



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXV
January 9, 2013

NUMBER 14
Pages 1115 to 1156

CONTENTS IN THIS ISSUE

Pages 1123 to 1155 include ARC 0543C to ARC 0560C

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Filed, Alternative continuing education
cycles, 10.11 ARC 0558C 1150

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Notice, Approval of memberships in
employee organizations, 41.7(8)
ARC 0553C 1123

AGING, DEPARTMENT ON[17]

Notice, Definitions, 1.5 ARC 0551C 1124
Notice, Department fiscal operations,
ch 5 ARC 0550C 1125
Notice, Area agency on aging planning
and administration, ch 6 ARC 0549C 1130

ALL AGENCIES

Agency identification numbers 1121
Citation of administrative rules 1117
Schedule for rule making 1118

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]"umbrella"

Notice Terminated, Voting procedures,
amend ch 3; adopt ch 12; rescind
chs 16, 19 ARC 0543C 1131

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Notice, Underground storage tanks—leak
detection at unstaffed facilities,
135.5(1)"e" ARC 0560C 1132
Filed Emergency, Underground storage
tanks—leak detection at unstaffed
facilities, 135.5(1)"e" ARC 0559C 1137

HUMAN SERVICES DEPARTMENT[441]

Notice, HCBS waiver
services—reimbursement, amendments
to chs 79, 83 ARC 0547C 1133
Notice, Child development homes—use
of mobile telephone as primary
telephone, 110.5(1)"a" ARC 0554C 1133
Filed, Application for state supplementary
assistance, 50.2(3) ARC 0544C 1151
Filed, HCBS waiver services—addition
of assisted living on-call service
providers, 77.33(23), 78.37(18),
79.1(2) ARC 0545C 1151
Filed Emergency, HCBS waiver
services—reimbursement, amendments
to chs 79, 83 ARC 0548C 1138
Filed, HAWKI-I—application filing date,
client error, 86.3(4), 86.19(1) ARC 0552C 1153
Filed Emergency After Notice,
Child care assistance half-day rate
ceilings—increase, 170.4(7)"a" ARC 0546C 1148

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Podiatrists—temporary licensure,
220.6 ARC 0555C 1134

PUBLIC HEARINGS

Summarized list 1119

REVENUE DEPARTMENT[701]

Filed, Interest rate for calendar year 2013,
10.2(32) **ARC 0557C**..... 1155

SECRETARY OF STATE[721]

Notice, Voting systems—accessibility
testing by interested parties, 22.9(6),
22.12 **ARC 0556C** 1135

USURY

Notice 1136

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2013

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 19 '12	Jan. 9 '13	Jan. 29 '13	Feb. 13 '13	Feb. 15 '13	Mar. 6 '13	Apr. 10 '13	July 8 '13
Jan. 4	Jan. 23	Feb. 12	Feb. 27	Mar. 1	Mar. 20	Apr. 24	July 22
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Mar. 15	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Mar. 29	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	Apr. 12	May 1	June 5	Sep. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	Apr. 26	May 15	June 19	Sep. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 10	May 29	July 3	Sep. 30
Mar. 29	Apr. 17	May 7	May 22	***May 22***	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 7	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	***June 19***	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 5	July 24	Aug. 28	Nov. 25
May 22	June 12	July 2	July 17	July 19	Aug. 7	Sep. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 2	Aug. 21	Sep. 25	Dec. 23
June 19	July 10	July 30	Aug. 14	Aug. 16	Sep. 4	Oct. 9	Jan. 6 '14
July 5	July 24	Aug. 13	Aug. 28	***Aug. 28***	Sep. 18	Oct. 23	Jan. 20 '14
July 19	Aug. 7	Aug. 27	Sep. 11	Sep. 13	Oct. 2	Nov. 6	Feb. 3 '14
Aug. 2	Aug. 21	Sep. 10	Sep. 25	Sep. 27	Oct. 16	Nov. 20	Feb. 17 '14
Aug. 16	Sep. 4	Sep. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '14
Aug. 28	Sep. 18	Oct. 8	Oct. 23	***Oct. 23***	Nov. 13	Dec. 18	Mar. 17 '14
Sep. 13	Oct. 2	Oct. 22	Nov. 6	***Nov. 6***	Nov. 27	Jan. 1 '14	Mar. 31 '14
Sep. 27	Oct. 16	Nov. 5	Nov. 20	***Nov. 20***	Dec. 11	Jan. 15 '14	Apr. 14 '14
Oct. 11	Oct. 30	Nov. 19	Dec. 4	***Dec. 4***	Dec. 25	Jan. 29 '14	Apr. 28 '14
Oct. 23	Nov. 13	Dec. 3	Dec. 18	***Dec. 18***	Jan. 8 '14	Feb. 12 '14	May 12 '14
Nov. 6	Nov. 27	Dec. 17	Jan. 1 '14	Jan. 3 '14	Jan. 22 '14	Feb. 26 '14	May 26 '14
Nov. 20	Dec. 11	Dec. 31	Jan. 15 '14	Jan. 17 '14	Feb. 5 '14	Mar. 12 '14	June 9 '14
Dec. 4	Dec. 25	Jan. 14 '14	Jan. 29 '14	Jan. 31 '14	Feb. 19 '14	Mar. 26 '14	June 23 '14
Dec. 18	Jan. 8 '14	Jan. 28 '14	Feb. 12 '14	Feb. 14 '14	Mar. 5 '14	Apr. 9 '14	July 7 '14

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 18, 2013	February 6, 2013
17	Friday, February 1, 2013	February 20, 2013
18	Friday, February 15, 2013	March 6, 2013

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Approval of memberships in employee organizations, 41.7(8) IAB 1/9/13 ARC 0553C	Room 329, Third Floor Hoover State Office Bldg. Des Moines, Iowa	January 29, 2013 9 to 10 a.m.
--	--	----------------------------------

EDUCATIONAL EXAMINERS BOARD[282]

Notice of hearing—delivery, 11.7(1) IAB 12/12/12 ARC 0494C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 9, 2013 1 p.m.
Substitute teacher’s license, 13.16(1) IAB 12/12/12 ARC 0509C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 9, 2013 1 p.m.
Elimination of Class D career and technical license, 17.4 IAB 12/12/12 ARC 0492C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 9, 2013 1 p.m.
Professional administrator license, 18.5 IAB 12/12/12 ARC 0493C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 9, 2013 1 p.m.
Evaluator endorsement—Class A administrator exchange license for out-of-state applicants, 19.6 IAB 12/12/12 ARC 0491C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 9, 2013 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Underground storage tanks—leak detection at unstaffed facilities, 135.5(1)“e” IAB 1/9/13 ARC 0560C (See also ARC 0559C herein)	Conference Rooms 5E/5W Wallace State Office Bldg. Des Moines, Iowa	February 7, 2013 1:30 p.m.
--	--	-------------------------------

PROFESSIONAL LICENSURE DIVISION[645]

Podiatrists—temporary licensure, 220.6 IAB 1/9/13 ARC 0555C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	February 1, 2013 9 to 9:30 a.m.
--	---	------------------------------------

PUBLIC SAFETY DEPARTMENT[661]

Electricians and electrical contractors—licensing, fees, 501.5(2), 502.2, 502.3(6) IAB 12/26/12 ARC 0540C	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	January 17, 2013 10 a.m.
Postsecondary electrical education programs—approval, standards, 505.101, 505.102 IAB 12/26/12 ARC 0541C	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	January 17, 2013 10 a.m.
Qualifications of state and political subdivision electrical inspectors, 550.4 IAB 12/26/12 ARC 0542C	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	January 17, 2013 10 a.m.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Continuing education,
11.2
IAB 12/26/12 **ARC 0534C**

Second Floor
Professional Licensing Small Conf. Rm.
1920 SE Hulsizer Rd.
Ankeny, Iowa

January 15, 2013
8:30 a.m.

UTILITIES DIVISION[199]

Pole attachments,
15.5(2), ch 27
IAB 11/14/12 **ARC 0455C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

February 12, 2013
1 p.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]

Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 0553C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 8A.104(5), the Department of Administrative Services (DAS) proposes to amend Chapter 41, “Auditing Claims,” Iowa Administrative Code.

Currently, the Executive Council approves departments’ requests for membership in employee organizations. A request was made by the Executive Council for DAS to provide electronic approval for both departmental directors and the Department of Management and publication on the State’s transparency Web site. The process has been established, and DAS is prepared to implement that process. The amendment proposed herein revises the affected DAS administrative rule to eliminate Executive Council approval and to replace it with departmental director approval, Department of Management approval and timely disclosure to the Iowa transparency Internet site.

The Department of Administrative Services does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules concerning waivers.

Interested persons may make written comments on the proposed amendment until 4:30 p.m. on January 29, 2013. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to Caleb.Hunter@iowa.gov.

A public hearing will be held on January 29, 2013, from 9 to 10 a.m. in Room 329, Third Floor, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Administrative Services of their specific needs by calling (515)281-3351.

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

This amendment is intended to implement Iowa Code chapter 8A.

The following amendment is proposed.

Amend subrule 41.7(8) as follows:

41.7(8) Registration fees. The payment of registration fees which are required for participation in meetings shall be allowed. Registration fees shall be supported by the official receipt of the conference or convention subject to the following limitations:

a. Expenditures for payment of registration fees for the purpose of obtaining the privileges of membership or other personal benefits from an organization are not reimbursable. Memberships in organizations must be in the name of the state agency and have ~~executive council~~ approval of the director of the department requesting the membership and of the director of the department of management and shall be published to the Iowa transparency Internet site established by Iowa Code section 8G.4.

b. and *c.* No change.

ARC 0551C

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 amend Chapter 1, “Introduction, Abbreviations and Definitions,” Iowa Administrative Code.

These amendments are necessary to work towards the creation of a single and comprehensive chapter of definitions applicable to all of the Department’s rules.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 29, 2013. 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 adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 231.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **17—1.5(231)**:

“*Administration costs*” means all direct and indirect costs incurred by a grantee in managing a grant, including but not limited to all audit and board expenses incurred in the support of an area agency on aging director.

“*Local sources*” means the equivalent cash value of third-party in-kind contributions (e.g., property or services which benefit a grant-supported project or program and which are contributed by nonfederal third parties without a charge to the grantee or subgrantee under the grant or subgrant) and cash resources, or both, made available by local sources (e.g., local public funds, other local cash, and program income) representing that portion of the costs of a project or program receiving funds from state appropriations.

“*Nutrition Services Incentive Program*” or “*NSIP*” means the Nutrition Services Incentive Program established under the Older Americans Act.

“*Plan of correction*” means a plan developed by an area agency on aging and approved by the department which describes the actions the area agency on aging shall take to correct deficiencies arising from the agency’s failure to perform and specifies the date by which those deficiencies shall be corrected.

“*Priority services*” means access services (including case management, transportation, outreach, and information and assistance), in-home services, and legal assistance services.

“*Program income*” or “*contributions*” means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under state-funded or federally funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Except as otherwise provided in the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, or discounts or interest earned on any of them. Furthermore, program income does not include taxes, special assessments, levies, and fines raised by governmental recipients.

ITEM 2. Rescind the definition of “Rural” in rule **17—1.5(231)**.

ARC 0550C**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 5, “Department Fiscal Policy,” and to adopt a new Chapter 5, “Department Fiscal Operations,” Iowa Administrative Code.

The proposed rules in new Chapter 5 mandate that the Department and area agencies on aging comply with existing federal and state laws, rules, and regulations in regards to aspects of fiscal management and oversight. Proposed Chapter 5 changes the process and procedure used to develop and adopt distribution formulas for Older Americans Act funds and state appropriations. The proposed chapter includes a remedies rule that allows the Department to mandate a plan of correction and impose remedies for fiscal failure to perform.

Any interested person may make written suggestions or comments on the proposed rules on or before January 29, 2013. 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 chapter 231.

The following amendment is proposed.

Rescind 17—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
DEPARTMENT FISCAL OPERATIONS

17—5.1(231) Funds to area agencies on aging.

5.1(1) The department shall distribute funds to each area agency on aging pursuant to federal and state laws, rules, and regulations.

5.1(2) The area agencies on aging shall use funds distributed by the department for the designated purpose and pursuant to federal and state laws, rules, and regulations.

17—5.2(231) Distribution of Older Americans Act funds to area agencies on aging. On and after July 1, 2013, the following shall apply:

5.2(1) The department shall review the formula for distribution within the state of funds received under the Older Americans Act and required to be distributed by funding formula every four years, at a minimum. The department, in its discretion, shall determine whether to maintain the existing formula or develop a new formula based on the criteria outlined in the Older Americans Act and on other relevant factors.

5.2(2) The department shall comply with all federal and state laws, rules, and regulations in developing a formula for distribution within the state of funds received under the Older Americans Act.

5.2(3) The department shall adhere to the following process to develop and adopt a formula for distribution within the state of funds received under the Older Americans Act:

a. The department shall hold a minimum of one meeting with area agencies on aging to facilitate discussion and receive comment regarding the proposed formula for distribution.

AGING, DEPARTMENT ON[17](cont'd)

b. The department shall publish the proposed formula for distribution for review and comment by posting the information on the department's Web site. The publication shall comply with all criteria outlined in the Older Americans Act. The publication shall be posted on the department's Web site for a minimum of 30 calendar days prior to the date set for commission consideration of the proposed formula for distribution. The publication shall provide the method and time frame for acceptance of public comment.

c. The department shall distribute a press release containing the proposed funding formula to all newspapers within the state.

d. The information published pursuant to paragraph 5.2(3) "b" shall be mailed, via standard postal delivery or electronic mail, to the executive director and board chairperson of each area agency on aging a minimum of 30 calendar days prior to the date set for commission action to approve the formula for distribution.

e. The department shall accept written public comment in response to publication of the proposed formula for a minimum of 14 calendar days following publication. The method and time frame for acceptance of public comment shall be provided in the information published pursuant to paragraphs 5.2(3) "b" and "c."

f. The department shall submit the proposed formula for distribution to the Assistant Secretary of the U.S. Department of Health and Human Services for approval pursuant to the Older Americans Act.

g. The department shall review all public comments received and provide a summary for the commission's review.

h. The department shall submit to the commission for consideration a proposed formula to distribute funds within the state.

i. The commission may, in its discretion, approve or disapprove the department's proposed formula for distribution of funds within the state. If the commission disapproves the department's proposed formula, the department shall develop an alternate formula for distribution of funds within the state after following all procedures provided in rule 17—5.2(231).

j. The commission's final decision shall be posted on the department's Web site, www.aging.iowa.gov.

k. The department shall distribute federal funds proportionately based on a state fiscal year.

5.2(4) NSIP. Each area agency on aging shall receive a portion of the NSIP allotment to the department based on the proportion of an area agency on aging's eligible meals related to the total of NSIP-eligible meals for all area agencies on aging.

17—5.3(231) Distribution of state funds. On and after July 1, 2013, the following shall apply:

5.3(1) The department shall review the formula for distribution within the state of funds received from state appropriations every four years, at a minimum. The department, in its discretion, shall determine whether to maintain the existing formula or develop a new formula based on the criteria outlined in the Older Americans Act and other relevant factors.

5.3(2) The department shall comply with all federal and state laws, rules, and regulations in developing a formula for distribution within the state of funds received from state appropriations.

5.3(3) The department shall adhere to the following process to develop and adopt a formula for distribution within the state of funds received from state appropriations:

a. The department shall hold a minimum of one meeting with area agencies on aging to facilitate discussion and receive comment regarding the proposed formula for distribution.

b. The department shall publish the proposed formula for distribution for review and comment by posting the information on the department's Web site. The publication shall comply with all criteria outlined in the Older Americans Act and state law. The publication shall be posted on the department's Web site for a minimum of 30 calendar days prior to the date set for commission action to approve the proposed formula for distribution. The publication shall provide the method and time frame for acceptance of public comment.

c. The department shall distribute a press release containing the proposed funding formula to all newspapers within the state.

AGING, DEPARTMENT ON[17](cont'd)

d. The information published pursuant to paragraph 5.3(3) “*b*” shall be mailed, via standard postal delivery or electronic mail, to the executive director and board chairperson of each area agency on aging a minimum of 30 calendar days prior to the date set for commission action to approve the formula for distribution.

e. The department shall accept written public comment in response to publication of the proposed formula for a minimum of 14 calendar days following publication. The method and time frame for acceptance of public comment shall be provided in the information published pursuant to paragraphs 5.3(3) “*b*” and “*c*.”

f. The department shall review all public comments received and provide a summary for the commission’s review.

g. The department shall submit to the commission for consideration a proposed formula to distribute funds within the state.

h. The commission may, in its discretion, approve or disapprove the department’s proposed formula for distribution of funds within the state. If the commission disapproves the department’s proposed formula, the department shall develop an alternate formula for distribution of funds within the state after following all procedures provided in rule 17—5.3(231).

i. The commission’s final decision shall be posted on the department’s Web site, www.aging.iowa.gov.

17—5.4(231) Posting of formulas for distribution. The department shall maintain a posting of the current formulas used for distribution of state or federal funds on the department’s Web site, www.aging.iowa.gov.

17—5.5(231) Priority service expenditures. Each area agency on aging shall expend a specified minimum percentage of Older Americans Act Title III-B funds, less administration costs, for priority services. The minimum percentage to be expended on priority services shall be established by the commission and posted on the department’s Web site, www.aging.iowa.gov.

17—5.6(231) Match requirements for Older Americans Act funds.

5.6(1) Area agencies on aging shall comply with all match requirements established by and outlined in the Older Americans Act and federal rules and regulations.

5.6(2) Older Americans Act match requirements shall be met with the use of nonfederal sources, as defined by the Older Americans Act. The match used to meet Older Americans Act requirements shall be separate and independent of the match used to meet the state match requirements.

5.6(3) If an area agency on aging fails to appropriately match Older Americans Act funds pursuant to the match requirements of the Older Americans Act, the department may take any action necessary to correct the deficiency, including but not limited to the remedies provided in rule 17—5.14(231).

17—5.7(231) Match requirements for state funds.

5.7(1) Area agencies on aging shall comply with all match requirements mandated by federal and state laws, rules, and regulations.

5.7(2) The match requirement for state funds of \$15 for every \$85 of state funds distributed shall be met with the use of local sources. The local sources used to meet state match requirements shall be separate and independent of the match used to meet the Older Americans Act match requirements.

5.7(3) If an area agency on aging fails to appropriately match state funds pursuant to the match requirements established in state law and rule, the department may take any action necessary to correct the deficiency, including but not limited to the remedies provided in rule 17—5.14(231).

17—5.8(231) Contributions. Each area agency on aging shall be allowed to receive voluntary contributions in compliance with federal and state laws, rules, and regulations.

AGING, DEPARTMENT ON[17](cont'd)

17—5.9(231) General reporting requirements.

5.9(1) Each area agency on aging shall submit program and financial reports to comply with federal and state program requirements.

5.9(2) Each area agency on aging shall be responsible for the following:

- a. Gathering accurate information necessary to complete reports;
- b. Completing reports on forms or in a format prescribed by the department; and
- c. Submitting reports or data to the department on or before the established due dates. The established due dates for reports shall be listed in the area plan, the department's service and fiscal reporting manual, or in an IAPI.

5.9(3) Each area agency on aging shall be solely responsible for obtaining and reporting necessary information from subgrantees, contractors and subcontractors.

5.9(4) Failure to submit complete and accurate program or financial reports by the established due dates, even if waiver is granted, may subject the area agency on aging to remedies provided in rule 17—5.14(231).

17—5.10(231) Redistribution.

5.10(1) *Redistribution of federal funds.*

a. Funds distributed pursuant to the Older Americans Act which are not expended for goods or services or both to be provided by the last day of the award period shall be available to the department for redistribution unless a written application for carryover is approved pursuant to paragraph 5.10(1) "b."

b. Funds distributed pursuant to the Older Americans Act may be carried over upon department approval of a written application. The written application must be received by the department on or before the final report due date for that fiscal year. The written application must contain the amount of funds requested for carryover. The department, in its discretion, shall approve or deny the written application.

c. Any unexpended funds distributed for administration costs pursuant to the Older Americans Act, as shown in the department's annual allotment tables, may be used only for program service expenditures in the subsequent fiscal year.

5.10(2) *Redistribution of state funds.*

a. If the department determines prior to the end of a fiscal year that an area agency on aging will not expend its state funds for goods or services or both to be provided by the last day of the fiscal year, the department may redistribute the funds to one or more area agencies on aging in accordance with demonstrated utilization or by a redistribution method specified in IAPI.

b. The department may, in its discretion, redistribute funds to one or more area agencies on aging based on expenditure estimates for that fiscal year. The department may redistribute funds as early as January of that fiscal year.

c. The area agencies on aging receiving the redistributed funds shall expend them by the end of the fiscal year in which they are redistributed for goods or services or both to be provided by the last day of the fiscal year.

5.10(3) *Failure to expend federal or state funds.* Failure to expend federal or state funds in accordance with the area plan may subject the area agency on aging to remedies provided in rule 17—5.14(231).

17—5.11(231) State reviews and audits.

5.11(1) Each area agency on aging shall complete an annual audit report and submit the audit report to the department for review as directed in the guidelines issued by the department.

5.11(2) The audit costs shall be negotiated and paid for by the grantee from the applicable grants.

5.11(3) The department shall provide the grantee with guidelines to be followed by the auditor.

5.11(4) Failure to fully comply with state review and audit requirements by the due dates, even if waiver is granted, may subject the area agency on aging to remedies provided in rule 17—5.14(231).

AGING, DEPARTMENT ON[17](cont'd)

17—5.12(231) Acquisition of goods and services. All area agency on aging acquisitions of goods and services shall be in compliance with state and federal laws, rules and regulations.

17—5.13(231) Records—contract administration. The department and each area agency on aging shall maintain records and reports for purchases and contracts that utilize state or federal funds. The records and reports shall be maintained pursuant to federal and state laws, rules, and regulations.

17—5.14(231) Correction of deficiencies.

5.14(1) Remedies. The purpose of remedies is to ensure prompt action is taken by an area agency on aging to correct deficiencies arising from failure to perform as identified by this rule. The department shall determine the remedies to be applied to the area agency on aging for failure to perform.

5.14(2) Number of remedies. The department may apply one or more remedies for each deficiency constituting failure to perform or for all deficiencies constituting failure to perform.

5.14(3) Notification requirements. The department shall give the area agency on aging written notice of remedy at least 15 calendar days before the effective date of the remedy. The written notice of remedy shall include the following:

- a. The nature of the failure to perform.
- b. The remedy imposed.
- c. The effective date of the remedy.
- d. The right to appeal the determination leading to the remedy.

5.14(4) Factors to be considered in selecting remedies.

a. In order to select the appropriate remedy, the department shall determine the seriousness of the failure to perform. To determine the seriousness of the failure to perform, the department shall consider whether the area agency on aging's failure(s) to perform:

- (1) Is isolated.
- (2) Constitutes a pattern.
- (3) Is broad in scope.
- (4) Creates a financial burden for the department, other area agencies on aging, or the aging network.
- (5) Creates an administrative burden for the department, other area agencies on aging, or the aging network.

b. In selecting an appropriate remedy, the department may also consider the area agency on aging's prior history of failure to perform in general and specifically with reference to the cited failure to perform.

5.14(5) Available remedies. The department may select one or more of the following remedies with reference to a cited failure to perform:

a. *Directed in-service training.* The department may require the staff of an area agency on aging to attend an in-service training program if education is likely to correct the failure to perform. The area agency on aging is responsible for the payment for the directed in-service training.

b. *Department monitoring.* The department may require an area agency on aging to receive increased monitoring by the department. The frequency and duration of the monitoring is within the discretion of the department.

c. *Directed plan of correction.* The department may develop a plan of correction and require an area agency on aging to take action within specified time frames.

d. *Reduction of funding.* The department may reduce the amount of funding distributed.

e. *Investigative audit.* The department may require an area agency on aging receive an investigative audit. The area agency on aging is responsible for the payment for this investigative audit.

f. *Other remedies.* The department may also impose other remedies, as appropriate.

g. *Dedesignation.* The department may request dedesignation of an area agency on aging pursuant to rule 17—4.6(231).

5.14(6) Duration of remedies. Remedies shall continue until:

AGING, DEPARTMENT ON[17](cont'd)

a. The area agency on aging has achieved substantial compliance as determined by the department or based upon a revisit or after an examination of credible written evidence that the department can verify without an on-site visit; or

b. The area agency on aging is dedesignated.

5.14(7) *Mandatory plan of correction.* Each area agency on aging that has been cited for a failure to perform shall submit a plan of correction for approval by the department regardless of which remedies are applied.

5.14(8) *Procedures for plan of correction.* Within 30 calendar days following receipt of the written notice of remedy pursuant to subrule 5.14(3), the area agency on aging shall submit a plan of correction to the department.

a. Contents of plan. The plan of correction shall contain the following information:

- (1) How the area agency on aging will correct the failure to perform;
- (2) How the area agency on aging will act to protect consumers within the affected area;
- (3) The measures the area agency on aging will take or the systems it will alter to ensure that the problem does not reoccur;
- (4) How the area agency on aging plans to monitor its performance to make sure that solutions are sustained; and
- (5) The date(s) when corrective action will be completed.

b. Review of plan. The department shall review the plan of correction within 30 calendar days of receipt. The department may request additional information or revisions to the plan, which shall be provided by the area agency on aging as requested.

5.14(9) *Appeal of a determination of failure to perform.*

a. An area agency on aging may request a hearing on a determination of a failure to perform that leads to a remedy citation. The affected area agency on aging shall file the request for hearing in writing to the department within 60 calendar days from receipt of the written notice of remedy.

b. Hearings shall be conducted pursuant to 17—Chapter 13, with an administrative law judge appointed as the presiding officer and with the department as the final decision maker with subject matter jurisdiction.

c. An area agency on aging may not appeal the choice of remedy, including the factors considered by the department in choosing the remedy.

These rules are intended to implement Iowa Code chapter 231.

ARC 0549C

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 6, “Area Agency on Aging Planning and Administration,” Iowa Administrative Code, and to adopt a new Chapter 6 with the same title.

The proposed rules in new Chapter 6 are streamlined, and outdated and duplicative rules have been eliminated. Proposed Chapter 6 mandates that area agencies on aging submit an area plan pursuant to state and federal laws, rules, and regulations and provides an area plan amendment process. Proposed Chapter 6 also includes a governance rule. Several provisions have been eliminated from Chapter 6, including provisions surrounding entrepreneurial activities. Financial provisions contained within Chapter 6 have been moved to Chapter 5, the fiscal operations chapter.

AGING, DEPARTMENT ON[17](cont'd)

Any interested person may make written suggestions or comments on the proposed rules on or before January 29, 2013. 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 chapter 231.

The following amendment is proposed.

Rescind 17—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
AREA AGENCY ON AGING PLANNING AND ADMINISTRATION

17—6.1(231) Area plan. Each area agency on aging shall develop and administer an area plan in accordance with criteria provided in the Older Americans Act.

17—6.2(231) Area plan amendments. Each area agency on aging shall submit an area plan amendment to the department upon the occurrence of any event that requires an amendment of the area plan pursuant to the Older Americans Act. The area agency on aging shall submit an area plan amendment within 30 days of the occurrence of the event that gives rise to the need for an amendment.

17—6.3(231) Area agency on aging governance.

6.3(1) Duties of the area agencies on aging. Each area agency on aging shall perform all duties required by state and federal laws, rules, and regulations.

6.3(2) Staff requirements. Each area agency on aging shall employ a qualified director and may employ other staff as necessary to manage and monitor the area plan.

6.3(3) Director's duties. The duties of the director of an area agency on aging shall include, but shall not be limited to, the following:

- a. Monitoring the business and performance of the area agency on aging;
- b. Adopting and implementing adequate financial and operational procedures; and
- c. Complying with all applicable state and federal laws, rules, and regulations.

6.3(4) Board of directors. Each area agency on aging shall establish a board of directors pursuant to the laws and regulations under which the area agency on aging is organized, including, but not limited to, Iowa Code chapter 504, the revised Iowa nonprofit corporation Act.

6.3(5) Advisory council. Each area agency on aging shall establish an advisory council in accordance with criteria provided in the Older Americans Act.

6.3(6) Operating policies and procedures. Each area agency on aging receiving funding under an area plan shall have written policies and procedures to govern the conduct of the agency's operations and functions.

17—6.4(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 chapter 231.

ARC 0543C

CREDIT UNION DIVISION[189]

Notice of Termination

Pursuant to the authority of Iowa Code section 533.107, the Credit Union Division terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on

CREDIT UNION DIVISION[189](cont'd)

October 31, 2012, as **ARC 0428C**, proposing to amend Chapter 3, "Conversion of an Iowa-Chartered Credit Union to Another Type"; to rescind Chapter 12, "Bylaw Amendment Voting Procedure—Mailed Ballot," and to adopt a new Chapter 12, "Votes of the Membership"; and to rescind Chapter 16, "Director Election—Absentee Ballot Voting Procedures," and Chapter 19, "Amend, Modify or Reverse Acts of the Board of Directors—Mailed Ballot Voting Procedure," Iowa Administrative Code.

The Notice proposed changes to certain voting procedures for specific types of credit union membership votes to reflect the change to Iowa Code section 533.203 that permits the use of multiple methods of voting by credit unions.

The Division is terminating the rule making commenced in **ARC 0428C** and will renote the proposed amendments to incorporate additional changes and clarifications.

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state.

ARC 0560C

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 455B.474(3)“d,” the Environmental Protection Commission proposes to amend Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

The rescission of paragraph 135.5(1)“e” and adoption of a new paragraph in lieu thereof changes from January 1, 2013, to January 1, 2014, the deadline for compliance with certain leak detection and notification requirements applicable to unstaffed facilities operating underground storage tank (UST) systems with pressurized piping. "Unstaffed facilities" are those facilities that do not have an operator present on site at all times that the UST system is operating and available to dispense fuel to a customer.

In addition to seeking comment on the above change in date, the Department seeks public comment on all aspects of the leak detection and notification methods and requirements found in paragraph 135.5(1)“e” with the intent of further amending this paragraph prior to January 1, 2014.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before February 6, 2013. Such written materials should be sent to Director Chuck Gipp, c/o Paul Nelson, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895.

A public hearing will be held on February 7, 2013, at 1:30 p.m. in Conference Rooms 5E/5W at the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 0559C**. The content of that submission is incorporated by reference.

After analysis and review of this rule making, a positive impact on jobs could exist. Because of the change in the compliance date for installing new leak detection equipment, owners of affected sites will be able to delay the cost of purchasing and installing new equipment until the Department has had additional time to study the effectiveness and potential use of alternative leak detection compliance methods. It is the intent of the Department to work with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective in order to further amend the paragraph prior to the new January 1, 2014, deadline.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

ARC 0547C**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 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Revisions to Chapters 79 and 83 are due to the change in the reimbursement rate for providers of home- and community-based service (HCBS) waivers, to be increased beginning January 1, 2013, by 2 percent over the rates in effect on June 30, 2012. The caps on the total monthly costs of HCBS waiver services for members under each waiver are also being increased by 2 percent, with the exception for the elderly waiver nursing facility level of care, which was increased by 16 percent (from \$1,117 to \$1,300) in July 2012. The increase in the cap is put in place so members can receive the same services after the rate increase.

These changes are being made to come into compliance with 2012 Iowa Acts, Senate File 2336, section 33 (amending 2011 Iowa Acts, chapter 129, section 141, subsection 1, paragraph “q”), which requires the Department of Human Services to increase the rates for providers of HCBS waivers by 2 percent over the rates in effect June 30, 2012.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 0548C**. The purpose of this notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before January 29, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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).

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

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

ARC 0554C**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 237A.12(1)“b,” the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

The purpose of this amendment is to eliminate the restriction prohibiting the use of a cellular telephone as a primary telephone in registered child development homes. With the advancement

HUMAN SERVICES DEPARTMENT[441](cont'd)

in cellular telephone technology, it is no longer necessary to limit cellular telephone use in child development homes. None of the states surrounding Iowa include this limitation in their rules.

Any interested person may make written comments on the proposed amendment on or before January 29, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

This amendment does not provide for waivers in specified situations because waivers are not necessary. Providers are not required to switch to cellular telephone service, they simply may do so if they desire. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 237A.12(1)"b."

The following amendment is proposed.

Amend paragraph **110.5(1)"a"** as follows:

a. The home shall have a non-pay, working telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. ~~A cell phone shall not be used as the primary phone.~~ If the working telephone is a mobile telephone, these numbers must be programmed and saved into the telephone. The number for each child's parent, for a responsible person who can be reached when the parent cannot, and for the child's physician shall be readily accessible by the telephone. If the working telephone is a mobile telephone, these numbers must also be programmed and saved into the telephone.

ARC 0555C

PROFESSIONAL LICENSURE DIVISION[645]

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 147.76, the Iowa Board of Podiatry hereby gives Notice of Intended Action to amend Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

The proposed amendments clarify the existing practice of having temporary licenses expire on June 30. The amendments also clarify that temporary licensure is for residencies being completed in Iowa.

Any interested person may make written comments on the proposed amendments no later than February 1, 2013, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail tony.alden@idph.iowa.gov.

A public hearing will be held on February 1, 2013, from 9 to 9:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

After analysis and review of this rule making, no adverse impact on jobs exists. This rule making seeks to clarify existing requirements rather than add additional requirements for podiatrists.

These amendments are intended to implement Iowa Code section 149.7.

The following amendments are proposed.

ITEM 1. Amend subrule 220.6(1) as follows:

220.6(1) A temporary license may be issued for up to one year and may be annually renewed at the discretion of the board. Temporary licenses will expire on June 30.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Amend paragraph **220.6(2)“e”** as follows:

e. Furnish an affidavit by the institution director or dean of an approved podiatric college ~~from this state~~, attesting that the applicant has been accepted into a residency program in this state. The residency program must be approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

ARC 0556C

SECRETARY OF STATE[721]

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 47.1 and 17A.4, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Voting Systems,” Iowa Administrative Code.

These amendments are necessary to provide voters with disabilities an opportunity to test and report on new accessible voting equipment before it is certified for use by the Iowa Board of Voting Equipment Examiners. Currently, meetings of the Board are noticed pursuant to Iowa Code chapter 21 and are open to the public. However, there are no formal procedures in place for the examiners to receive feedback on the accessibility of new voting systems from interested parties.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 29, 2013. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office by telephone at (515)281-0145 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building.

Requests for a public hearing must be received by January 29, 2013.

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

These amendments are intended to implement Iowa Code section 52.26.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 22.9(6):

22.9(6) Accessibility testing by other interested parties. Any party interested in the accessibility of voting equipment that is being considered for state certification may request to be included on notices of meetings of the board of examiners. Requests shall be sent to the examiners, in care of the Elections Division, Office of the Secretary of State, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Any parties present at the meeting may complete accessibility testing on the equipment and submit a report on the accessibility of the voting system to the examiners within 30 days of the date of the examination and test. The report may be made in written or oral form. If an interested party would like to make an oral report, the examiners may hear the report either in person or by conference call organized by the elections division, whichever the examiners prefer.

ITEM 2. Amend rule 721—22.12(52) as follows:

721—22.12(52) Report of findings. ~~The~~ Within 60 days of examining a voting system pursuant to this chapter, the examiners shall complete a report showing their findings. The report shall include a checklist containing all statutory requirements for voting systems and shall indicate whether each requirement applies to the voting system being examined and whether the voting system is compliant or not compliant.

SECRETARY OF STATE[721](cont'd)

The checklist must indicate that all applicable items are compliant with statutory requirements in order for the examiners to find that the voting system may be approved for use.

22.12(1) *Accessibility reports.* The examiners shall wait a minimum of 30 days from the date of the examination and test before completing the report required by this rule so that the examiners have sufficient time to receive and review any accessibility reports submitted by interested parties pursuant to subrule 22.9(6).

22.12(1) 22.12(2) *Approval permits prior to use.* If the report states that the voting system has been approved for use, the voting system may be adopted for use at elections.

22.12(2) 22.12(3) *Report filed with the secretary of state.* The report shall be filed with the secretary of state. The secretary of state shall retain the vendor's application and other documents submitted pertaining to the certification as long as the voting system remains certified.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2012 — January 31, 2012	4.00%
February 1, 2012 — February 29, 2012	4.00%
March 1, 2012 — March 31, 2012	4.00%
April 1, 2012 — April 30, 2012	4.00%
May 1, 2012 — May 31, 2012	4.25%
June 1, 2012 — June 30, 2012	4.00%
July 1, 2012 — July 31, 2012	3.75%
August 1, 2012 — August 31, 2012	3.50%
September 1, 2012 — September 30, 2012	3.50%
October 1, 2012 — October 31, 2012	3.75%
November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%

ARC 0559C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455B.474(3)“d,” the Environmental Protection Commission hereby amends Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

This amendment rescinds paragraph 135.5(1)“e” and adopts a new paragraph in lieu thereof. The purpose is to extend by one year the compliance deadline for underground storage tank leak detection system upgrades at unstaffed facilities that use pressurized piping. Changing the deadline from January 1, 2013, to January 1, 2014, will provide owners of unstaffed facilities additional time to comply with the rule and will allow time for the Department of Natural Resources and stakeholders to work together to address concerns raised since the existing rule’s adoption.

In compliance with Iowa Code section 17A.4(3), the Commission finds that notice and public participation are unnecessary because rescission and replacement of this paragraph simply changes the compliance deadline and has no material effect on leak detection requirements or other aspects of the rule.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this amendment should be waived and this amendment should be made effective upon filing, as it confers a benefit upon a segment of the public by providing owners of unstaffed facilities additional time to comply with the rule.

The Commission adopted this amendment on December 18, 2012.

This amendment is also published herein under Notice of Intended Action as **ARC 0560C** to allow public comment. This emergency filing permits the Department to implement the changes to the rule.

After analysis and review of this rule making, a positive impact on jobs could exist. Because of the change in the compliance date for installing new leak detection equipment, owners of affected sites will be able to delay the cost of purchasing and installing new equipment until the Department has had additional time to study the effectiveness and potential use of alternative leak detection compliance methods. It is the intent of the Department to work with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective in order to further amend the paragraph prior to the new January 1, 2014, deadline.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

This amendment became effective December 19, 2012.

The following amendment is adopted.

Rescind paragraph **135.5(1)“e”** and adopt the following new paragraph in lieu thereof:

e. UST systems using pressurized piping that operate with no on-site personnel shall comply with the following requirements:

(1) Whenever an in-line leak detector is installed or replaced, it must be capable of shutting down the submersible pump.

(2) Existing sites with an in-line leak detection system in place on February 17, 2010, may continue operation provided that, by January 1, 2014, either of the following UST system modifications is made:

1. An in-line leak detector capable of shutting off the submersible pump is installed; or

2. The UST system is equipped with a device that immediately alerts the Class B operator or designee when a leak is detected. The Class B operator or designee shall be on site within two hours of notification and shut down the submersible pump. The UST system cannot be returned to service until the problem that caused the release response is resolved.

3. A temporary extension of time to meet these upgrade requirements may be granted if it can be shown that there is no reasonable alternative fueling source in the vicinity or fueling is needed to satisfy emergency or public safety considerations. The request for temporary extension must include documentation and a plan for upgrading prior to January 1, 2014.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(3) At sites with secondary containment sumps and continuous automatic sump sensors for leak detection monitoring, the continuous automatic sump sensors must shut off product flow when a leak is detected. If it is determined that a malfunction of the leak detection system is the cause of the shutdown, the UST system must be immediately repaired but may continue to be operated while the repairs are made.

[Filed Emergency 12/19/12, effective 12/19/12]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0548C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Revisions to Chapters 79 and 83 are due to the change in the reimbursement rate for providers of home- and community-based service (HCBS) waivers, to be increased beginning January 1, 2013, by 2 percent over the rates in effect on June 30, 2012. The caps on the total monthly costs of HCBS waiver services for members under each waiver are also being increased by 2 percent, with the exception for the elderly waiver nursing facility level of care, which was increased by 16 percent (from \$1,117 to \$1,300) in July 2012. The increase in the cap is put in place so members can receive the same services after the rate increase.

These changes are being made to come into compliance with 2012 Iowa Acts, Senate File 2336, section 33 (amending 2011 Iowa Acts, chapter 129, section 141, subsection 1, paragraph "q"), which requires the Department of Human Services to increase the rates for providers of HCBS waivers by 2 percent over the rates in effect June 30, 2012.

The Council on Human Services adopted these amendments on December 12, 2012.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the Legislature mandated these changes.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2013, because the amendments confer a benefit on the public. Also, 2012 Iowa Acts, Senate File 2336, section 33, authorizes emergency rule-making authority.

These amendments are also published herein under Notice of Intended Action as **ARC 0547C** to allow for public comment.

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

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

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

These amendments became effective January 1, 2013.

The following amendments are adopted.

ITEM 1. Amend paragraph **79.1(1)"e"** as follows:

e. Retrospectively limited prospective rates. Providers are reimbursed on the basis of a rate for a unit of service calculated prospectively for each participating provider (and, for supported community living daily rates, for each consumer or site) based on projected or historical costs of operation subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment pursuant to subparagraph 79.1(1)"e"(3).

(1) and (2) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on the provider's actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than ~~2.5~~ 4.5 percent.

ITEM 2. Amend subrule **79.1(2)**, provider category "HCBS waiver service providers," as follows:

Provider category	Basis of reimbursement	Upper limit
HCBS waiver service providers, including:		Except as noted, limits apply to all waivers that cover the named provider.
1. Adult day care	Fee schedule	For AIDS/HIV, brain injury, elderly, and ill and handicapped waivers effective 7/1/11 <u>1/1/13</u> : Provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: Veterans Administration contract rate or \$22.12 <u>22.56</u> per half-day, \$44.03 <u>44.91</u> per full day, or \$66.03 <u>67.35</u> per extended day if no Veterans Administration contract. For intellectual disability waiver: County contract rate or, effective 7/1/11 <u>1/1/13</u> in the absence of a contract rate, provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate, \$29.47 <u>30.06</u> per half-day, \$58.83 <u>60.00</u> per full day, or \$75.00 <u>76.50</u> per extended day.
2. Emergency response system:		
Personal response system	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: Initial one-time fee: \$49.53 <u>50.52</u> . Ongoing monthly fee: \$38.52 <u>39.29</u> .
Portable locator system	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: One equipment purchase: \$307.69 <u>313.84</u> . Initial one-time fee: \$49.53 <u>50.52</u> . Ongoing monthly fee: \$38.52 <u>39.29</u> .

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
3. Home health aides	Retrospective cost-related	For AIDS/HIV, elderly, and ill and handicapped waivers effective 7/1/11 <u>1/1/13</u> : Lesser of maximum Medicare rate in effect 11/30/09 plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%.
4. Homemakers	Fee schedule	For intellectual disability waiver effective 7/1/11 <u>1/1/13</u> : Lesser of maximum Medicare rate in effect 11/30/09 plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate. Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$19.84 <u>20.21</u> per hour.
5. Nursing care	For elderly and intellectual disability waivers: Fee schedule as determined by Medicare.	For elderly waiver effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$82.92 <u>84.58</u> per visit.
		For intellectual disability waiver effective 7/1/11 <u>1/1/13</u> : Lesser of maximum Medicare rate in effect 11/30/09 plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate.
	For AIDS/HIV and ill and handicapped waivers: Agency's financial and statistical cost report and Medicare percentage rate per visit.	For AIDS/HIV and ill and handicapped waivers effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$82.92 <u>84.58</u> per visit.
6. Respite care when provided by: Home health agency: Specialized respite	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: Lesser of maximum Medicare rate in effect 11/30/09 plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate, not to exceed \$296.94 <u>302.88</u> per day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
Basic individual respite	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: Lesser of maximum Medicare rate in effect 11/30/09 <u>6/30/12</u> plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate, not to exceed \$296.94 <u>302.88</u> per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$13.12 <u>13.38</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Home care agency: Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$33.75 <u>34.43</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$18.01 <u>18.37</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$13.12 <u>13.38</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Nonfacility care: Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$33.75 <u>34.43</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$18.01 <u>18.37</u> per hour not to exceed \$296.94 <u>302.88</u> per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$13.12 <u>13.38</u> per hour not to exceed \$296.94 <u>302.88</u> per day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
Facility care:		
Hospital or nursing facility providing skilled care	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed the facility's daily Medicaid rate for skilled nursing level of care.
Nursing facility	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed the facility's daily Medicaid rate.
Camps	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed \$296.94 302.88 per day.
Adult day care	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed rate for regular adult day care services.
Intermediate care facility for the mentally retarded persons with an intellectual disability	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed the facility's daily Medicaid rate.
Residential care facilities for persons with mental retardation an intellectual disability	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed contractual daily rate.
Foster group care	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed daily rate for child welfare services.
Child care facilities	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.12 13.38 per hour not to exceed contractual daily rate.
7. Chore service	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$7.71 7.86 per half hour.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
8. Home-delivered meals	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$ 7.71 <u>7.86</u> per meal. Maximum of 14 meals per week.
9. Home and vehicle modification	Fee schedule. See 79.1(17)	For elderly waiver effective <u>1/1/13</u> : \$ 1,040 <u>1,030.20</u> lifetime maximum. For intellectual disability waiver effective <u>1/1/13</u> : \$ 5,050 <u>5,151</u> lifetime maximum. For brain injury, ill and handicapped and physical disability waivers effective <u>1/1/13</u> : \$ 6,060 <u>6,181.20</u> per year.
10. Mental health outreach providers	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: On-site Medicaid reimbursement rate for center or provider. Maximum of 1440 units per year.
11. Transportation	Fee schedule	Effective 7/1/11 <u>1/1/13</u> : County contract rate or, in the absence of a contract rate, provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate, the rate set by the area agency on aging.
12. Nutritional counseling	Fee schedule	Effective 7/1/11 <u>1/1/13</u> for non-county contract: Provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$ 8.25 <u>8.42</u> per unit.
13. Assistive devices	Fee schedule. See 79.1(17)	Effective 7/1/11 <u>1/1/13</u> : \$ 110.05 <u>112.25</u> per unit.
14. Senior companion	Fee schedule	Effective 7/1/11 <u>1/1/13</u> for non-county contract: Provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$ 6.59 <u>6.72</u> per hour.
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$ 20.20 <u>20.60</u> per hour not to exceed \$ 116.72 <u>119.05</u> per day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Provider's Effective 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$ 1,117 1,139.34 per calendar month. When prorated per day for a partial month, \$ 36.74 37.44 per day.
Individual	Fee agreed upon by member and provider	Effective July 1, 2010 1/1/13, \$ 13.47 13.74 per hour not to exceed \$ 78.56 80.13 per day.
16. Counseling		
Individual:	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$ 10.79 11.01 per unit.
Group:	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$ 43.14 44.00 per hour.
17. Case management	Fee schedule with cost settlement. See 79.1(1)"d."	For brain injury waiver: Retrospective cost-settled rate. For elderly waiver: Quarterly revision of reimbursement rate as necessary to maintain projected expenditures within the amounts budgeted under the appropriations made for the medical assistance program for the fiscal year.
18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 1/1/13: \$ 34.98 35.68 per hour, \$78.88 per day not to exceed the maximum daily ICF/MR ICF/ID rate in effect 6/30/12 plus 2%.
19. Supported employment:		
Activities to obtain a job:		
Job development	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$ 909 927.18 per unit (job placement). Maximum of two units per 12 months.
Employer development	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$ 909 927.18 per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 1/1/13: \$ 34.98 35.68 per hour. Maximum of 26 hours per 12 months.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 <u>1/1/13</u> : \$34.98 <u>35.68</u> per hour for all activities other than personal care and services in an enclave setting. \$19.81 <u>20.21</u> per hour for personal care. \$6.19 <u>6.31</u> per hour for services in an enclave setting. \$2,883.71 <u>2,941.38</u> per month for total service. Maximum of 40 units per week.
20. Specialized medical equipment	Fee schedule. See 79.1(17)	Effective <u>1/1/13</u> , \$6,060 <u>6,181.20</u> per year.
21. Behavioral programming	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$10.79 <u>11.01</u> per 15 minutes.
22. Family counseling and training	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$43.14 <u>44.00</u> per hour.
23. Prevocational services	Fee schedule	For the brain injury waiver County contract rate or, in absence of a contract rate, effective 7/1/11 <u>1/1/13</u> : Lesser of provider's rate in effect <u>6/30/12</u> plus 2%, \$48.22 <u>49.18</u> per day, \$24.11 <u>24.59</u> per half-day, or \$13.21 <u>13.47</u> per hour. For the intellectual disability waiver effective 7/1/11: County contract rate or, in absence of a contract rate, \$48.22 per day, \$24.11 per half day, or \$13.21 per hour.
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/11 <u>1/1/13</u> : Lesser of maximum Medicare rate in effect <u>11/30/09</u> plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/11 <u>1/1/13</u> : Lesser of maximum Medicare rate in effect <u>11/30/09</u> plus 2% or maximum Medicaid rate in effect 11/30/09 <u>6/30/12</u> plus 2%, converted to an hourly rate.
Child development home or center	Fee schedule	Effective 7/1/11 <u>1/1/13</u> , provider's rate in effect 11/30/09 <u>6/30/12</u> plus 2%. If no 11/30/09 <u>6/30/12</u> rate: \$13.12 <u>13.38</u> per hour.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$34.98 35.68 per hour, not to exceed the maximum ICF/MR ICF/ID rate per day in effect 6/30/12 plus 2%.
25. Residential-based supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 1/1/13: The Not to exceed the maximum ICF/MR ICF/ID rate per day in effect 6/30/12 plus 2%.
26. Day habilitation	Fee schedule	Effective 7/1/11 1/1/13: County contract rate or, in the absence of a contract rate, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$13.21 13.47 per hour, \$32.15 32.79 per half-day, or \$64.29 65.58 per day.
27. Environmental modifications and adaptive devices	Fee schedule. See 79.1(17)	Effective 1/1/13, \$6,060 6,181.20 per year.
28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$34.98 35.68 per hour.
29. In-home family therapy	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$93.63 95.50 per hour.
30. Financial management services	Fee schedule	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$65.65 66.96 per enrolled member per month.
31. Independent support broker	Rate negotiated by member	Effective 7/1/11 1/1/13, provider's rate in effect 11/30/09 6/30/12 plus 2%. If no 11/30/09 6/30/12 rate: \$15.15 15.45 per hour.
32. Self-directed personal care	Rate negotiated by member	Determined by member's individual budget.
33. Self-directed community supports and employment	Rate negotiated by member	Determined by member's individual budget.
34. Individual-directed goods and services	Rate negotiated by member	Determined by member's individual budget.

ITEM 3. Amend paragraph 79.1(15)“f” as follows:

f. *Retrospective adjustments.*

(1) Retrospective adjustments shall be made based on reconciliation of provider's reasonable and proper actual service costs with the revenues received for those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Revenues exceeding adjusted actual costs by more than ~~2.5~~ 4.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.

(3) Providers who do not reimburse revenues exceeding ~~102.5~~ 104.5 percent of actual costs 30 days after notice is given by the department will have the revenues over ~~102.5~~ 104.5 percent of the actual costs deducted from future payments.

ITEM 4. Amend paragraph **83.2(2)“b”** as follows:

b. Except as provided below, the total monthly cost of the ill and handicapped waiver services shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care	Nursing level of care	ICF/ID
\$2,631 <u>\$2,684</u>	\$904 <u>\$922</u>	\$3,203 <u>\$3,267</u>

(1) For ~~consumers~~ members eligible for SSI who remain eligible for ill and handicapped waiver services until the age of 25 because they are receiving ill and handicapped waiver services upon reaching the age of 21, these amounts shall be increased by the cost of services for which the ~~consumer~~ member would be eligible under 441—subrule 78.9(10) if still under 21 years of age.

(2) No change.

ITEM 5. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs are limited as follows:

Skilled level of care	Nursing level of care
\$2,631 <u>\$2,684</u>	\$1,300

ITEM 6. Amend paragraph **83.42(2)“b”** as follows:

b. The total monthly cost of the AIDS/HIV waiver services shall not exceed the established aggregate monthly cost for level of care. The monthly cost of AIDS/HIV waiver services cannot exceed the established limit of ~~\$1,751~~ \$1,786.

ITEM 7. Amend paragraph **83.82(2)“d”** as follows:

d. The total cost of brain injury waiver services shall not exceed ~~\$2,812~~ \$2,868 per month. If more than \$505 is paid for home and vehicle modification services, the service worker shall encumber up to \$505 per month within the monthly dollar cap allowed for the consumer until the total amount of the modification is reached within a 12-month period.

ITEM 8. Amend paragraph **83.102(2)“b”** as follows:

b. The total cost of physical disability waiver services shall not exceed ~~\$659~~ \$672 per month. If more than \$505 is paid for home and vehicle modification services, the service worker shall encumber up to \$505 per month within the monthly dollar cap allowed for the consumer until the total amount of the modification is reached within a 12-month period.

ITEM 9. Amend paragraph **83.122(6)“b”** as follows:

b. The total cost of children’s mental health waiver services needed to meet the ~~consumer’s~~ member’s needs may not exceed ~~\$1,873~~ \$1,910 per month.

[Filed Emergency 12/12/12, effective 1/1/13]

[Published 1/9/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0546C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of this amendment is to implement funding provided by the Legislature to increase child care assistance half-day rate ceilings. This amendment will allow child care providers to be paid more for their services while not impacting the cost to families already eligible for child care assistance.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin as **ARC 0368C** on October 3, 2012. The Department received no comments from the public on the Notice. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on December 12, 2012.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective January 1, 2013, as it confers a benefit to the public. Specifically, providers of child care and families will receive increased rates for child care assistance.

This amendment does 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).

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

This amendment is intended to implement Iowa Code section 237A.13.

This amendment became effective on January 1, 2013.

The following amendment is adopted.

Amend paragraph **170.4(7)“a”** as follows:

a. Rate of payment. The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$15.81	\$12.24	\$11.73	\$8.19
	\$16.13	\$12.48	\$11.96	
Preschool	\$12.75	\$11.48	\$11.48	\$7.19
	\$13.01	\$11.71	\$11.71	
School Age	\$11.48	\$10.20	\$10.20	\$7.36
	\$11.71	\$10.40	\$10.40	

HUMAN SERVICES DEPARTMENT[441](cont'd)

Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$48.96	\$16.07	\$12.63	\$10.24
	<u>\$49.94</u>	<u>\$16.39</u>	<u>\$12.88</u>	
Preschool	\$28.69	\$14.92	\$12.63	\$ 8.99
	<u>\$29.26</u>	<u>\$15.22</u>	<u>\$12.88</u>	
School Age	\$28.60	\$13.77	\$11.48	\$ 9.20
	<u>\$29.17</u>	<u>\$14.05</u>	<u>\$11.71</u>	

The following definitions apply in the use of the rate tables:

(1) "Child care center" shall mean those providers as defined in 170.4(3) "a" and "g." "Registered child development home" shall mean those providers as defined in 170.4(3) "b." "Nonregistered family child care home" shall mean those providers as defined in 170.4(3) "f."

(2) Under age group, "infant and toddler" shall mean age two weeks to two years; "preschool" shall mean two years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

[Filed Emergency After Notice 12/12/12, effective 1/1/13]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0558C

ACCOUNTANCY EXAMINING BOARD[193A]

Adopted and Filed

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby amends Chapter 10, "Continuing Education," Iowa Administrative Code.

New rule 193A—10.11(272C,542) creates an alternative continuing education cycle.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 14, 2012, as **ARC 0459C**. No public comment was received on this rule. This rule is identical to that published under Notice.

This rule was adopted by the Board on December 19, 2012.

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

This rule does not have any direct jobs impact. After analysis and review of this rule making, a positive impact on jobs could exist. This rule makes the renewal of CPA licenses more flexible for licensees and helps them renew in a way that reduces the burden on both the licensing agency and small businesses.

This rule is intended to implement Iowa Code chapters 272C and 542.

This rule shall become effective February 13, 2013.

The following amendment is adopted.

Adopt the following new rule 193A—10.11(272C,542):

193A—10.11(272C,542) Alternative continuing education cycles authorized.

10.11(1) Purpose. For a variety of reasons, some CPAs and LPAs may wish to satisfy continuing education requirements on a three-year cycle ending on a date other than December 31. By way of illustration, some licensees may prefer to take courses on particular substantive topics that are not always offered at the same time each year. Some licensees may wish to schedule continuing education to comply with the differing requirements of multiple jurisdictions. This rule is intended to authorize a more flexible time frame within which continuing education may be satisfied. This rule does not alter any other requirement of this chapter.

10.11(2) Alternative cycle. Starting with the 2013 renewal cycle, a CPA or LPA may self-select June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the license or certificate. Online and paper renewal forms will require the renewal applicant to declare whether the continuing education was satisfied within the three-year period preceding December 31 or the three-year period preceding June 30. When declaring a June 30 date, licensees must be cautious to ensure the continuing education is fully completed on or prior to the date the renewal application is submitted. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 and may not extend the deadline beyond June 30.

10.11(3) Declaration may vary by renewal cycle. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa. Licensees shall be expected to maintain continuing education records in a manner that complies with the self-selected declaration in any particular renewal cycle.

[Filed 12/19/12, effective 2/13/13]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0544C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 50, "Application for Assistance," Iowa Administrative Code.

This amendment allows the use of the same application for State Supplementary Assistance as is used for Medicaid, FIP, and Food Assistance. This will eliminate the need for an applicant to fill out a separate application when applying for State Supplementary Assistance as well as other programs administered by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0367C** on October 3, 2012. The Department received no comments. This amendment is identical to the one published under Notice of Intended Action.

The Council on Human Services adopted this amendment on December 12, 2012.

This amendment does not provide for waivers in specified situations because none are needed. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249.4.

This amendment will become effective March 1, 2013.

The following amendment is adopted.

Amend subrule 50.2(3) as follows:

50.2(3) Any person applying for payment for residential care shall make application at a local office of the department of human services or at the residential care facility where the person resides. Any person applying for a dependent person allowance or for payment for a protective living arrangement or in-home, health-related care shall make application at a local office of the department. An application may also be filed in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided.

The application shall be made on the Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or 470-0462(S). The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person's behalf.

a. to d. No change.

[Filed 12/12/12, effective 3/1/13]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0545C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," 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.

Currently there is no waiver service that pays for the 24-hour-per-day on-call aspect of an assisted living facility (ALF) for elderly waiver members. The only waiver avenues for ALF payment are consumer-directed attendant care (CDAC) (hands-on services), personal emergency response systems (PERS), and home-delivered meals. The nature of an ALF is that staff must be available 24 hours per

HUMAN SERVICES DEPARTMENT[441](cont'd)

day to meet the needs of the members. The definition of the current waiver services does not allow a per diem payment for on-call staff.

In addition, the federal Medicaid agency, the Centers for Medicare and Medicaid Services (CMS), has been strongly encouraging states to discontinue any policy that allows ALFs to bill CDAC services as one unit per month, regardless of the amount of service provision, for the balance of the waiver maximum. Iowa Medicaid has determined that ALF CDAC will be changed to a 15-minute unit with a corresponding 15-minute fee (to be addressed in another rule making). The application of this CDAC definition change has the potential to drastically reduce monthly payments to ALFs. Creating a new service at the same time will allow the member and provider to appropriately access maximized waiver funding.

Waiver funding may be transferred from CDAC to the on-call service. There should be minimal impact on members because the waiver will continue to pay for necessary CDAC, PERS, or meal services in addition to the on-call service. Providers will experience a change in the way they bill services to Medicaid.

The state will offer services through assisted living facilities that are in line with current guidance from the Centers for Medicare and Medicaid Services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0366C** on October 3, 2012. The Department received comments from two organizations on this rule making. The first comment from both parties thanked the Department for instituting the assisted living on-call service.

Both commenting parties also requested that the upper limit for on-call services be set at \$31 per day. They stated that the upper limit rate of \$25 per day was initially determined in early 2011 and does not account for increased costs incurred by providers. The Department stated that, when setting the per diem rate for on-call services, Iowa Medicaid Enterprise (IME) staff wanted to ensure that there would continue to be funding available for other waiver services frequently accessed by assisted living tenants under the elderly waiver program. Those services are CDAC, PERS, transportation, and home-delivered meals. At the time of rate determination, IME staff did not calculate an on-call rate based on a target percentage of the waiver maximum, but set a rate that would allow members with greater needs to receive additional support services at levels not normally associated with assisted living programs. No change to the proposed amendments was made as the result of these comments.

Comment three was that this would be an opportune time to add reimbursement for nursing services under the home- and community-based services (HCBS) elderly waiver program in assisted living. Currently only home health agencies can be reimbursed for nursing services. The commenting parties recommended that elderly waiver beneficiaries in assisted living have nursing services reimbursed by the elderly waiver program. The Department responded that this suggestion is not consistent with the intent or scope of these amendments. These amendments are not intended in any way to alter the eligibility criteria to provide any other service under Iowa Medicaid. No change to the proposed amendments was made as the result of these comments.

Comment four was that, with this new assisted living on-call service, the Department will need to allow all assisted living providers along with the case managers to revise the Department's service plan and CDAC agreements to add this new service, with the understanding that the reimbursement for services remains subject to the \$1,300 monthly upper limit for elderly waiver services. In response, the Department stated that whenever the Department adds a new service to a waiver, the case manager is able to add that service to the service plan for any member who wishes to have the service and has an assessed need for that service. There are no barriers to case managers working with ALFs and members to alter service plans to accommodate the new service. No action or rule is needed to require this action as it is already available to all case managers, members, and providers.

The IME has planned a webinar and informational releases to explain the new assisted living on-call service to ALFs and case managers. The training and information will be communicated early in 2013 before the effective date of these amendments.

Comment five concerned the Department's expressed intent to discontinue the policy allowing assisted living programs to bill services as one unit per month and to change to a 15-minute unit with a corresponding 15-minute fee. The preamble of the Notice states "the application of this CDAC definition change has the potential to drastically reduce monthly payments to [assisted living programs]". The

HUMAN SERVICES DEPARTMENT[441](cont'd)

commenting agency expressed concern that the implementation of the 15-minute documentation policy will significantly increase paperwork for programs and will result in a net monetary loss for providers, even with the new add-on. The Department responded that the change from the monthly billing unit to a 15-minute billing unit is outside the scope of this rule making but was mentioned only as an explanation as to why the new service was created by the Department. The rule making containing the unit change will be Noticed for public comment; comments should be made to the Department at that time. No change to the proposed amendments was made as the result of these comments.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 12, 2012.

These amendments do not provide for waivers in specified situations because Medicaid has determined that the amendments should be applicable to all members and providers who are eligible. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

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

These amendments will become effective March 1, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 77.33(23):

77.33(23) Assisted living on-call service. Assisted living on-call service providers shall be assisted living programs that are certified by the department of inspections and appeals under 481—Chapter 69.

ITEM 2. Adopt the following **new** subrule 78.37(18):

78.37(18) Assisted living on-call service. The assisted living on-call service provides staff on call 24 hours per day to meet a member’s scheduled, unscheduled, and unpredictable needs in a manner that promotes maximum dignity and independence and provides safety and security. A unit of service is one day. To determine units of service provided, the provider will use census information based on member bed status each day.

ITEM 3. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by adopting the following **new** numbered paragraph “35”:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
35. Assisted living on-call service providers (elderly waiver only)	Fee agreed upon by member and provider.	\$25.00 per day.

[Filed 12/12/12, effective 3/1/13]

[Published 1/9/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0552C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments align HAWK-I application filing date provisions with Medicaid and provide clarification in the definition of “client error.”

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0332C** on September 19, 2012. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The HAWK-I Board adopted these amendments on December 17, 2012.

These amendments do not provide for waivers in specified situations; however, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 514I.

These amendments will become effective April 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 86.3(4) as follows:

86.3(4) *Date and method of filing* Application filing date. The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.

a. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

a. Date of filing. The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.

b. Electronic applications. When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature.

b. Applications received after business hours. When an application is received after business hours, it will be considered received on the next business day.

c. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

ITEM 2. Amend subrule 86.19(1) as follows:

86.19(1) Definitions.

“Administrative error” means an action attributed to of the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.
9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child's Medicaid eligibility.

“Client error” means any action or inaction attributed to of the enrollee or the enrollee's representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because the enrollee or the enrollee's representative because at least one of the following occurred:

1. Failed The enrollee or the enrollee's representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. ~~Failed~~ The enrollee or the enrollee's representative failed to timely report a change as defined in rule 441—86.10(514I).

[Filed 12/17/12, effective 4/1/13]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.

ARC 0557C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts an amendment to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV, No. 10, p. 857, on November 14, 2012, as **ARC 0452C**.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes shall be 5 percent for the calendar year 2013 (0.4% per month). The Department shall also pay interest at the 5 percent rate on refunds. The interest rate for calendar years 2010-2012 was also 5 percent (0.4% per month).

This amendment is identical to that published under the Notice of Intended Action.

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

This amendment is intended to implement Iowa Code section 421.7.

This amendment will become effective February 13, 2013, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendment is adopted.

Adopt the following **new** subrule 10.2(32):

10.2(32) Calendar year 2013. The interest rate upon all unpaid taxes which are due as of January 1, 2013, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2013. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2013. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2013.

[Filed 12/19/12, effective 2/13/13]

[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.