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors. SIP is a grantee of the Community Service Employment Program, also known as Title V of the Older Americans Act.

17—10.2(231) Definitions. Words and phrases used in this chapter shall be as defined in 17—Chapter 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter.

“*Assessment of job skills*” means a process by which the senior internship program coordinator develops a written history of the work experience and related qualities that an individual possesses that would make the individual marketable as an employee.

“*Authorized position*” means an enrollment opportunity with the Community Service Employment Program, or Title V, allocated by the department during a program year.

“*Community service assignment*” means part-time, temporary training paid with grant funds in projects at host agencies through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

“*Equitable distribution*” means the ratio of the total Title V authorized positions operated by the department and national sponsors compared to the number of authorized positions established on the basis of the eligible population.

“*Host agency*” means a public agency, private nonprofit organization, or private sector employer, other than a political party, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, which provides a training site and supervision for a participant.

“*Individual employment plan*” or “*IEP*” means the plan developed in partnership with a participant to reflect the participant’s needs as indicated by the assessment, as well as the expressed interests and desires of the participant.

“*Low income*” means any person or persons whose actual individual or family income is not more than 125 percent of the poverty guidelines issued annually by the Department of Health and Human Services (DHHS) in accordance with Section 507(2) of the Older Americans Act.

“*National sponsor*” means Experience Works, AARP, Senior Services of America, Inc., or any other national organization which is allocated positions by the U.S. Department of Labor.

“*One-stop delivery system*” means a workforce system connecting employment, education, and training services into a coherent network of resources at the local, state, and national levels.

“*Participant*” means an individual who is determined to be eligible for the SCSEP, is given a community service assignment, or is receiving any services funded by the program.

“*Physical examination*” means a medical examination performed by a physician or a medical professional under the supervision of a physician to determine if a participant is capable of fulfilling the duties of a training assignment.

“*Physical examination waiver*” means a signed statement by a participant or an applicant which verifies that the participant or applicant was offered the opportunity to take a physical examination but refused.

“*Quarterly progress report*” means the report on participant activity and characteristics submitted to the U.S. Department of Labor from information gathered from the subproject sponsors at the end of every three-month period during the fiscal year.

“*Senior Community Services Employment Program*” or “*SCSEP*” means the U.S. Department of Labor’s commonly referred to name for the Title V program.

“*Senior internship program*” or “*SIP*” means the program established under Iowa Code section 231.52.

“*Senior internship program coordinator*” means a person employed by the subproject sponsor whose responsibility is to develop jobs, advocate for the employment of eligible individuals, and provide employment services for eligible individuals, including Title V participants.

“*Subproject sponsor*” means a public or private nonprofit organization that provides program services on behalf of the grantee. Subproject sponsors are required to follow all applicable laws, rules, regulations and policy advisories.

“*Supportive services*” means services to enable a participant to successfully participate in the community services employment program which may include the payment of reasonable cost of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services.

“*Termination*” means a separation from the program.

“*Title V*” means that portion of the federal Older Americans Act with that designation.

“*Training site*” means the actual location where participants perform their duties.

“*Unsubsidized employment*” means a position where wages, fringe benefits and other expenses for a terminated participant are not paid with SIP funds.

“*Workforce Investment Act of 1998*” means the law providing the framework for a national workforce preparation and employment system designed to meet both the needs of the nation’s businesses and the needs of job seekers and those who want to further their careers.

17—10.3(231) Eligibility for service.

10.3(1) To be eligible for the SIP Title V subsidized employment program, participants shall meet the following criteria:

- a. Be aged 55 or older;
- b. Be unemployed; and
- c. Meet income guidelines established annually by the U.S. Department of Health and Human Services (DHHS) relating to Title V eligibility.

10.3(2) Priority eligibility. A person who is eligible for Title V and who has priority status as defined in the Older Americans Act, Section 518, will be given first consideration for a Title V position.

17—10.4(231) Funding.

10.4(1) SIP shall be funded by:

- a. Title V of the Older Americans Act;
- b. SIP state appropriations; and
- c. Other nonfederal sources.

10.4(2) Title V funds and state funds shall be allotted among the SIP subproject sponsors according to the number of Title V slots designated for contracted projects.

10.4(3) If two or more subproject sponsors combine resources, the subproject sponsors shall be treated as one agency for funding purposes.

10.4(4) SIP state funds shall not be carried over.

10.4(5) Federal Title V funds and SIP state appropriations shall be allocated through a contractual agreement between the department and the subproject sponsor.

17—10.5(231) Program requirements.

10.5(1) Participating agencies. Public, private and not-for-profit organizations are eligible to respond to a request for proposal (RFP). Agencies will be selected to operate SIP through the request for proposal process, and the selected agencies will become subproject sponsors.

10.5(2) Subproject sponsor responsibilities. Subproject sponsor responsibilities for SIP shall include the following:

- a. Implementation of recruitment methods that ensure that the maximum number of eligible individuals have access to and participate in employment opportunities and the Title V program;
- b. Designation of a member of the sponsor's staff as a senior internship program coordinator to ensure program performance;
- c. Establish procedures and rules in accordance with Title V of the Older Americans Act;
- d. List all vacant positions with the local workforce development center;
- e. Enroll individuals in the Title V program according to the priorities established by the U.S. Department of Labor;
- f. Ensure that recruitment and outreach efforts are targeted toward minority, limited-English-speaking eligible individuals and individuals with the greatest economic need;
- g. Meet the performance measures established in the request for proposal;
- h. Develop job opportunities for job-ready participants by the following methods:
 - (1) Coordinate with the local workforce development center in registering and placing older workers;
 - (2) Contact and educate private employers concerning the resources older workers bring to the labor force and assist the employer in developing job sharing, job restructuring and other techniques to increase opportunities for older workers;
 - (3) Encourage host agencies to employ the participant in their regular workforce; and
 - (4) Coordinate with other local employment and training programs in identifying jobs or training opportunities for participants;
- i. Follow up with each participant according to the U.S. Department of Labor's Data Collection Handbook and effectuate reenrollment for those participants found to be unemployed;
- j. Assist participants in accessing approved training sessions;
- k. Provide participants and host agencies with orientation to program purposes, goals and requirements;
- l. Provide access to supportive services to the participant during participation in the SIP and in the first 12 months of unsubsidized employment;
- m. Provide written training assignment descriptions to participants before the participants' assignment to a host agency;

- n. Provide each participant with a copy of the host agency grievance procedures, the subproject sponsor's grievance procedures, and the SIP's grievance procedures as outlined in this chapter;
- o. Complete an individual employment plan (IEP) for each participant based on an assessment conducted by the subproject sponsor and update both documents with the participant no less than twice in a 12-month period for use as an ongoing employment plan;
- p. Maintain the authorized enrollment level;
- q. Perform monitoring and safety evaluations of each host agency at least annually;
- r. Coordinate and cooperate with national sponsors in the establishment of authorized positions in each county in accordance with equitable distribution requirements as appropriate;
- s. Maintain records and reports required by the U.S. Department of Labor and the department;
- t. Comply with maintenance of effort (MOE) requirements; and
- u. Follow U.S. Department of Labor policy on match and program income.

10.5(3) Failure to meet RFP performance measures. A subproject sponsor who fails to meet the performance standards outlined in the RFP shall be subject to the following:

- a. The first year a subproject sponsor fails to meet required performance measures, technical assistance will be provided and a corrective action plan will be required.
- b. After the second consecutive year of failure to meet required performance measures, the funds and Title V positions will be reallocated.

10.5(4) Program coordination with one-stop delivery system.

a. Subproject sponsors shall coordinate the SIP with the one-stop delivery system as established under Section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) to ensure opportunities for unsubsidized employment.

b. Subproject sponsors shall enter into a memorandum of understanding with the local workforce investment board in accordance with Section 121(c) of the Workforce Investment Act of 1998.

c. Subproject sponsors shall provide a copy of the current memorandum of understanding to the department upon request.

10.5(5) Department responsibilities. The department shall:

- a. Issue a request for proposal for application for SIP funds;
- b. Monitor subproject sponsors at least annually as required in this chapter;
- c. Provide training and technical assistance to subproject sponsors;
- d. Provide training workshops for SIP coordinators and other subproject sponsor employment staff, subject to availability of funding;
- e. Coordinate the allocation of authorized positions with national sponsors according to equitable distribution requirements;
- f. Report to the U.S. Department of Labor annually on the status of equitable distribution efforts;
- g. When required by the U.S. Department of Labor, submit to the governor a state senior employment services coordination plan consistent with the provisions of the Older Americans Act, Title V;
- h. Report to the U.S. Department of Labor as required by Title V of the Older Americans Act;
- i. Coordinate the SIP with the department of workforce development, the department of education, the economic development authority, and other agencies which provide employment services to older Iowans; and
- j. Maintain records as required by 17—subrule 5.13(1).

10.5(6) Grievance procedures. The department shall resolve grievances of applicants, participants, subproject sponsors and host agencies by following these procedures:

a. Any adverse action taken against a participant shall be issued to the participant in writing, stating the reasons for the determination, the participant's right to appeal, and the procedures to follow in the appeal process.

b. Subproject sponsors shall develop complaint procedures and an appeal process to resolve any issue arising between the sponsor and a participant or applicant. Procedures shall provide the following as a minimum:

- (1) An opportunity for an informal conference and immediate resolution at the lowest level possible;
- (2) Formal procedures for filing the complaint in writing for review by the subproject sponsor or the designee of the subproject sponsor; and
- (3) The right of the participant to appeal the subproject sponsor's final decision in writing to the department within 15 days of the date of the decision.
 - c. All lower-level appeals provided by the subproject sponsor must be exhausted before appealing to the department.
 - d. The department shall determine whether the complaint is of a nature to initiate an informal review or a contested case proceeding as set forth in rule 17—2.9(231) and 17—Chapter 13.
 - e. Complaints may be appealed to the U.S. Department of Labor or the Office of Civil Rights at the U.S. Department of Labor according to the rules and policy established by the U.S. Department of Labor and procedures provided in 20 CFR Part 641.910.

17—10.6(231) Selection process to determine SIP subproject sponsors.

10.6(1) *Request for proposal.* SIP funding shall be allocated through a request for proposal (RFP) process as mandated by the Iowa department of administrative services. The subproject sponsor shall be a public, private or nonprofit organization with proven management or administrative capabilities to provide employment and training services to older workers.

10.6(2) *Contract award.*

a. Contracts will be awarded following the request for proposal competition and may be renewed for a one-year budget period on a noncompetitive basis. Awards will be subject to availability of funds, satisfactory progress of the project, and a determination that continued funding is in the best interest of the department and the project.

b. At the department's discretion, approved positions and funds may be reallocated from one subproject sponsor to another during the program year to further achieve the required performance levels.

10.6(3) *Appeal of decision.* An adversely affected party may appeal the proposed contract award. The appeal shall be filed within 30 calendar days of receipt of notice of nonaward. The letter of appeal shall be in writing and shall be delivered to the Director, Iowa Department on Aging, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

17—10.7(231) Monitoring and record keeping.

10.7(1) *Subproject sponsor duties.* The subproject sponsor shall:

a. Submit performance, fiscal and program reports to the department in accordance with procedures established by the department;

b. Maintain files on each Title V participant containing the following: Immigration and Naturalization Service I-9 (Proof of Citizenship), application, enrollment form, recertifications (if applicable), skills assessments, training record, terms of employment agreement, waiver of physical examination, individual employment plan (IEP), job description, performance evaluations, disciplinary actions, payroll records, and termination forms (if applicable); and

c. Maintain documentation for each host agency, which shall include:

(1) The host agency or training site agreement containing relevant program requirements;

(2) The 501(c)(3) documentation from the Internal Revenue Service, if the host agency is not an agency of government;

(3) Evidence that the host agency or training site participant supervisor has received orientation; and

(4) Host agency or training site annual monitoring and safety evaluation reports.

10.7(2) *Department duties.* The department shall:

a. Conduct annual evaluations of the SIP through desk or on-site monitoring;

b. Inform the subproject sponsor, in writing, of findings and recommended corrective actions. Assessment reports and responses shall be kept on file at the department and shall be open to inspection by authorized state and federal officials;

c. Maintain files on Title V participants that include applications, eligibility recertifications, physical examination waivers, and termination forms (if applicable); and

d. Maintain financial records as required by statute, regulation, administrative rule, or technical bulletin.

17—10.8(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code section 231.52.