IOWA ADMINISTRATIVE BULLETIN

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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.

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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

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17	**Friday, February 1, 2013**	**February 20, 2013**
18	**Friday, February 15, 2013**	**March 6, 2013**
19	**Friday, March 1, 2013**	**March 20, 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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, February 8, 2013, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"
Alternative continuing education cycles, 10.11 Filed **ARC 0558C** 1/9/13

ADMINISTRATIVE SERVICES DEPARTMENT[11]
Approval of memberships in employee organizations, 41.7(8) Notice **ARC 0553C** 1/9/13

AGING, DEPARTMENT ON[17]
Definitions, 1.5 Notice **ARC 0551C** 1/9/13
Department fiscal operations, ch 5 Notice **ARC 0550C** 1/9/13
Area agency on aging planning and administration, ch 6 Notice **ARC 0549C** 1/9/13

CREDIT UNION DIVISION[189]
COMMERCE DEPARTMENT[181]"umbrella"
Voting procedures, amend ch 3; adopt ch 12; rescind chs 16, 19 Notice of Termination **ARC 0543C** 1/9/13

EDUCATIONAL EXAMINERS BOARD[282]
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Assessment requirements for Iowa licensure, 13.1(3), 13.3, 13.4, 13.17(1)"a"
Filed Emergency After Notice **ARC 0563C** 1/23/13
Administrator licenses, 18.7 Filed **ARC 0564C** 1/23/13
Preliminary native language teaching authorization, 22.5 Filed **ARC 0562C** 1/23/13

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Underground storage tanks—leak detection at unstaffed facilities, 135.5(1)"e"
Notice **ARC 0560C**, also Filed Emergency **ARC 0559C** 1/9/13

HUMAN SERVICES DEPARTMENT[441]
Application for state supplementary assistance, 50.2(3) Filed **ARC 0544C** 1/9/13
HCBS waiver services—addition of assisted living on-call service providers, 77.33(23), 78.37(18), 79.1(2) Filed **ARC 0545C** 1/9/13
HCBS waiver services—standardization of billing codes, unit of service, service definitions, amendments to ch 78 Notice **ARC 0567C** 1/23/13
HCBS waiver services—reimbursement, amendments to chs 79, 83
Notice **ARC 0547C**, also Filed Emergency **ARC 0548C** 1/9/13
HCBS waiver services—reimbursement based on standard billing codes, unit of service, 79.1(2) Notice **ARC 0568C** 1/23/13
Maintenance of records by providers of service, 79.3 Notice **ARC 0570C** 1/23/13
Medical assistance program—reviews and audits, 79.4 Notice **ARC 0569C** 1/23/13
HAWKI-I—application filing date, client error, 86.3(4), 86.19(1) Filed **ARC 0552C** 1/9/13
Child development homes—use of mobile telephone as primary telephone, 110.5(1)"a"
Notice **ARC 0554C** 1/9/13
National criminal history checks for registered child development homes, child care homes, and providers receiving child care assistance payments, 110.7(3), 170.4(3) Notice **ARC 0566C** 1/23/13
Child care assistance half-day rate ceilings—increase, 170.4(7)"a"
Filed Emergency After Notice **ARC 0546C** 1/9/13

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Podiatrists—temporary licensure, 220.6 Notice **ARC 0555C** 1/9/13

PUBLIC HEALTH DEPARTMENT[641]
Center for congenital and inherited disorders, 4.1 to 4.5, 4.7, 4.11 to 4.14 Notice **ARC 0572C** 1/23/13

REVENUE DEPARTMENT[701]
Interest rate for calendar year 2013, 10.2(32) Filed **ARC 0557C** 1/9/13

SECRETARY OF STATE[721]
Voting systems—accessibility testing by interested parties, 22.9(6), 22.12 Notice **ARC 0556C** 1/9/13

TRANSPORTATION DEPARTMENT[761]
Fitness to drive determinations by qualified medical professionals, 4.9(25), 600.1, 600.4(4), 605.5(5)"b" Notice **ARC 0571C** 1/23/13

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"
Recovering certain energy-related costs through an automatic adjustment clause, 20.1(3), 20.9(2)"b," 20.13(1), 20.17(1) Notice of Termination **ARC 0565C** 1/23/13

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Roby Smith
2036 East 48th Street
Davenport, Iowa 52807

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Des Moines, Iowa 50317

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Brenna Findley
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

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.

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**)	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 HEALTH DEPARTMENT[641]

Center for congenital and inherited disorders, 4.1 to 4.5, 4.7, 4.11 to 4.14 IAB 1/23/13 **ARC 0572C**	Participation by conference call Dial: 1-866-685-1580 Enter pass code: 5152816466# at prompt (Call 1-800-383-3826 if problems occur.)	February 12, 2013 9 to 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Fitness to drive determinations by qualified medical professionals, 4.9(25), 600.1, 600.4(4), 605.5(5) IAB 1/23/13 **ARC 0571C**	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	February 14, 2013 10 a.m. (If requested)

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.

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ARC 0567C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The purpose of these amendments is to change billing codes in accordance with guidance from the Centers for Medicare and Medicaid Services (CMS) and the Health Insurance Portability and Accountability Act (HIPAA), which states that no state Medicaid department can use atypical billing codes. Most of the codes used to bill waiver services to the Iowa Medicaid Enterprise (IME) are atypical and therefore need to be changed to standardized health care procedure coding system (HCPCS) or current procedural terminology (CPT) codes. Those standardized codes have different unit descriptions than those currently contained in Chapter 78. For example, the atypical billing code unit definition is one hour; the new conversion code has a unit definition of 15 minutes.

These amendments will also standardize service definitions. The standardization of service definitions was undertaken in order to provide continuity amongst the waiver programs. The description of each waiver service would now be the same for all waiver programs, unless a waiver has a very specific exception.

New subrules 78.37(15) and 78.37(19) are necessary to redefine services available through assisted living facilities.

This Notice is a companion to the rule making revising Chapter 79 that is published herein as **ARC 0568C**.

Any interested person may make written comments on the proposed amendments on or before February 12, 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 because CMS has not indicated that any state can be exempt from the guidelines described in this preamble. The Department does not see any reason why any provider type would be exempt from adherence to CMS guidelines. 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.

The following amendments are proposed.

ITEM 1. Amend rule 441—78.34(249A), introductory paragraph, as follows:

441—78.34(249A) HCBS ill and handicapped waiver services. Payment will be approved for the following services to ~~clients~~ members eligible for HCBS ill and handicapped waiver services as established in 441—Chapter 83 and as identified in the member's service plan. ~~Services must be billed in whole units.~~

ITEM 2. Amend subrule 78.34(1) as follows:

78.34(1) *Homemaker services.* Homemaker services are those services provided when the ~~client~~ member lives alone or when the person who usually performs these functions for the ~~client~~ member

needs assistance with performing the functions. A unit of service is ~~one hour~~ 15 minutes. Components of the service ~~are~~ must be directly related to the care of the ~~client~~ member and may include only the following:

a. No change.

b. Limited housecleaning: maintenance cleaning such as vacuuming, dusting, scrubbing floors, defrosting refrigerators, cleaning stoves, cleaning medical equipment, washing and mending clothes, washing personal items used by the ~~client~~ member, and washing dishes.

~~*c.* Rescinded IAB 9/30/92, effective 12/1/92.~~

~~*d.*~~ *c.* Meal preparation: planning and preparing balanced meals.

ITEM 3. Amend subrule 78.34(3) as follows:

78.34(3) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. ~~A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours).~~ A unit of service is 15 minutes (up to four units per day), a half day (1.25 to 4 hours per day), a full day (4.25 to 8 hours per day), or an extended day (8.25 to 12 hours per day). Components of the service include health-related care, social services, and other related support services.

ITEM 4. Amend subrule 78.34(6) as follows:

78.34(6) *Counseling services.* Counseling services are face-to-face mental health services provided to the ~~client~~ member and caregiver by a mental health professional as defined in rule ~~441—24.61(225C,230A)~~ 441—24.1(225C) to facilitate home management of the ~~client~~ member and prevent institutionalization. Counseling services are nonpsychiatric services necessary for the management of depression, assistance with the grief process, alleviation of psychosocial isolation and support in coping with a disability or illness, including terminal illness. Counseling services may be provided both for the purpose of training the ~~client's~~ member's family or other caregiver to provide care~~,~~ and for the purpose of helping the ~~client~~ member and those caring for the ~~client~~ member to adjust to the ~~client's~~ member's disability or terminal condition. Counseling services may be provided to the ~~client's~~ member's caregiver only when included in the case plan for the ~~client~~ member.

Payment will be made for individual and group counseling. A unit of individual counseling for the waiver ~~client~~ member or the waiver ~~client~~ member and the ~~client's~~ member's caregiver is 15 minutes. A unit of group counseling is ~~one hour~~ 15 minutes. Payment for group counseling is based on the group rate divided by six, or, if the number of persons who comprise the group exceeds six, the actual number of persons who comprise the group.

ITEM 5. Rescind subrule 78.34(7) and adopt the following **new** subrule in lieu thereof:

78.34(7) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.34(7)*"f"* and the skilled activities listed in paragraph 78.34(7)*"g."* Covered service activities must be essential to the health, safety, and welfare of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. *Service planning.* The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual or agency that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

b. Supervision of skilled services. Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. Service documentation. The consumer-directed attendant care provider must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. Role of guardian or attorney. If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. Service units and billing. A unit of service is 15 minutes provided by an individual or agency. Each service shall be billed in whole units.

f. Nonskilled services. Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. Skilled services. Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensives, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. *Excluded services and costs.* Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 6. Amend subrule 78.34(9) as follows:

78.34(9) *Home and vehicle modification.* Covered home ~~and~~ or vehicle modifications are physical modifications to the member's home or vehicle that directly address the member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the member and enable the member to function with greater independence in the home or vehicle.

a. to *f.* No change.

g. Service payment shall be made to the enrolled home ~~and~~ or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home ~~and~~ or vehicle modification provider following completion of the approved modifications.

(1) and (2) No change.

h. No change.

ITEM 7. Adopt the following **new** subrule 78.34(14):

78.34(14) *General service standards.* All ill and handicapped waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 8. Amend rule 441—78.37(249A), introductory paragraph, as follows:

441—78.37(249A) HCBS elderly waiver services. Payment will be approved for the following services to ~~consumers~~ members eligible for the HCBS elderly waiver services as established in 441—Chapter 83 and as identified in the member's service plan. ~~The consumer shall have a billable waiver service each calendar quarter. Services must be billed in whole units.~~

ITEM 9. Amend subrule 78.37(1) as follows:

78.37(1) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. ~~A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours).~~ A unit of service is 15 minutes (up to four units per day), a half day (1.25 to 4 hours per day), a full day (4.25 to 8 hours per day), or an extended day (8.25 to 12 hours per day). Components of the service include health-related care, social services, and other related support services.

ITEM 10. Amend subrule 78.37(4) as follows:

78.37(4) *Homemaker services.* Homemaker services are those services provided when the ~~client~~ member lives alone or when the person who usually performs these functions for the ~~client~~ member ~~is incapacitated or occupied providing direct care to the client~~ needs assistance with performing the functions. A unit of service is ~~one hour~~ 15 minutes. Components of the service must be directly related to the care of the member and may include only the following:

a. No change.

b. Limited housecleaning: maintenance cleaning such as vacuuming, dusting, scrubbing floors, defrosting refrigerators, cleaning stoves, ~~and~~ cleaning medical equipment, washing and mending clothes, washing personal items used by the member, and washing dishes.

~~*c.* Accompaniment to medical or psychiatric services.~~

~~*d.*~~ *c.* Meal preparation: planning and preparing balanced meals.

~~*e.* Bathing and dressing for self-directing recipients.~~

ITEM 11. Amend subrule 78.37(7) as follows:

78.37(7) *Chore services.* ~~Chore services include the following services: window and door maintenance, such as hanging screen windows and doors, replacing windowpanes, and washing windows; minor repairs to walls, floors, stairs, railings and handles; heavy cleaning which includes cleaning attics or basements to remove fire hazards, moving heavy furniture, extensive wall washing, floor care or painting and trash removal; and yard work such as mowing lawns, raking leaves and shoveling walks. A unit of service is one-half hour.~~ Chore services provide assistance with the household maintenance activities listed in paragraph 78.37(7)*"a,"* as necessary to allow a member to remain in the member's own home safely and independently. A unit of service is 15 minutes.

a. Chore services are limited to the following services:

(1) Window and door maintenance, such as hanging screen windows and doors, replacing windowpanes, and washing windows;

(2) Minor repairs to walls, floors, stairs, railings and handles;

(3) Heavy cleaning which includes cleaning attics or basements to remove fire hazards, moving heavy furniture, extensive wall washing, floor care, painting, and trash removal;

(4) Lawn mowing and removal of snow and ice from sidewalks and driveways.

b. Leaf raking, bush and tree trimming, trash burning, stick removal, and tree removal are not covered services.

ITEM 12. Amend subrule 78.37(9) as follows:

78.37(9) *Home and vehicle modification.* Covered home ~~and~~ or vehicle modifications are physical modifications to the member's home or vehicle that directly address the member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the member and enable the member to function with greater independence in the home or vehicle.

a. to *f.* No change.

g. Service payment shall be made to the enrolled home ~~and~~ or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home ~~and~~ or vehicle modification provider following completion of the approved modifications.

h. No change.

ITEM 13. Amend subrule 78.37(11) as follows:

78.37(11) *Transportation.* Transportation services may be provided for ~~recipients~~ members to conduct business errands~~,~~ and essential shopping, to receive medical services when not reimbursed through medical transportation, and to reduce social isolation. A unit of service is ~~per~~ one mile of transportation, ~~per~~ one one-way trip, or ~~rate~~ a unit established by an area agency on aging.

ITEM 14. Amend subrule 78.37(14) as follows:

78.37(14) *Senior companion.* Senior companion services are nonmedical care supervision, oversight, and respite. Companions may assist with such tasks as meal preparation, laundry, shopping and light housekeeping tasks. This service cannot provide hands-on nursing or medical care. A unit of service is ~~one hour~~ 15 minutes.

ITEM 15. Rescind subrule 78.37(15) and adopt the following **new** subrule in lieu thereof:

78.37(15) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.37(15)*"f"* and the skilled activities listed in paragraph 78.37(15)*"g."* Covered service activities must be essential to the health, safety, and welfare of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. *Service planning.* The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual, agency or assisted living facility that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

(5) Assisted living agreements with Iowa Medicaid members must specify the services to be considered covered under the assisted living occupancy agreement and those CDAC services to be covered under the elderly waiver. The funding stream for each service must be identified.

b. Supervision of skilled services. Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. Service documentation. The consumer-directed attendant care individual and agency providers must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Assisted living facilities may choose to use Form 470-4389 or may devise another system that adheres to the requirements of rule 441—79.3(249A). Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. Role of guardian or attorney. If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. Service units and billing. A unit of service is 15 minutes provided by an individual, agency or assisted living facility. Each service shall be billed in whole units.

f. Nonskilled services. Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. Skilled services. Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensives, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. Excluded services and costs. Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 16. Adopt the following **new** subrule 78.37(19):

78.37(19) *General service standards.* All elderly waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 17. Amend rule 441—78.38(249A), introductory paragraph, as follows:

441—78.38(249A) HCBS AIDS/HIV waiver services. Payment will be approved for the following services to ~~clients~~ members eligible for the HCBS AIDS/HIV waiver services as established in 441—Chapter 83 and as identified in the member's service plan. ~~Services must be billed in whole units.~~

ITEM 18. Amend subrule 78.38(1) as follows:

78.38(1) *Counseling services.* Counseling services are face-to-face mental health services provided to the ~~client~~ member and caregiver by a mental health professional as defined in rule ~~441—24.61(225C,230A)~~ 441—24.1(225C) to facilitate home management of the ~~client~~ member and prevent institutionalization. Counseling services are nonpsychiatric services necessary for the management of depression, assistance with the grief process, alleviation of psychosocial isolation and support in coping with a disability or illness, including terminal illness. Counseling services may be provided both for the purpose of training the ~~client's~~ member's family or other caregiver to provide care, and for the purpose of helping the ~~client~~ member and those caring for the ~~client~~ member to adjust to the ~~client's~~ member's disability or terminal condition. Counseling services may be provided to the ~~client's~~ member's caregiver only when included in the case plan for the ~~client~~ member.

Payment will be made for individual and group counseling. A unit of individual counseling for the waiver ~~client~~ member or the waiver ~~client~~ member and the ~~client's~~ member's caregiver is 15 minutes. A unit of group counseling is ~~one hour~~ 15 minutes. Payment for group counseling is based on the group rate divided by six, or, if the number of persons who comprise the group exceeds six, the actual number of persons who comprise the group.

ITEM 19. Amend subrule 78.38(3) as follows:

78.38(3) *Homemaker services.* Homemaker services are those services provided when the ~~client~~ member lives alone or when the person who usually performs these functions for the ~~client~~ member needs assistance with performing the functions. A unit of service is ~~one hour~~ 15 minutes. Components of the service ~~are~~ must be directly related to the care of the ~~client~~ member and ~~are~~ may include only the following:

a. No change.

b. Limited housecleaning: maintenance cleaning such as vacuuming, dusting, scrubbing floors, defrosting refrigerators, cleaning stoves, cleaning medical equipment, washing and mending clothes, washing personal items used by the ~~client~~ member, and washing dishes.

~~*c.* Accompaniment to medical or psychiatric services or for children aged 18 and under to school.~~

~~*d.*~~ *c.* Meal preparation: planning and preparing balanced meals.

ITEM 20. Amend subrule 78.38(7) as follows:

78.38(7) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. ~~A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours).~~ A unit of service is 15 minutes (up to four units per day), a half day (1.25 to 4 hours per day), a full day (4.25 to 8 hours per day), or an extended day (8.25 to 12 hours per day). Components of the service include health-related care, social services, and other related support services.

ITEM 21. Rescind subrule 78.38(8) and adopt the following **new** subrule in lieu thereof:

78.38(8) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.38(8)*"f"* and the skilled activities listed in paragraph 78.38(8)*"g."* Covered service activities must be essential to the health, safety, and welfare of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. *Service planning.* The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual or agency that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

b. Supervision of skilled services. Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. Service documentation. The consumer-directed attendant care provider must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. Role of guardian or attorney. If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. Service units and billing. A unit of service is 15 minutes provided by an individual or agency. Each service shall be billed in whole units.

f. Nonskilled services. Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. Skilled services. Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensive, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. *Excluded services and costs.* Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 22. Adopt the following **new** subrule 78.38(10):

78.38(10) *General service standards.* All AIDS/HIV waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 23. Amend rule 441—78.41(249A), introductory paragraph, as follows:

441—78.41(249A) HCBS intellectual disability waiver services. Payment will be approved for the following services to members eligible for the HCBS intellectual disability waiver as established in 441—Chapter 83 and as identified in the member's service plan. ~~All services include the applicable and necessary instruction, supervision, assistance and support as required by the member in achieving the member's life goals. The services, amount and supports provided under the HCBS intellectual disability waiver shall be delivered in the least restrictive environment and in conformity with the member's service plan. Reimbursement shall not be available under the waiver for any services that the member can obtain through the Medicaid state plan. All services shall be billed in whole units.~~

ITEM 24. Amend subrule 78.41(4) as follows:

78.41(4) *Home and vehicle modification.* Covered home ~~and~~ or vehicle modifications are physical modifications to the member's home or vehicle that directly address the member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the member and enable the member to function with greater independence in the home or vehicle.

a. to *f.* No change.

g. Service payment shall be made to the enrolled home ~~and~~ or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home ~~and~~ or vehicle modification provider following completion of the approved modifications.

h. No change.

ITEM 25. Rescind subrule 78.41(8) and adopt the following **new** subrule in lieu thereof:

78.41(8) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.41(8)*"f"* and the skilled activities listed in paragraph 78.41(8)*"g."* Covered service activities must be essential to the health, safety, and welfare of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. *Service planning.* The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual or agency that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

b. *Supervision of skilled services.* Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. Service documentation. The consumer-directed attendant care provider must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. Role of guardian or attorney. If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. Service units and billing. A unit of service is 15 minutes provided by an individual or agency. Each service shall be billed in whole units.

f. Nonskilled services. Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. Skilled services. Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensives, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. Excluded services and costs. Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 26. Amend subrule 78.41(11) as follows:

78.41(11) *Transportation.* Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is ~~either per~~ one mile of transportation, ~~per~~ one one-way trip, or ~~the~~ a unit established by an area agency on aging. ~~Transportation may not be reimbursed simultaneously with HCBS intellectual disability waiver supported community living service.~~

ITEM 27. Amend subrule 78.41(12) as follows:

78.41(12) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. ~~A unit of service is a full day (4 to 8 hours) or a half-day (1 to 4 hours) or an extended day (8 to 12 hours).~~ A unit of service is 15 minutes (up to four units per day), a half day (1.25 to 4 hours per day), a full day (4.25 to 8 hours per day), or an extended day (8.25 to 12 hours per day). Components of the service include health-related care, social services, and other related support services.

ITEM 28. Adopt the following **new** subrule 78.41(16):

78.41(16) *General service standards.* All intellectual disability waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 29. Amend rule 441—78.43(249A), introductory paragraphs, as follows:

441—78.43(249A) HCBS brain injury waiver services. Payment shall be approved for the following services to ~~consumers~~ members eligible for the HCBS brain injury waiver services as established in 441—Chapter 83 and as identified in the ~~consumer's~~ member's service plan. ~~All services shall include the applicable and necessary instructions, supervision, assistance and support as required by the consumer in achieving the goals written specifically in the service plan. The services, amount and supports provided under the HCBS brain injury waiver shall be delivered in the least restrictive environment and in conformity with the consumer's service plan.~~

~~Reimbursement shall not be available under the waiver for any services that the consumer can obtain through regular Medicaid.~~

~~All services shall be billed in whole units.~~

ITEM 30. Amend subrule 78.43(5) as follows:

78.43(5) *Home and vehicle modification.* Covered home ~~and~~ or vehicle modifications are physical modifications to the member's home or vehicle that directly address the member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the member and enable the member to function with greater independence in the home or vehicle.

a. to *f.* No change.

g. Service payment shall be made to the enrolled home ~~and~~ or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home ~~and~~ or vehicle modification provider following completion of the approved modifications. Payment of up to $6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker may encumber a portion of the cost of a modification every month within the monthly dollar cap allowed for the member until the entire cost of the modification is encumbered within a consecutive 12-month period.

h. No change.

ITEM 31. Amend subrule 78.43(7) as follows:

78.43(7) *Transportation.* Transportation services may be provided for ~~consumers~~ members to conduct business errands and essential shopping, to receive medical services when not reimbursed through medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is ~~either per~~ one mile of transportation, ~~per~~ one one-way trip, or ~~the~~ a unit established by an area agency on aging. ~~Transportation may not be reimbursed simultaneously with HCBS brain injury waiver supported community living service.~~

ITEM 32. Amend subrule 78.43(9) as follows:

78.43(9) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. ~~A unit of service is a full day (4 to 8 hours) or a half day (1 to 4 hours) or an extended day (8 to 12 hours).~~ A unit of service is 15 minutes (up to four units per day), a half day (1.25 to 4 hours per day), a full day (4.25 to 8 hours per day), or an extended day (8.25 to 12 hours per day). Components of the service include health-related care, social services, and other related support services.

ITEM 33. Rescind subrule 78.43(13) and adopt the following **new** subrule in lieu thereof:

78.43(13) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.43(13)*"f"* and the skilled activities listed in paragraph 78.43(13)*"g."* Covered service activities must be essential to the health, safety, and welfare

of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. Service planning. The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual or agency that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

b. Supervision of skilled services. Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. Service documentation. The consumer-directed attendant care provider must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. Role of guardian or attorney. If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. Service units and billing. A unit of service is 15 minutes provided by an individual or agency. Each service shall be billed in whole units.

f. Nonskilled services. Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. Skilled services. Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensives, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. Excluded services and costs. Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 34. Adopt the following **new** subrule 78.43(16):

78.43(16) *General service standards.* All brain injury waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 35. Amend rule 441—78.46(249A), introductory paragraphs, as follows:

441—78.46(249A) Physical disability waiver service. Payment shall be approved for the following services to ~~consumers~~ members eligible for the HCBS physical disability waiver as established in 441—Chapter 83 ~~when~~ and as identified in the ~~consumer's~~ member's service plan. ~~All services shall include the applicable and necessary instructions, supervision, assistance and support as required by the consumer in achieving the goals written specifically in the service plan and those delineated in Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. The service shall be delivered in the least restrictive environment consistent with the consumer's needs and in conformity with the consumer's service plan.~~

~~Reimbursement shall not be available under the waiver for any services that the consumer can obtain through regular Medicaid or from any other funding source.~~

~~All services shall be billed in whole units as specified in the following subrules.~~

ITEM 36. Rescind subrule 78.46(1) and adopt the following **new** subrule in lieu thereof:

78.46(1) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a member with self-care tasks which the member would typically do independently if the member were otherwise able. Covered service activities are limited to the nonskilled activities listed in paragraph 78.46(1)*"f"* and the skilled activities listed in paragraph 78.46(1)*"g."* Covered service activities must be essential to the health, safety, and welfare of the member. Services may be provided in the absence of a parent or guardian if the parent or guardian has given advance direction for the service provision.

a. *Service planning.* The member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) Select the individual or agency that will provide the components of the attendant care services.

(2) Determine with the selected provider what components of attendant care services the provider shall perform, subject to confirmation by the service worker or case manager that those components are consistent with the assessment and are authorized covered services.

(3) Complete, sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, to indicate the frequency, scope, and duration of services (a description of each service component and the time agreed on for that component). The case manager or service worker and provider shall also sign the agreement.

(4) Submit the completed agreement to the service worker or case manager. The agreement shall be part of the member's service plan and shall be kept in the member's records, in the provider's records, and in the service worker's or case manager's records. Any service component that is not listed in the agreement shall not be payable.

b. *Supervision of skilled services.* Skilled consumer-directed attendant care services shall be provided under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall:

(1) Retain accountability for actions that are delegated.

(2) Ensure appropriate assessment, planning, implementation, and evaluation.

(3) Make on-site supervisory visits every two weeks with the service provider present.

c. *Service documentation.* The consumer-directed attendant care provider must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

d. *Role of guardian or attorney.* If the member has a guardian or attorney in fact under a durable power of attorney for health care:

(1) The service worker's or case manager's service plan shall address how consumer-directed attendant care services will be monitored to ensure that the member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

(2) The guardian or attorney in fact shall sign the claim form in place of the member, indicating that the service has been provided as presented on the claim.

e. *Service units and billing.* A unit of service is 15 minutes provided by an individual or agency. Each service shall be billed in whole units.

f. *Nonskilled services.* Covered nonskilled service activities are limited to help with the following activities:

(1) Dressing.

(2) Bathing, shampooing, hygiene, and grooming.

(3) Access to and from bed or a wheelchair, transferring, ambulation, and mobility in general.

(4) Toileting, including bowel, bladder, and catheter assistance (emptying the catheter bag, collecting a specimen, and cleaning the external area around the catheter).

(5) Meal preparation, cooking, and assistance with feeding, not including the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping, laundry, and shopping essential to the member's health care at home.

(7) Taking medications ordinarily self-administered, including those ordered by a physician or other qualified health care provider.

(8) Minor wound care.

(9) Going to or returning from a place of employment and job-related tasks while the member is on the job site. Transportation for the member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) Tasks, such as financial management and scheduling, that require cognitive or physical assistance.

(11) Communication essential to the health and welfare of the member, through interpreting and reading services and use of assistive devices for communication.

(12) Using transportation essential to the health and welfare of the member. The cost of the transportation is not included.

g. *Skilled services.* Covered skilled service activities are limited to help with the following activities:

(1) Tube feedings of members unable to eat solid foods.

(2) Intravenous therapy administered by a registered nurse.

(3) Parenteral injections required more than once a week.

(4) Catheterizations, continuing care of indwelling catheters with supervision of irrigations, and changing of Foley catheters when required.

(5) Respiratory care including inhalation therapy and tracheotomy care or tracheotomy care and ventilator.

(6) Care of decubiti and other ulcerated areas, noting and reporting to the nurse or therapist.

(7) Rehabilitation services including, but not limited to, bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation, behavior modification, and reteaching of the activities of daily living.

(8) Colostomy care.

(9) Care of uncontrolled medical conditions, such as brittle diabetes, and comfort care of terminal conditions.

(10) Postsurgical nursing care.

(11) Monitoring medications requiring close supervision because of fluctuating physical or psychological conditions, e.g., antihypertensives, digitalis preparations, mood-altering or psychotropic drugs, or narcotics.

(12) Preparing and monitoring response to therapeutic diets.

(13) Recording and reporting of changes in vital signs to the nurse or therapist.

h. Excluded services and costs. Services, activities, costs and time that are not covered as consumer-directed attendant care include the following (not an exclusive list):

(1) Any activity related to supervising a member. Only direct services are billable.

(2) Any activity that the member is able to perform.

(3) Costs of food.

(4) Costs for the supervision of skilled services by the nurse or therapist. The supervising nurse or therapist may be paid from private insurance, Medicare, or other third-party payment sources, or may be paid as another Medicaid service, including early and periodic screening, diagnosis and treatment services.

(5) Exercise that does not require skilled services.

(6) Parenting or child care for or on behalf of the member.

(7) Reminders and cueing.

(8) Services provided simultaneously with any other similar service regardless of funding source, including other waiver services and state supplementary assistance in-home health-related care services.

(9) Transportation costs.

(10) Wait times for any activity.

ITEM 37. Amend subrule 78.46(2) as follows:

78.46(2) *Home and vehicle modification.* Covered home ~~and~~ or vehicle modifications are physical modifications to the member's home or vehicle that directly address the member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the member and enable the member to function with greater independence in the home or vehicle.

a. to *f.* No change.

g. Service payment shall be made to the enrolled home ~~and~~ or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home ~~and~~ or vehicle modification provider following completion of the approved modifications. Payment of up to $6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker shall encumber a portion of the cost of a modification every month within the monthly dollar cap allowed for the member until the entire cost of the modification is encumbered within a consecutive 12-month period.

h. No change.

ITEM 38. Amend subrule 78.46(5) as follows:

78.46(5) *Transportation.* Transportation services may be provided for ~~consumers~~ members to conduct business errands and essential shopping, to receive medical services when not reimbursed through Medicaid as medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is ~~either per~~ one mile of transportation, ~~per~~ one one-way trip, or ~~the~~ a unit established by an area agency on aging.

ITEM 39. Adopt the following **new** subrule 78.46(7):

78.46(7) *General service standards.* All physical disability waiver services must be provided in accordance with the following standards:

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 40. Amend rule 441—78.52(249A), introductory paragraph, as follows:

441—78.52(249A) HCBS children's mental health waiver services. Payment will be approved for the following services to ~~consumers~~ members eligible for the HCBS children's mental health waiver as established in 441—Chapter 83 and as identified in the member's service plan. ~~All services shall be provided in accordance with the general standards in subrule 78.52(1), as well as standards provided specific to each waiver service in subrules 78.52(2) through 78.52(5).~~

ITEM 41. Amend subrule 78.52(1) as follows:

78.52(1) *General service standards.* All children's mental health waiver services ~~shall~~ must be provided in accordance with the following standards:

~~*a.* Services must be based on the consumer's needs as identified in the consumer's service plan developed pursuant to 441—83.127(249A).~~

~~(1) Services must be delivered in the least restrictive environment consistent with the consumer's needs.~~

~~(2) Services must include the applicable and necessary instruction, supervision, assistance and support as required by the consumer to achieve the consumer's goals.~~

~~*b.* Payment for services shall be made only upon departmental approval of the services. Waiver services provided before approval of the consumer's eligibility for the waiver shall not be paid.~~

~~*c.* Services or service components must not be duplicative.~~

~~(1) Reimbursement shall not be available under the waiver for any services that the consumer may obtain through the Iowa Medicaid program outside of the waiver.~~

~~(2) Reimbursement shall not be available under the waiver for any services that the consumer may obtain through natural supports or community resources.~~

~~(3) Services may not be simultaneously reimbursed for the same period as nonwaiver Medicaid services or other Medicaid waiver services.~~

~~(4) Costs for waiver services are not reimbursable while the consumer is in a medical institution.~~

a. Reimbursement shall not be available under the waiver for any services that the member can obtain as other nonwaiver Medicaid services or through any other funding source.

b. All services provided under the waiver must be delivered in the least restrictive environment possible and in conformity with the member's service plan.

c. Services must be billed in whole units.

d. For all services with a 15-minute unit of service, the following rounding process will apply:

(1) Add together the minutes spent on all billable activities during a calendar day for a daily total.

(2) For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day.

(3) Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit.

(4) Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

ITEM 42. Amend subrule 78.52(4) as follows:

78.52(4) *In-home family therapy.* In-home family therapy provides skilled therapeutic services to the ~~consumer~~ member and family that will increase their ability to cope with the effects of serious emotional

disturbance on the family unit and the familial relationships. The service must support the family by the development of coping strategies that will enable the ~~consumer~~ member to continue living within the family environment.

a. and *b.* No change.

c. A unit of in-home family therapy service is ~~one hour~~ 15 minutes. ~~Any period less than one hour shall be prorated.~~

ARC 0568C

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," Iowa Administrative Code.

This amendment changes the unit time and rate definition for a portion of the home- and community-based services (HCBS) waiver services.

Pursuant to direction from the Centers for Medicare and Medicaid Services (CMS) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), no state Medicaid department can use atypical billing codes. Most of the codes used to bill waiver services to the Iowa Medicaid Enterprise (IME) are atypical and therefore need to be changed to standardized healthcare common procedure coding system (HCPCS) or current procedural terminology (CPT) codes. Those standardized codes have different unit descriptions than those currently used by the IME. The proposed changes to subrule 79.1(2) will cause the rates of reimbursement to match the unit definitions of the services. For example, the rate of reimbursement for a service that is now defined as 15 minutes will be expressed as a 15-minute rate instead of as an hourly rate.

This amendment will increase rates to meet minimum wage guidelines for senior companion services from $6.59 to $7.25 per hour.

This amendment will also implement changes needed to align reimbursement with new billing code definitions caused by atypical conversion. Old unit rates were mathematically adjusted to match the new unit rate (i.e., an hourly rate was divided by 4 to create a 15-minute rate).

This amendment is a companion to the rule making revising Chapter 78, waiver services descriptions, that is published herein under Notice of Intended Action as **ARC 0567C**.

Any interested person may make written comments on the proposed amendment on or before February 12, 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 CMS has not indicated that any state can be exempt from the guidelines described herein. The Department does not see any reason why any provider type would be exempt from adherence to CMS guidelines. 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 249A.4.

The following amendment is proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend subrule **79.1(2)**, provider category "HCBS waiver service providers," paragraphs "1," "4," "7," "11," "12," "14" to "16," "22" and "29," as follows:

Provider category	Basis of reimbursement	Upper limit
1. Adult day care	Fee schedule	~~For~~ Effective 7/1/13, for AIDS/HIV, brain injury, elderly, and ill and handicapped waivers ~~effective 1/1/13~~: Provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute, half-day, full-day, or extended day rate. If no 6/30/12 rate: Veterans Administration contract rate or $1.41 per 15-minute unit, $22.56 per half-day, $44.91 per full day, or $67.35 per extended day if no Veterans Administration contract. ~~For~~ Effective 7/1/13, for intellectual disability waiver: County contract rate or, ~~effective 1/1/13~~ in the absence of a contract rate, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute, half-day, full-day, or extended day rate. If no 6/30/12 rate, $1.88 per 15-minute unit, $30.06 per half-day, $60.00 per full day, or $76.50 per extended day.
4. Homemakers	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$20.21 per hour~~ $5.05 per 15-minute unit.
7. Chore service	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$7.86 per half hour~~ $3.93 per 15-minute unit.
11. Transportation	Fee schedule	Effective ~~1/1/13~~ 7/1/13: County contract rate or, in the absence of a contract rate, provider's rate in effect 6/30/12 plus 2%, converted to a mile or one-way trip unit rate.
12. Nutritional counseling	Fee schedule	Effective ~~1/1/13~~ 7/1/13 for non-county contract: Provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: $8.42 per 15-minute unit.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
14. Senior companion	Fee schedule	Effective ~~1/1/13~~ 7/1/13 for non-county contract: Provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$6.72 per hour~~ $1.82 per 15-minute unit.
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$20.60 per hour~~ $5.15 per 15-minute unit, not to exceed $119.05 per day.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$1,139.34 per calendar month. When prorated per day for a partial month, $37.44 per day~~ $5.15 per 15-minute unit, not to exceed $119.05 per day.
Individual	Fee agreed upon by member and provider	Effective ~~1/1/13~~ 7/1/13, ~~$13.74 per hour~~ $3.44 per 15-minute unit, not to exceed $80.13 per day.
16. Counseling		
Individual:	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: $11.01 per 15-minute unit.
Group:	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$44.00 per hour~~ $11.00 per 15-minute unit. Rate is divided by six, or, if the number of persons who comprise the group exceeds six, the actual number of persons who comprise the group.
22. Family counseling and training	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$44.00 per hour~~ $11.00 per 15-minute unit.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Provider category	Basis of reimbursement	Upper limit
29. In-home family therapy	Fee schedule	Effective ~~1/1/13~~ 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: ~~$95.50 per hour~~ $23.88 per 15-minute unit.

ARC 0570C

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," Iowa Administrative Code.

This amendment clarifies when a medical assistance provider will not or cannot provide records to support services billed to the medical assistance program. In the course of administrative law hearings, the administrative law judges have determined that "may" indicates that the Department cannot recover medical assistance payments when a provider will not or cannot provide records to support services billed to the medical assistance program.

Any interested person may make written comments on the proposed amendment on or before February 12, 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 all Medicaid providers are subject to the same requirements to keep records to support services billed to Medicaid and provide the records when requested. 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 249A.4.

The following amendment is proposed.

Amend rule 441—79.3(249A), introductory paragraph, as follows:

441—79.3(249A) Maintenance of records by providers of service. A provider of a service that is charged to the medical assistance program shall maintain complete and legible records as required in this rule. Failure to maintain records or failure to make records available to the department or to its authorized representative timely upon request ~~may~~ shall result in claim denial or recoupment.

ARC 0569C

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," Iowa Administrative Code.

These amendments add and revise language to clarify the Department's rules regarding reviews and audits in the medical assistance program. The amendments make the rules consistent with the "good cause" language in the Iowa Rules of Civil Procedure by using "good cause" language for exceptions.

Any interested person may make written comments on the proposed amendments on or before February 12, 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 because all Medicaid providers are subject to the same requirements. 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.

The following amendments are proposed.

ITEM 1. Amend paragraph **79.4(3)"b"** as follows:

b. Extension of time limit for submission.

(1) The department may grant an extension to the required submission date of up to 15 calendar days upon written request from the provider or the provider's designee. The request must:

1. Establish good cause for the delay in submitting the records; and
2. Be received by the department before the date the records are due to be submitted.

~~(2) Under exceptional circumstances, a provider may request one additional 15-calendar-day extension. The provider or the provider's designee shall submit a written request that:~~

~~1. Establishes exceptional circumstances for the delay in submitting records; and~~

~~2. Is received by the department before the expiration of the initial 15-day extension period.~~

(2) For purposes of these rules, "good cause" has the same meaning as in Iowa Rule of Civil Procedure 1.977.

(3) The department may grant a request for an extension of the time limit for submitting records at its discretion. The department shall issue a written notice of its decision.

(4) The provider may appeal the department's denial of a request to extend the time limit for submission of requested records according to the procedures in 441—Chapter 7.

ITEM 2. Adopt the following **new** paragraph **79.4(3)"f"**:

f. Self-audit. The department may require a provider to conduct a self-audit and report the results of the self-audit to the department.

ITEM 3. Amend subrule 79.4(7) as follows:

79.4(7) *Appeal by provider of care.* A provider may appeal the finding and order of repayment and withholding of payments pursuant to 441—Chapter 7. However, an appeal shall not stay the withholding of payments or other action to collect the overpayment. Evidence, including but not limited to records, clarifying information, or supplemental documentation, that was not provided to the department in a

timely manner as contemplated in subrule 79.4(3) or 79.4(5), shall not be admissible in any subsequent contested case proceeding or other action relating to, or arising out of, the finding and order for repayment of any overpayment under subrule 79.4(6). The purpose of the appeal is to verify whether the department correctly calculated any overpayment based on the information provided to the department during its audit or review.

ARC 0566C

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 sections 234.6 and 237A.5(2)"d," the Department of Human Services proposes to amend Chapter 110, "Child Development Homes," and Chapter 170, "Child Care Services," Iowa Administrative Code.

The purpose of these amendments is to implement a legislative mandate that the Department conduct national criminal history record checks on all registered child development homes, child care homes, and providers receiving child care assistance payments, starting July 1, 2013.

All persons subject to a record check in registered child development homes and child care homes and persons subject to a record check for the purpose of receiving child care assistance payments will be required to submit fingerprints for a national criminal history record check. All individuals subject to the record check will be responsible for any costs associated with the "rolling" or preparation of the prints. The Department is responsible for the costs of the national criminal history record check.

Any interested person may make written comments on the proposed amendments on or before February 12, 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 because none are allowed under the Iowa Code. 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 sections 237A.5(2)"d"(1), 237A.5(2)"d"(4)(c), and 237A.13.

The following amendments are proposed.

ITEM 1. Rescind subrule 110.7(3) and adopt the following **new** subrule in lieu thereof:

110.7(3) Record checks.

a. Applicability. The department shall conduct Iowa criminal history record and child abuse record checks for each registrant, substitute or staff member, anyone living in the home who is 14 years of age or older, and anyone having access to a child when the child is alone. The department shall conduct national criminal history record checks, based on fingerprints, for each registrant, substitute or staff member, anyone living in the home who is 18 years of age or older, and anyone 18 years of age or older having access to a child when the child is alone. In accordance with Iowa Code section 726.23, minors under the age of 18 will not be subject to the fingerprint requirement.

(1) The purpose of these record checks is to determine whether the person has committed a transgression that prohibits or limits the person's involvement with child care.

(2) The department may also conduct criminal history record and child abuse record checks in other states and may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in Iowa or other states.

(3) Effective July 1, 2013, registration or renewal certificates shall not be issued until the results of all state and national record checks have been received and, when necessary, evaluated.

b. Authorization. The person subject to record checks shall complete Form 595-1396, DHS Criminal History Record Check Form B; Form 470-0643, Request for Child Abuse Information; Form DCI-45, Waiver Agreement; Form FD-258, Federal Fingerprint Card; and any other forms required by the department of public safety to authorize the release of records.

c. Iowa records checks. Checks and evaluations of Iowa child abuse and criminal history records shall be completed before the person's involvement with child care. Iowa records checks shall be repeated at a minimum of every two years and when the department or the registrant becomes aware of any possible transgressions. The department is responsible for the cost of conducting the Iowa records checks.

d. National criminal history record checks. Fingerprint-based checks of national criminal history records shall also be completed before a person's involvement with child care. This requirement shall be effective on or after July 1, 2013, for an initial application for registration or a renewal application for registration. The national criminal history record check shall be repeated for each person subject to the check every four years and when the department or registrant becomes aware of any new transgressions committed by that person in another state. The department is responsible for the cost of conducting the national criminal history record check.

(1) The registrant is responsible for any costs associated with the taking (rolling) of fingerprints of all persons subject to record checks and for submitting the prints to the department so the national criminal history record check can be completed. Fingerprints may be taken (rolled) by law enforcement agencies or by agencies or companies that specialize in taking (rolling) fingerprints.

(2) The department shall provide fingerprints to the department of public safety no later than ten business days after receipt of the fingerprint cards. The department shall submit the fingerprints on forms or in a manner allowed by the department of public safety.

(3) The department may rely on the results of previously conducted national criminal history record checks when a person subject to a record check in one child development home or child care home submits a request for involvement with child care in another child development home or child care home, so long as the person's national criminal history record check is within the allowable four-year time frame. All initial or new applications shall require a new national criminal history record check.

e. Mandatory prohibition. A person with any of the following convictions or founded abuse reports is prohibited from involvement with child care:

(1) Founded child or dependent adult abuse that was determined to be sexual abuse.

(2) Placement on the sex offender registry.

(3) Felony child endangerment or neglect or abandonment of a dependent person.

(4) Felony domestic abuse.

(5) Felony crime against a child including, but not limited to, sexual exploitation of a minor.

(6) Forcible felony.

f. Mandatory time-limited prohibition.

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:

1. Conviction of a controlled substance offense under Iowa Code chapter 124.

2. Founded child abuse that was determined to be physical abuse.

(2) After the five-year prohibition period (from the date of the conviction or the founded abuse report) as defined in subparagraph 110.7(3)*"f"*(1), the person may request the department to perform an evaluation under paragraph 110.7(3)*"g"* to determine whether prohibition of the person's involvement with child care continues to be warranted.

g. Evaluation required. For all other transgressions, and as requested under subparagraph 110.7(3)*"f"*(2), the department shall evaluate the transgression and make a decision about the person's involvement with child care.

(1) The person with the transgression shall complete and return Form 470-2310, Record Check Evaluation, within ten calendar days of the date on the form. The department shall use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and return this form within ten calendar days of the date on the form shall result in denial or revocation of the registration certificate.

(2) The department may use information from the department's case records in performing the evaluation.

(3) In an evaluation, the department shall consider all of the following factors:

1. The nature and seriousness of the transgression in relation to the position sought or held.
2. The time elapsed since the commission of the transgression.
3. The circumstances under which the transgression was committed.
4. The degree of rehabilitation.
5. The likelihood that the person will commit the transgression again.
6. The number of transgressions committed by the person.

(4) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and the person has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the following conditions:

1. The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.
2. Any restrictions placed on the person's employment by the department in the previous evaluation shall remain applicable in the person's subsequent employment.
3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides to the subsequent employer the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.
4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.

h. Evaluation decision. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements or corrective action plan.

(1) Within 30 calendar days of receipt of a completed Form 470-2310, Record Check Evaluation, the department shall make a decision on the person's involvement with child care.

(2) Within 30 calendar days of receipt of a completed Form 470-2310, Record Check Evaluation, the department shall mail to the person subject to an evaluation Form 470-2386, Record Check Decision, that explains the decision reached regarding the evaluation of the transgression and Form 470-4558, Notice of Decision: Child Care.

(3) The department shall issue Form 470-4558, Notice of Decision: Child Care, prohibiting involvement with child care, when the person subject to an evaluation fails to complete the Record Check Evaluation, Form 470-2310, within the ten-calendar-day time frame.

(4) If the department determines, through the record check evaluation process, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed.

(5) The department may permit a person who is evaluated to maintain involvement with child care if the person complies with the department's conditions relating to the person's involvement with child care, which may include completion of additional training or an individually designed corrective action

plan or both. For an employee of a registrant, these conditional requirements shall be developed with the registrant. All conditions placed on a person's involvement with child care shall be communicated, in writing, to both the person subject to the evaluation and the registrant.

i. Notice to parents of abuse in care. If there has been founded child abuse committed by an owner, director, or staff member of the child care facility or child care home, the department's administrator shall notify the parent, guardian, or custodian of each child for whom the facility or child care home provides care.

(1) The child care facility or child care home shall cooperate with the department in providing the names and addresses of the parent, guardian, or custodian of each child for whom the facility provides child care.

(2) This information shall be provided to the department within ten calendar days from the date of the initial request.

(3) Failure or refusal to provide the requested information may result in revocation of registration.

ITEM 2. Amend paragraph **170.4(3)"e,"** introductory paragraph, as follows:

e. In-home care. The adult caretaker selected by the parent to provide care in the child's own home shall be sent the pamphlet Comm. 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers. The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

ITEM 3. Amend paragraph **170.4(3)"f,"** introductory paragraph, as follows:

f. Nonregistered family child care home. The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers. The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

ITEM 4. Amend paragraph **170.4(3)"h"** as follows:

h. ~~Record~~ Iowa records checks for nonregistered ~~family~~ child care homes and in-home care. If a nonregistered child care provider ~~wishes~~ or a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete and submit to the department Form 470-0643, Request for Child Abuse Information, and Form 595-1489 or 595-1489(S), Non-Law Enforcement Record Check Request, Form A, for the provider, for anyone having access to a child when the child is alone, and for anyone 14 years of age or older living in the home. ~~The department worker or the PROMISE JOBS worker shall provide the necessary forms. The provider shall return the forms to the department worker or PROMISE JOBS worker.~~ Records checks shall be repeated for each person subject to the check every two years and when the department or provider becomes aware of any new transgressions committed by that person.

~~(1) If any of these individuals has a record of founded child abuse, a criminal conviction, or placement on the sex offender registry, the department shall perform an evaluation following the process defined at 441—subrule 110.7(3).~~

~~(2) If any of the individuals would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The department's designee shall notify the applicant.~~

~~(3) A person who continues to provide child care in violation of this law is subject to penalty and injunction under Iowa Code chapter 237A.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Adopt the following **new** paragraph **170.4(3)"i"**:

i. National criminal history record checks for nonregistered child care homes and in-home care. If a nonregistered child care provider or a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form DCI-45, Waiver Agreement, and Form FD-258, Federal Fingerprint Card, for the provider, for anyone 18 years of age or older who is living in the home, or for anyone having access to a child when the child is alone.

(1) The provider or other person subject to this check shall submit any other forms required by the department of public safety to authorize the release of records.

(2) The provider or other person subject to this check is responsible for any costs associated with obtaining the fingerprints and for submitting the prints to the department.

(3) Fingerprints may be taken (rolled) by law enforcement agencies or by agencies or companies that specialize in taking fingerprints.

(4) The national criminal history record check shall be repeated for each person subject to the check every four years and when the department or provider becomes aware of any new transgressions committed by that person in another state.

(5) The department may rely on the results of previously conducted national criminal history record checks when a person subject to a record check in one child development home or child care home submits a request for involvement with child care in another child care home, so long as the person's national criminal history record check is within the allowable four-year time frame. All initial or new applications shall require a new national criminal history record check.

ITEM 6. Adopt the following **new** paragraph **170.4(3)"j"**:

j. Transgressions. If any person subject to the record checks in paragraph 170.4(3)*"h"* or 170.4(3)*"i"* has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the department shall follow the process for prohibition or evaluation defined at 441—subrule 110.7(3).

(1) If any person would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The department's designee shall notify the applicant.

(2) A person who continues to provide child care in violation of this rule is subject to penalty and injunction under Iowa Code chapter 237A.

ARC 0572C

PUBLIC HEALTH DEPARTMENT[641]

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 136A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

The proposed amendments describe the responsibilities of the state genetics coordinator; add a heading for the Congenital and Inherited Disorders Advisory Committee and incorporate the Committee's current bylaws into the rules; update definitions; update acronyms; rename the Neonatal Metabolic Screening Program to reflect the broader scope of testing available; increase the newborn screening fee due to a recently approved addition to the newborn screening panel; and eliminate the requirement that a sliding fee scale be used for the billing of services provided through the Regional

Genetics Consultation Services and the Neuromuscular and Related Diseases clinics. Finally, the proposed amendments seek to clarify services provided through congenital and inherited disorders programs.

These proposed amendments have been reviewed by the Congenital and Inherited Disorders Advisory Committee and interested individuals within the field.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 12, 2013. Such written comments should be directed to Kimberly Piper, State Genetics Coordinator, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)242-6013. E-mail may be sent to kimberly.piper@idph.iowa.gov.

An opportunity to receive public comment will be held by conference call on February 12, 2013, from 9 to 10 a.m. Those wishing to participate in the conference call at any point during that time may dial 1-866-685-1580, then, when prompted, enter pass code 5152816466, followed by the pound sign (#). If problems occur, please contact Patrick Goebel at 1-800-383-3826.

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

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

These amendments are intended to implement Iowa Code chapter 136A.

The following amendments are proposed.

ITEM 1. Amend rule 641—4.1(136A) as follows:

641—4.1(136A) Program ~~explanation~~ overview. The center for congenital and inherited disorders within the department of public health provides administrative oversight to the following: Iowa ~~neonatal metabolic~~ newborn screening program, expanded maternal serum alpha-fetoprotein screening program, regional genetic consultation service, neuromuscular and related genetic disease program and Iowa registry for congenital and inherited disorders.

4.1(1) *Advisory committee.* The center for congenital and inherited disorders advisory committee represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The committee advises the director of the department of public health regarding issues related to genetics and hereditary and congenital disorders and makes recommendations about the design and implementation of the center's programs. ~~Committee membership is made up of representatives of professional groups, agencies, legislators, consumers and individuals with an interest in promoting genetic services for the residents of Iowa.~~

4.1(2) *Genetics coordinator.* The state genetics coordinator assigned within the department provides administrative oversight to the center for congenital and inherited disorders program within Iowa.

4.1(3) *Title V.* The center for congenital and inherited disorders has an association with the state Title V maternal child health program to promote comprehensive services for women, infants and children.

ITEM 2. Rescind the definitions of "Birth center" and "Tandem mass spectrometry" in rule **641—4.2(136A)**.

ITEM 3. Adopt the following **new** definition in rule **641—4.2(136A)**:

"Primary health care provider" means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing primary medical care to a patient.

ITEM 4. Amend the following definitions in rule **641—4.2(136A)**:

"Anonymized specimen" means a specimen that cannot be traced back to or linked with the particular ~~infant~~ individual from whom the specimen was obtained. ~~Specimens shall be anonymized by removing the dried blood spot portion from the infant information portion of the specimen collection form.~~

"Birthing ~~hospital~~ facility" means a private or public ~~hospital~~ facility licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"Central laboratory" means the ~~University Hygienic Laboratory~~ state hygienic laboratory (~~UHL~~ SHL), which is designated as the screening laboratory to perform testing and reporting for the Iowa ~~neonatal metabolic~~ newborn screening and Iowa maternal prenatal screening programs.

"Consulting physician" means a physician designated by the center for congenital and inherited disorders to interpret ~~test~~ screen results and provide consultation to a licensed health care provider.

"Discharge" means a release of an infant from a hospital ~~to the infant's parent or legal guardian~~ or birth center.

"Follow-up program" means the ~~designated individuals from the divisions of endocrinology, hematology, pulmonology and medical genetics of the department of pediatrics of the University of Iowa~~ services provided to follow up on an abnormal screening result.

"Health care provider" means a licensed physician, nurse practitioner, certified nurse midwife, registered nurse, or physician assistant providing medical care to an individual.

"Iowa maternal prenatal screening program" or *"IMPSP"* means a program that provides a screening test designed to identify women with an increased risk of having a baby with a congenital or inherited disorder or women at risk of developing a problem later in pregnancy.

"Receiving ~~hospital~~ facility" means the ~~hospital~~ facility receiving an infant from a birthing ~~hospital~~ facility.

"Residual ~~neonatal metabolic~~ newborn screening specimen" means the portion of the specimen that may be left over after all activities necessary for the Iowa ~~neonatal metabolic~~ newborn screening program are completed.

"Transferring ~~hospital~~ facility" means the birthing ~~hospital~~ facility that transfers the infant to another ~~hospital~~ facility.

"~~University~~ State hygienic laboratory" or *"~~UHL~~ SHL"* means the designated central testing laboratory.

ITEM 5. Amend rule 641—4.3(136A), introductory paragraph, as follows:

641—4.3(136A) Iowa ~~neonatal metabolic~~ newborn screening program (~~INMSP~~ INSP). This program provides comprehensive ~~neonatal metabolic~~ newborn screening services for hereditary and congenital disorders for the state ~~to allow children and their families the earliest possible opportunity to receive appropriate early intervention services~~. ~~The program includes the following: birthing hospitals, birth centers, health care providers, UHL, follow-up consultants, and consulting physicians.~~

ITEM 6. Strike "birthing hospitals or birth centers" wherever it appears in paragraph **4.3(1)"c"** and insert "birthing facilities" in lieu thereof.

ITEM 7. Amend paragraphs **4.3(2)"b"** and **"c"** as follows:

b. Waiver. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening waiver. The birthing ~~hospital, birth center,~~ facility or attending health care provider shall ~~notify~~ submit the signed refusal of screening waiver to the central laboratory ~~of the waiver~~ within six days of the refusal.

c. Collection of specimens. A filter paper blood specimen shall be collected from the infant between 24 to 48 hours after the infant's birth~~; however, a specimen collected up to five days after the infant's birth is valid~~. A specimen shall not be collected from an infant less than 24 hours after birth except as follows:

(1) A blood specimen must be collected before any initial transfusion, even if the infant is less than 24 hours old.

(2) No change.

ITEM 8. Strike the acronym "UHL" wherever it appears in paragraph **4.3(2)"d,"** subrule **4.3(5)**, and paragraphs **4.3(6)"c," 4.3(8)"a"** and **4.3(10)"e"** and insert "SHL" in lieu thereof.

ITEM 9. Rescind paragraph **4.3(2)"e"** and adopt the following **new** paragraph in lieu thereof:

e. Waiver for the release of residual specimens for research use. The department shall establish policies and procedures, including a refusal for research waiver form, to allow a parent or guardian the

ability to refuse the release of the newborn's residual newborn screening specimen for research purposes. The birthing facility or attending health care provider shall submit the signed refusal for research waiver to the central laboratory pursuant to established policy and procedure.

ITEM 10. Rescind paragraph **4.3(2)"f."**

ITEM 11. Strike "neonatal metabolic screening" wherever it appears in subrules **4.3(3)** to **4.3(5)**, **4.3(7)** and **4.3(8)** and insert "newborn screening" in lieu thereof.

ITEM 12. Amend subrule 4.3(3), catchwords, as follows:

4.3(3) *~~Health~~ Primary health care provider responsibility.*

ITEM 13. Amend paragraph **4.3(3)"a"** as follows:

a. The ~~licensed attending~~ health care provider shall ensure that infants under the provider's care are screened.

ITEM 14. Strike "birthing hospital or birth center" wherever it appears in subrule **4.3(4)** and insert "birthing facility" in lieu thereof.

ITEM 15. Amend subparagraph **4.3(4)"c"(2)** as follows:

(2) If the infant is transferred ~~out of house~~ to another facility within the state, the birthing ~~hospital or birth center~~ facility shall notify the receiving ~~hospital~~ facility of the status of the ~~neonatal metabolic~~ newborn screening. The receiving ~~hospital~~ facility shall then be responsible for completion of the ~~neonatal metabolic~~ newborn screening prior to discharge of the infant.

ITEM 16. Amend subparagraph **4.3(4)"d"(1)** as follows:

(1) The infant is discharged or transferred to another ~~hospital~~ facility before the infant is 24 hours old.

ITEM 17. Strike "Iowa neonatal metabolic screening program" and "INMSP" wherever they appear in subrules **4.3(5)**, **4.3(7)**, and **4.3(10)** and rule **641—4.7(136A)** and insert "Iowa newborn screening program" and "INSP," respectively, in lieu thereof.

ITEM 18. Amend paragraphs **4.3(5)"b"** and **4.3(5)"d"** to **"h"** as follows:

b. Contact all birthing ~~hospitals and birth centers~~ facilities to inform them of the courier schedule.

d. Notify the submitting health care provider, birthing ~~hospital, birth center~~ facility, or drawing laboratory of an unacceptable specimen and the need for another specimen.

e. Report a presumptive positive ~~test~~ screen result within 24 hours to the consulting physician or the physician's designee.

f. Distribute specimen collection forms, specimen collection procedures, ~~screening waivers~~ refusal of newborn screening forms, and other materials to drawing laboratories, birthing ~~hospitals, birth centers~~ facilities, and health care providers.

g. Report normal and abnormal screening results to ~~birthing hospitals, birth centers, or drawing laboratories~~ the submitting facility or provider.

h. Submit a written annual report of the previous ~~fiscal~~ calendar year to the center by ~~September 30~~ July 1 of each year. This report shall include:

(1) to (7) No change.

ITEM 19. Amend subrule 4.3(6), introductory paragraph, as follows:

4.3(6) *Follow-up program responsibility.* ~~Under the direction of consulting physicians, metabolic, endocrine, pulmonary and hemoglobinopathy follow-up~~ Follow-up programs shall be available for all individuals identified by the ~~metabolic~~ newborn screening as having an abnormal screen result.

ITEM 20. Amend paragraphs **4.3(6)"a"** and **"b"** as follows:

a. The follow-up activities shall include care coordination, consultation, recommendations for treatment when indicated, case management, education and quality assurance.

b. The follow-up programs shall submit a written annual report of the previous ~~fiscal~~ calendar year by ~~September 30~~ July 1 of each year. The report shall include:

(1) to (6) No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 21. Amend subparagraph **4.3(7)"b"(2)** as follows:

(2) A ~~local~~ primary health care provider, birthing ~~hospital, birth center~~ facility, or submitting laboratory.

ITEM 22. Amend subparagraph **4.3(7)"b"(4)** as follows:

(4) A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department ~~and the state board of health~~.

ITEM 23. Amend paragraph **4.3(8)"a,"** introductory paragraph, as follows:

a. A ~~neonatal metabolic~~ newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing ~~hospital, birth center,~~ facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form.

ITEM 24. Amend subrule 4.3(9) as follows:

4.3(9) ~~*INMSP*~~ *INSP fee determination.*

a. The department shall annually review and determine the fee to be charged for all activities associated with the ~~INMSP~~ INSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The ~~neonatal metabolic~~ newborn screening fee is ~~$112~~ $122.

b. The department shall include as part of this fee an amount determined by the committee and department to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the program.

ITEM 25. Strike the acronym "UHL" wherever it appears in subrules **4.4(1)**, **4.4(2)**, **4.4(4)** and **4.4(7)** and insert "SHL" in lieu thereof.

ITEM 26. Amend subrule 4.4(1) as follows:

4.4(1) *Maternal screening policy.* It shall be the policy of the state of Iowa that all pregnant women are offered ~~the Iowa~~ maternal prenatal screening. The Iowa maternal prenatal screening program provides a risk assessment for open neural tube defects, ventral wall defects, Down syndrome, and Trisomy 18.

a. and *b.* No change.

ITEM 27. Amend paragraph **4.4(2)"c"** as follows:

c. *Reporting of abnormal results.* Abnormal ~~test~~ screen results shall be reported within 24 hours to the consulting physician or the physician's designee who shall then notify the ~~submitting~~ primary health care provider. On the next working day, this initial report shall be followed by a written report to the ~~submitting~~ primary health care provider.

ITEM 28. Amend subrule 4.4(3) as follows:

4.4(3) *Consulting physician responsibility.* A consulting physician shall be designated by the center in collaboration with the ~~UHL~~ SHL to provide interpretation of ~~test~~ screen results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal ~~test~~ screen results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program, with assistance from the consulting physician, shall:

a. In collaboration with the ~~UHL~~ SHL, submit a proposed budget and narrative justification for the upcoming fiscal year to the center by January 31 of each year, and

b. Submit a written annual report of the previous ~~fiscal~~ calendar year to the center by ~~September 30~~ July 1 of each year. The report shall include:

(1) to (6) No change.

ITEM 29. Amend subparagraph **4.4(6)"b"(2)** as follows:

(2) A ~~local~~ primary health care provider~~,~~ or submitting laboratory.

ITEM 30. Amend rule 641—4.5(136A), introductory paragraph, as follows:

641—4.5(136A) Regional genetic consultation service (RGCS). This program provides comprehensive genetic and genomic services statewide through outreach clinics.

ITEM 31. Amend subrule 4.5(1) as follows:

4.5(1) *Provision of comprehensive genetic and genomic services.* The department shall contract with the division of medical genetics within the department of pediatrics at the University of Iowa to provide genetic and genomic health care and education outreach services for individuals and families within Iowa. The contractor shall provide annual reports to the department as specified in the contract.

ITEM 32. Rescind subrule 4.5(3) and adopt the following **new** subrule in lieu thereof:

4.5(3) The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

ITEM 33. Amend rule 641—4.7(136A), introductory paragraph, as follows:

641—4.7(136A) Iowa registry for congenital and inherited disorders (IRCID). This program provides active statewide surveillance for congenital and inherited disorders. These disorders may include birth defects, neuromuscular disorders, metabolic disorders, and all stillbirths. The program also may conduct active statewide surveillance of live births without a reportable congenital or inherited disorder to serve as controls for epidemiological surveys. Surveillance activities for specific congenital and inherited disorders will be conducted for the period of time that adequate financial support is available.

ITEM 34. Amend paragraphs **4.7(1)"a"** and **"b"** as follows:

a. Birth defects shall be defined as any major structural abnormality or metabolic disorder that may adversely affect a child's health and development. The abnormality or disorder must be diagnosed or its signs and symptoms must be recognized within the first ~~year~~ two years of life.

b. Neuromuscular disorders shall be defined as Duchenne, ~~and~~ Becker, congenital, distal, Emery-Dreifuss, fascioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.

ITEM 35. Rescind and reserve paragraph **4.7(1)"c."**

ITEM 36. Amend paragraphs **4.7(2)"a"** and **"b"** as follows:

a. Congenital disorders, including birth defects, occurring in Iowa are reportable conditions, and records of these disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Congenital disorders surveillance shall be performed in order to determine the occurrence and trends of such disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for congenital disorders, to contribute to prevention strategies, and to assist in the planning for and provision of services to children with congenital disorders and their families.

b. Records for ~~selected~~ neuromuscular disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. ~~Selected neuromuscular disorders include Duchenne and Becker muscular dystrophies. Selected neuromuscular~~ Neuromuscular disorders surveillance for individuals of all ages shall be performed in order to determine the occurrence and trends of the selected neuromuscular disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to ~~children~~ individuals with selected neuromuscular disorders and their families.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 37. Rescind and reserve paragraph **4.7(2)"c."**

ITEM 38. Reserve rules **641—4.8** to **641—4.10**.

ITEM 39. Adopt the following **new** heading and rules 641—4.11(136A) to 641—4.14(136A):

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

641—4.11(136A) Purpose. CIDAC represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The committee advises the director regarding issues related to genetics and hereditary and congenital disorders.

641—4.12(136A) Duties of the committee. CIDAC shall perform the following duties:

4.12(1) Make recommendations about the design and implementation of the center's programs, including but not limited to:

a. The Iowa newborn screening program;

b. The regional genetics consultation service;

c. The maternal prenatal screening program;

d. The neuromuscular and related genetic disorders program; and

e. The Iowa registry for congenital and inherited disorders.

4.12(2) Support the development of special projects and conferences regarding genetic and genomic health care services and issues.

4.12(3) Advocate for quality genetic and genomic health care services for all residents in the state of Iowa.

641—4.13(136A) Membership. Membership will be comprised of representatives of professional groups, agencies, legislators, parents, consumers, and professional health care providers.

4.13(1) CIDAC shall be comprised of regular, ex officio, and honorary members.

a. Potential regular members are considered from interest groups, consumer organizations, and genetic and genomic health care service providers. Two parent representatives and two consumer representatives shall serve as regular members of CIDAC.

b. The number of regular members shall not be fewer than 15 or more than 25.

c. No more than 30 percent of regular members shall be representatives of or employed by programs that are contractors of the center for congenital and inherited disorders in the Iowa department of public health.

d. Honorary members will be comprised of two legislators, one state senator and one state representative, and others deemed appropriate by the director.

e. Ex officio members are nominated by virtue of their positions held and the organizations they represent and are appointed by the director. These members provide expert information and consultation to CIDAC.

4.13(2) Every effort will be made to have gender balance and broad geographic representation on the advisory committee.

4.13(3) The director will appoint regular and honorary committee members for three fiscal years. Reappointment of regular and honorary members shall be at the discretion of the director.

641—4.14(136A) Meetings.

4.14(1) Meetings of the committee will be held as necessary and at the call of the director or the chairperson. There shall be a minimum of four meetings per year.

4.14(2) All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

4.14(3) A majority of the total number of regular members (50 percent plus one member) shall constitute a quorum. There must be a quorum of the regular members in attendance at a meeting for action to be taken.

4.14(4) Action can be taken by a vote of the regular members. Ex officio and honorary members are not eligible to vote.

4.14(5) Regular members who represent programs that are contractors of the center for congenital and inherited disorders in the department are expected to refrain from imposing undue influence on regular members and to recuse themselves from voting on issues which directly affect the operation of their programs.

4.14(6) Meeting attendance.

a. Attendance at a meeting is defined as presence at the meeting site in person, through the Iowa communications network (ICN), through webinar or web meeting, or via telephone.

b. Attendance by the regular member or the regular member's designee shall be expected at all meetings.

(1) A designee of similar standing must be able to reasonably fulfill the member's role on the committee in discussions.

(2) Designees are not eligible to vote.

c. Regular members, not designees, must attend at least two meetings per fiscal year to remain in good standing.

d. A regular member who misses more than three meetings in a fiscal year shall be deemed to have submitted a resignation.

ARC 0571C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 4, "Public Records and Fair Information Practices," Chapter 600, "General Information," and Chapter 605, "License Issuance," Iowa Administrative Code.

This rule making was initiated in response to requests from the Iowa Nurse Practitioner Society, which provided information to the Department indicating that persons accessing health care through advanced registered nurse practitioners (ARNPs) could not obtain from them medical reports relevant to fitness to drive determinations because existing rule language limits the definition of "medical report" to reports prepared by physicians and optometrists. The purpose of this rule making is to give Iowa citizens faced with a fitness determination a greater range of access to qualified medical professionals who may evaluate and assist them.

These amendments will promote conformity with Iowa Code section 321.186(4), which allows ARNPs and physician assistants (PAs) to submit confidential reports to the Department on drivers they deem to be incapable. These amendments will also give a person identified as an incapable driver better access to health care professionals who can assist in determining or reassessing the person's fitness to drive by expanding the list of professionals who may submit medical reports relevant to a fitness to drive determination to include ARNPs and PAs when practicing within the scope of their professional license.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

TRANSPORTATION DEPARTMENT[761](cont'd)

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet e-mail address: tracy.george@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than February 12, 2013.

A meeting to hear requested oral presentations is scheduled for Thursday, February 14, 2013, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 S.E. Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code section 321.186.

Proposed rule-making actions:

ITEM 1. Amend subrule 4.9(25) as follows:

4.9(25) A report received by the department from a ~~physician or optometrist~~ physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and registered with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

ITEM 2. Amend rule **761—600.1(321)**, definitions of "Medical report" and "Physician," as follows:

"Medical report" means a report from a ~~physician~~ qualified medical professional attesting to a person's physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, "Medical Report." In lieu of Form 430031, a report signed by a ~~physician~~ qualified medical professional on the ~~physician's~~ qualified medical professional's letterhead may be accepted if it contains all the information specified on Form 430031.

"~~Physician~~ Qualified medical professional" means a person licensed ~~to practice medicine and surgery or osteopathic medicine and surgery~~ as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and registered with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person's professional licensure.

ITEM 3. Amend paragraph **600.4(4)"c"** as follows:

c. If an episode occurs when medications are withdrawn by a ~~physician~~ qualified medical professional, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

ITEM 4. Amend paragraph **600.4(4)"d"** as follows:

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a ~~physician~~ qualified medical professional.

ITEM 5. Amend paragraph **605.5(5)"b"** as follows:

b. Loss of consciousness or voluntary control.

(1) and (2) No change.

(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating or has not treated the person for the episode and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a ~~physician~~ qualified medical professional.

TRANSPORTATION DEPARTMENT[761](cont'd)

(4) The department may remove the medical report requirement and issue a full-term driver's license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

(5) The department may remove the medical report requirement and issue a full-term driver's license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 3.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 10, 2013, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .15%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

TREASURER OF STATE(cont'd)

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 0565C

UTILITIES DIVISION[199]

Notice of Termination

Pursuant to Iowa Code section 17A.4(1)"b," the Utilities Board (Board) gives notice that on December 26, 2012, the Board issued an order in Docket No. RMU-2012-0001, In re: Petition for Rule Making Regarding Recovering Certain Energy Related Costs Through An Automatic Adjustment Clause, "Order Terminating Rule Making." The Board commenced the rule making on July 9, 2012, to consider amendments proposed by Interstate Power and Light Company (IPL) in a petition for rule making that would impact the energy adjustment clause (EAC), contents of a utility's fuel procurement plan, and ratemaking treatment of emission allowances. IPL's petition for rule making was filed with the Board on May 10, 2012. IPL submitted proposed amendments to address recovery of four specific items through the EAC: chemical costs (needed for environmental compliance); allowances (needed for environmental compliance); renewable energy credits (RECs); and production tax credits (reflecting the output of renewable generation).

Notice of Intended Action for the proposed amendments was published in IAB Vol. XXXV, No. 3 (8/8/2012), p. 229, as **ARC 0237C**. Written comments addressing the proposed amendments were filed by IPL, MidAmerican Energy Company (MidAmerican), the Consumer Advocate Division of the Department of Justice, Ag Processing Inc. (Ag Processing), the Large Energy Group (LEG) (a group of 25 of the largest electric service customers of IPL), and the American Association of Retired Persons (AARP). An oral presentation was held on September 25, 2012. At the conclusion of the oral presentation, the Board gave participants an opportunity to file any additional comments by October 16, 2012.

In the Board's review of the written and oral comments, it is clear that there is no consensus on the proposed amendments and whether the costs sought to be recovered meet the tests for EAC cost recovery. The Board's criteria for inclusion in the EAC are found in 199 IAC 20.9(1). For EAC inclusion, the costs must be incurred in supplying energy; beyond the direct control of management; subject to important changes in level; an important part in determining the total cost to serve; and readily, precisely, and continuously segregated in the accounts of the utility.

Consumer Advocate, Ag Processing, LEG, and AARP were all concerned with expanding the category of environmental costs that may flow through the EAC without prior determination by the Board of the reasonableness of the costs, whether or not the items meet the EAC inclusion criteria, and possible excessive earnings by the utility if those costs are automatically recovered. If such costs were to flow through the EAC, the nonutility commenters said, those categories of costs should first be approved in a rate case proceeding, where the Board can specifically examine the reasonableness of the costs and whether those costs meet the EAC criteria. The nonutility commenters also noted that inclusion of such costs in the EAC increases customer rates without a thorough vetting of those costs in a rate proceeding, thereby reducing the utility's risk. There was a concern that IPL failed to show that expanding the items recoverable through the EAC would not lead to a return that exceeds IPL's cost of capital, resulting in excessive utility earnings.

Ag Processing, AARP, and LEG expressed concerns about a possible shift away from customer interests if electric bills could increase without further Board review. Ag Processing noted that stable electric costs are of critical importance for companies that operate in global and regional markets. LEG said that such increases harm all customers, including its members, who are among the highest-usage IPL customers. A more complete summary of the comments submitted by the rule-making participants is available in a staff memorandum dated December 5, 2012, that can be found on the Board's electronic filing Web site, https://efs.iowa.gov/efs/.

There is considerable uncertainty with respect to the outcome of the Clean Air Interstate Rule (CAIR) and the Cross-State Air Pollution Rule (CSAPR) litigation and uncertainty as to whether the federal

Mercury and Air Toxic Standards, known as MATS, will apply to new and existing generating plants. There are two lawsuits pending with respect to the application of MATS. This uncertainty makes it difficult to consider changes to the EAC rules with respect to these potential environmental costs because the impacts on a utility's costs and revenues are unknown. The Board is reluctant to adopt rules to include additional costs or revenues in the EAC without having an adequate understanding of the magnitude of the costs or revenues at issue.

With respect to the specific costs for which IPL sought EAC inclusion, there is no compelling reason to include the costs in the EAC now. The chemical costs appear to be relatively stable and not subject to sudden changes in level, based on information submitted in the rule making. Changes to the EAC rules to reflect the new CSAPR allowances replacing CAIR allowances, as noted earlier, are not necessary at this time because of continuing court challenges to the CSAPR rules; the Board does not want to adopt rules that would encompass all successor federal environmental rules because the impacts are currently unknown. On the issue of renewable energy credits (RECs), IPL currently can flow RECs back to customers through a waiver issued in Docket No. WRU-05-10-150. Other utilities could ask for similar waivers, if they believe a waiver is appropriate, based on their unique circumstances. For the production tax credits, IPL customers receive these benefits through base rates, and there is no need for a change to provide for EAC flow-through at this time.

Some of the debate in the rule making dealt with whether the costs IPL sought to include for EAC recovery met the five criteria in 199 IAC 20.9(1). IPL argued that if an individual cost component, such as chemical costs, is similar in nature to other costs currently included in the EAC, then that particular cost should not have to meet all five criteria. In other words, IPL argued that the cost category should be examined as a whole, not with a focus on the individual cost components which might not meet all five criteria if analyzed separately. Costs that are imposed at one time might qualify for EAC inclusion because the costs would be treated as a bundle, while the identical bundle of costs imposed piecemeal over several years might receive different treatment because the individual costs, standing alone, do not meet EAC criteria; IPL argued that such costs should be treated the same. Others would argue that each individual cost component must meet the EAC criteria for inclusion. The Board need not decide this argument now but notes that it is an argument that likely will need to be addressed in a future rule making or rate proceeding where new costs are proposed for EAC recovery. In addition to a rule-making proceeding, a utility may propose an automatic adjustment rider for rates in a general rate case proceeding. See Iowa Code section 476.6(8).

After analysis and review of the comments, the Board believes that if the proposed amendments were adopted at this time, they may have an adverse impact on job creation in Iowa by increasing electricity prices without a thorough Board review of those costs. It may be appropriate to revisit some or all of this rule making in a rate case proceeding or after federal environmental standards are known.

Because of the uncertainty surrounding federal environmental standards and the unknown impact on utility costs and revenues and customer bills, the Board will not adopt the amendments as proposed by IPL and hereby terminates the rule making. The issues may be revisited in a rate proceeding or a rule-making docket when there is more certainty as to the costs involved and the most appropriate means for recovery of those costs.

ARC 0563C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

These amendments incorporate the Department of Education's new assessment requirements for candidates for Iowa licensure. The change to subrule 13.1(3) removes reference to the Praxis II examination. The changes to subrules 13.3(2) and 13.3(3) and paragraph 13.17(1)"a" add the new assessment requirements to the provisions regarding out-of-state applicants, and the change to rule 282—13.4(272) does the same with regard to foreign applicants.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0445C** on November 14, 2012.

A public hearing was held on December 5, 2012, with written comment accepted until 4 p.m. on December 7, 2012. No one attended the public hearing, and no written comments were received.

There were no substantive changes to the language published in **ARC 0445C**, but the word "tests" was changed to "assessment(s)" in paragraphs 13.3(2)"c" and 13.3(3)"f" and in subparagraph 13.17(1)"a"(4).

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Board finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2013. This effective date will align with the effective date of the Department of Education's new assessment requirements for candidates for Iowa licensure, thus conferring a benefit on affected parties by ensuring all candidates are held to the same standard regardless of where they completed their preparation program.

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

These amendments are intended to implement Iowa Code section 272.2(1)"a."

These amendments became effective January 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 13.1(3) as follows:

13.1(3) *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application~~, including certification from the applicant of completion of the Praxis II examination, if required~~; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check ~~and the board's receipt of verification of completion of the Praxis II examination~~. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 2. Amend subrules 13.3(2) and 13.3(3) as follows:

13.3(2) *Requirements for applicants from non-Iowa traditional teacher preparation programs.* Provided all requirements for Iowa licensure have been met through a state-approved regionally accredited teacher education program at the graduate or undergraduate level in which college or university credits were given and student teaching was required, the applicant shall:

a. and *b.* No change.

c. Provide verification of successfully passing the Iowa-mandated ~~tests~~ assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed ~~if the applicant has fewer than three years of teaching~~

~~experience~~ or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

13.3(3) *Requirements for applicants from out-of-state nontraditional teacher preparation programs.* An applicant who holds a valid license from another state and whose preparation was completed through a state-approved nontraditional teacher preparation program must:

a. to *e.* No change.

f. Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the nontraditional teacher preparation program was completed on or after January 1, 2013. ~~If the applicant has fewer than three years of teaching experience,~~ If the nontraditional teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification from the state licensing agency/department in the state where the nontraditional teacher preparation program was completed indicating that the applicant has successfully passed that state's mandated ~~tests~~ assessment(s) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

g. and *h.* No change.

ITEM 3. Amend rule 282—13.4(272) as follows:

282—13.4(272) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

ITEM 4. Amend paragraph **13.17(1)"a"** as follows:

a. For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) to (3) No change.

(4) ~~If the applicant has fewer than three years of teaching experience or is being recommended for a K-6 elementary education endorsement, the applicant must verify successful completion of mandated tests in the state in which the applicant is currently licensed~~ The applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education; and

(5) to (7) No change.

[Filed Emergency After Notice 12/21/12, effective 1/1/13]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/23/13.

ARC 0564C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment addresses the fact that not every out-of-state applicant for licensure is a first-time administrator. The amendment also addresses an existing inconsistency between an administrator exchange license and a Class A license for administrators.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0444C** on November 14, 2012.

A public hearing was held on December 5, 2012, with written comment accepted until 4 p.m. on December 7, 2012. No one attended the public hearing, and no written comments were received.

One change from the Notice of Intended Action has been made. For consistency, the word "professional" has been added to the phrase "expired administrator license" in 18.7(2)"b" so that the phrase reads "expired professional administrator license."

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 272.2(1)"a."

This amendment will become effective February 27, 2013.

The following amendment is adopted.

Amend rule 282—18.7(272) as follows:

282—18.7(272) Specific requirements for a Class A license.

18.7(1) A nonrenewable Class A administrator exchange license valid for one year may be issued to an applicant who has completed an administrator preparation program under any one of the following conditions:

~~18.7(1)~~ *a.* *Professional core requirements.* The individual has not completed all of the required courses in the professional core, 282—paragraphs 13.18(4)*"a"* through *"j."*

~~18.7(2)~~ *b.* *Human relations component.* The individual has not completed an approved human relations component.

~~18.7(3)~~ *c.* ~~*Based on an expired Iowa certificate or license, exclusive of a Class A or Class B license.*~~ *Regular administrator certificate or license in the state in which the preparation was completed.* ~~The holder of an expired license, exclusive of a Class A or Class B license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.~~ The individual has applied for a regular administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license.

~~18.7(4)~~ *d.* *Based on evaluator requirement.* The applicant has not completed the approved evaluator training requirement.

18.7(2) A nonrenewable Class A license valid for one year may be issued to an applicant based on an expired Iowa professional administrator license.

a. The holder of an expired professional administrator license shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

b. Renewal. The holder of an expired professional administrator license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the administrator license held shall be required to secure the signature of the superintendent or designee before the license will be issued. If the superintendent does not meet the renewal requirements, the superintendent shall be required to secure the signature of the school board president before the license will be issued.

~~**18.7(5)**~~ **18.7(3)** *Authorization.* Each Class A license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator license was completed.

~~**18.7(6)**~~ **18.7(4)** *Conversion.* Each applicant receiving the one-year Class A license must complete any identified licensure deficiencies in order to be eligible for an initial administrator license or a professional administrator license in Iowa.

~~**18.7(7)** *Renewal.* The holder of an expired administrator license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the administrator license held shall be required to secure the signature of the superintendent or designee before the license will be issued. If the superintendent does not meet the renewal requirements, the superintendent shall be required to secure the signature of the school board president before the license will be issued.~~

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ARC 0562C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 22, "Authorizations," Iowa Administrative Code.

There continue to be many calls from the field in favor of an option for schools to hire native speakers as foreign language teachers. The language adopted in rule 282—22.5(272) mirrors the career and technical licenses language in 282—Chapter 17 and creates a pathway for native speakers to teach.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0443C** on November 14, 2012.

A public hearing was held on December 5, 2012, with written comment accepted until 4 p.m. on December 7, 2012. No one attended the public hearing. The Board received one written comment on behalf of the Iowa State Education Association expressing concern that the proposed authorization would constitute a departure from the high standards currently required for teacher preparation and licensure.

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

After analysis and review of this rule making, very minimal impact on jobs has been found. The amendment may allow native speakers to more easily obtain jobs as teachers of their respective languages.

This amendment is intended to implement Iowa Code section 272.2(13).

This amendment will become effective February 27, 2013.

The following amendment is adopted.

Adopt the following **new** rule 282—22.5(272):

282—22.5(272) Preliminary native language teaching authorization.

22.5(1) *Authorization.* The preliminary native language teaching authorization is provided to noneducators entering the education profession to teach their native language as a foreign language in grades K-6 or grades 7-12.

22.5(2) *Application process.* Any person interested in the preliminary native language teaching authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at http://www.boee.iowa.gov/.

22.5(3) *Requirements.*

a. The applicant must have completed a baccalaureate degree.

b. Iowa division of criminal investigation background check. The applicant must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.

c. National criminal history background check. The applicant must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

d. The applicant must obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant. Before the applicant is hired, the school district administrator must verify that a diligent search was completed to hire a fully licensed teacher for the position.

e. During the term of the authorization, the applicant must complete board-approved training in the following:

(1) Methods and techniques of teaching. Develop skills to use a variety of learning strategies that encourage students' development of critical thinking, problem solving, and performance skills. The methods course must include specific methods and techniques of teaching a foreign language and must be appropriate for the level of endorsement.

(2) Curriculum development. Develop an understanding of how students differ in their approaches to learning and create learning opportunities that are equitable and adaptable to diverse learners.

(3) Measurement and evaluation of programs and students. Develop skills to use a variety of authentic assessments to measure student progress.

(4) Classroom management. Develop an understanding of individual and group motivation and behavior which creates a learning environment that encourages positive social interactions, active engagement in learning, and self-motivation.

(5) Code of ethics. Develop an understanding of how to foster relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and become aware of the board's rules of professional practice and code of ethics.

(6) Diversity training for educators. Develop an understanding of and sensitivity to the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society, including preparation that contributes to the education of individuals with disabilities and the gifted and talented.

f. The applicant must be assigned a mentor by the hiring school district. The mentor must have four years of teaching experience in a related subject area.

g. Assessment of native language. The applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education. The cut score may not be waived by the board.

22.5(4) *Validity.* This authorization is valid for three years. No Class B licenses may be issued to applicants holding the preliminary native language teaching authorization. No additional endorsement areas may be added unless the requirements in 22.5(3) are met.

22.5(5) *Renewal.* The authorization is nonrenewable.

22.5(6) *Conversion.* The preliminary native language teaching authorization may be converted to a native language teaching authorization. The applicant must provide official transcripts verifying the completion of the coursework required in 22.5(3)*"e."*

22.5(7) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the preliminary native language teaching authorization. If a school district hires an applicant without a valid preliminary native language teaching authorization, a complaint may be filed against the teacher and the superintendent of the school district.

22.5(8) *Approval of courses.* Each institution of higher education, private college or university, community college or area education agency wishing to offer the training for the preliminary native language teaching authorization must submit course descriptions for each offering to the board of

educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

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AGENCY	RULE	DELAY
Inspections and Appeals Department[481]	51.24(3), ch 59 [IAB 12/12/12, **ARC 0484C**]	Effective date of January 16, 2013, delayed 70 days by the Administrative Rules Review Committee at its meeting held January 8, 2013. [Pursuant to §17A.4(7)]
Public Health Department[641]	rescind chs 95, 96, 98 to 107; adopt chs 95 to 100 [IAB 12/12/12, **ARC 0483C**]	Effective date of January 16, 2013, delayed until the adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013. [Pursuant to §17A.4(7)]