



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXV
March 6, 2013

NUMBER 18
Pages 1383 to 1436

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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
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 15, 2013	April 3, 2013
21	Friday, March 29, 2013	April 17, 2013
22	Friday, April 12, 2013	May 1, 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*****

EDUCATIONAL EXAMINERS BOARD[282]

Teacher intern license for international teachers, 13.9 IAB 2/20/13 ARC 0614C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	March 13, 2013 1 p.m.
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EDUCATION DEPARTMENT[281]

Bus inspection fee, 43.30 IAB 3/6/13 ARC 0641C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 26, 2013 10 to 11 a.m.
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Engineering licensure, 4.1, 4.2 IAB 2/20/13 ARC 0603C	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	March 13, 2013 9 to 10 a.m.
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Federal occupational safety and health standards, 10.20, 26.1 IAB 2/6/13 ARC 0587C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	March 13, 2013 10 a.m. (If requested)
Conveyance safety program— 50-percent rule, fees, amendments to ch 71 IAB 2/6/13 ARC 0597C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	March 7, 2013 10 a.m. (If requested)

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Commission address; standard of review for appeal of stewards' decisions; wagering and simulcasting; harness racing; gambling games, amend chs 1 to 5, 10, 11; adopt ch 8; rescind ch 9 IAB 2/20/13 ARC 0604C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	March 12, 2013 9 a.m.
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REAL ESTATE COMMISSION[193E]

Continuing education course topics, 17.5(1) IAB 3/6/13 ARC 0628C	Bureau Conference Room, Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	March 26, 2013 9 a.m.
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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 0627C**AGING, DEPARTMENT ON[17]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0549C**, proposing to rescind Chapter 6, “Area Agency on Aging Planning and Administration,” Iowa Administrative Code, and to adopt a new Chapter 6 with the same title.

The Notice proposed changes to streamline and amend outdated and duplicative rules; to mandate that area agencies on aging submit an area plan pursuant to state and federal laws, rules, and regulations; and to provide an area plan amendment process. Proposed changes included the addition of governance rules and the elimination of several provisions addressing entrepreneurial activities.

The Department is terminating the rule making commenced in **ARC 0549C** and is renoticing proposed amendments as **ARC 0640C** herein to incorporate alternate changes and clarifications.

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

ARC 0640C**AGING, DEPARTMENT ON[17]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 231 and section 17A.3, the Iowa Department on Aging hereby gives Notice of Intended Action to amend Chapter 6, “Area Agency on Aging Planning and Administration,” Iowa Administrative Code.

The proposed amendments incorporate the following particulars:

1. The Department on Aging will be able to require area plans for a period of two years and up to four years. Currently, area agencies on aging are required to submit four-year plans.
2. Area agencies on aging will be allowed flexibility to determine the extent to which a full-time director is necessary. Currently, each area agency on aging is required to have a full-time director.
3. The Department on Aging will not need to dedesignate an area agency on aging for its failure to meet service standards. Dedesignation is still an option under rule 17—4.6(231), but this change will allow flexibility in response to deficiencies.
4. Rule 17—6.14(231) related to priority service expenditures is proposed to be rescinded and will be incorporated in new 17—Chapter 5 (see **ARC 0550C**, IAB 1/9/13). Subrule 6.14(2) pertaining to hearings related to priority service expenditures is incorporated into subrule 6.2(7).
5. In Item 5, language in the rule pertaining to entrepreneurial activities was found to be inconsistent and unenforceable and is proposed to be rescinded. Rescission of the relevant subrules will clarify for area agencies on aging what is necessary to perform entrepreneurial activities.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 26, 2013. Such written comments or suggestions should be directed to Kimberly Murphy, Iowa Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kimberly.murphy@iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 231.

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

The following amendments are proposed.

ITEM 1. Amend rule 17—6.2(231) as follows:

17—6.2(231) Area plan.

6.2(1) Area plan. Each AAA shall develop and administer an area plan.

6.2(2) Duration and format of the area plan.

a. The area plan shall be for ~~the~~ a minimum of a two-year and a maximum of a four-year period specified by the department, with annual updates.

b. Uniform area plan format. All AAA shall submit an area plan or plan amendment to the department in accordance with the uniform area plan format, other instructions issued by the department, this chapter, and the federal Act.

6.2(3) and 6.2(4) No change.

6.2(5) Plan content. The area plan shall, at a minimum, contain the following information:

a. Assurance that the AAA agrees to abide by the requirements of the federal Act and all other applicable laws and rules; and

b. Objectives and budget for each year of the designated ~~four-year~~ period and methods to obtain those objectives; and

c. Client estimates. Area agencies shall estimate the number of older individuals with the characteristics identified in Form 3 A 1 of an IAPI.

6.2(6) No change.

6.2(7) Procedures for area plans, plan amendments and revisions.

a. *Public hearing(s).* The AAA shall hold at least one public hearing on the area plan and all plan amendments as required in this chapter. Priority services shall appear as a distinct agenda item for any hearing.

(1) The public hearing(s) shall be held prior to submission of the area plan or amendment(s) at a time which permits older individuals, public officials, and other interested parties reasonable opportunity to participate. The hearing(s) shall be held at a barrier-free, fully accessible location.

(2) The AAA shall advertise the hearing by sending notice to all known groups of older individuals, PSA public officials, and other interested parties. The AAA shall also publish a notice in the official newspapers as designated for each county served by the PSA. The notice shall include the time, date, and location of the public hearing.

(3) The hearing on the area plan shall include the priority services and priority services requirement as a distinct agenda item with a specific time set for the beginning of that portion of the hearing.

b. *Review and comment by the advisory council.*

(1) The AAA shall submit the area plan, amendments and revisions for review and comment to the AAA advisory council.

(2) The official representative of the AAA shall sign the plan, amendment or revision to signify that the AAA has completed all of the requirements of this chapter. The AAA shall then submit the area plan, amendment or revision to the department for review.

6.2(8) to 6.2(10) No change.

ITEM 2. Amend rule 17—6.3(231) as follows:

17—6.3(231) Area agency administration.

6.3(1) ~~Full-time director~~ Director. The AAA shall employ a qualified ~~full-time~~ director and may employ other staff as necessary to manage and monitor the area plan.

6.3(2) Director's responsibility. It is the responsibility of the AAA director to:

a. Ensure that all AAA duties as outlined in the federal Act, state law, this chapter and other rules promulgated by any agency having jurisdiction are performed;

b. Develop the area plan;

c. Implement organizational operations;

d. Budget for services and operations;

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

- e. Coordinate implementation of services; and
- f. Monitor and evaluate services.

6.3(3) to 6.3(5) No change.

ITEM 3. Rescind rules **17—6.13(231)** and **17—6.14(231)**.

ITEM 4. Renumber rules **17—6.15(231)** to **17—6.18(231)** as **17—6.13(231)** to **17—6.16(231)**.

ITEM 5. Amend renumbered rule 17—6.15(231) as follows:

17—6.15(231) Entrepreneurial activities of AAA. An AAA considering entrepreneurial activities must carefully examine the activity to ensure compatibility with its designation as an AAA. The following shall apply to all AAA, unless otherwise prohibited by statute, rule or order:

6.15(1) Demonstrated need—use of funds. An AAA may engage in entrepreneurial activities if the activity is in response to a demonstrated need and the funds raised by such activities are used for one of the following purposes:

- a. To further extend services and opportunities for older individuals; or
- b. To fund new services and opportunities for older individuals provided that these services or opportunities are compatible with the AAA functions and goals.

6.15(2) Restrictions. ~~An AAA shall not use funds received from the department in connection with entrepreneurial activities.~~ The following restrictions shall apply to an AAA's engagement in entrepreneurial activities:

- a. Entrepreneurial activities shall not be undertaken until they have been reviewed by the advisory council and approved by the AAA governing board.
- b. An AAA that engages in entrepreneurial activities shall not create the impression that the activity is being carried on under governmental authority.
- c. Funds received as a result of entrepreneurial activities shall be monitored and accounted for according to generally accepted accounting and auditing practices commensurate with the activities.
- d. Entrepreneurial activities shall be pursued only if the duties and responsibilities required of AAA in this chapter are consistently provided by the AAA in a capable manner.
- e. ~~Entrepreneurial activities shall benefit all eligible persons in the PSA, particularly older individuals in the greatest economic and social need and low-income minority persons. Entrepreneurial activities pursued by an AAA and groups or organizations funded by an AAA shall not have, nor present the appearance of, a conflict of interest.~~
- f. Entrepreneurial activities shall not utilize funds received from the department for direct costs.

6.15(3) Department review:

a. ~~An AAA shall inform the department in writing not less than 160 calendar days prior to the initiation of an entrepreneurial activity of an ongoing nature. The notification shall describe the proposed activity, proposed source of funds, and the needs being addressed.~~

b. ~~The department shall respond in writing within 30 calendar days to acknowledge receipt of the information, request clarification, or request a delay in implementation. For informational purposes, the department shall provide a copy of the response to the commission.~~

c. ~~An AAA that receives no response from the department within 30 days may assume that no additional submission of information is required.~~

d. ~~If unresolved issues remain after 60 calendar days of receipt of the information, the commission will be informed of those issues at the next commission meeting.~~

6.15(4) Commission or department action. An AAA contracting for entrepreneurial activities shall:

- a. Provide the contract to the department for review prior to signing; and
- b. Include the activities in the area plan, plan amendments or revisions; and
- c. Require a minimum payment from the contractor to fully cover all costs of the activity, including overhead and administrative costs, to eliminate the possibility of use of Title III funds.

6.15(5) Community interest.

a. ~~Entrepreneurial activities pursued by an AAA and groups or organizations funded by an AAA shall not have, nor present appearance of, conflict of interest.~~

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

~~b. An AAA shall work cooperatively with community leaders, groups and organizations in order to participate in entrepreneurial activities.~~

ARC 0642C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 163.1(1), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” and Chapter 65, “Animal and Livestock Importation,” Iowa Administrative Code.

The amendments allow the use of an alternate test for tuberculosis in cervids. The Cervid TB Stat-Pak test has recently been approved by the USDA Animal and Plant Health Inspection Service.

Any interested persons may make written suggestions or comments on the proposed amendments on or before March 26, 2013. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendments are subject to the Department’s general waiver provisions.

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

These amendments are intended to implement Iowa Code sections 163.1 and 163.14.

The following amendments are proposed.

ITEM 1. Amend paragraph **64.34(10)“b,”** introductory paragraph, as follows:

b. Cervidae originating outside Iowa. Cervidae that originate outside Iowa must obtain an entry permit from the state veterinarian’s office prior to import into Iowa. Cervidae that originate outside Iowa which are six months of age or older must originate from a herd not under quarantine and have been tested negative for Tuberculosis (TB) by the Single Cervical Tuberculin (SCT) test (Cervidae) or by the Cervid TB Stat-Pak test within 90 days of exhibition, or originate from an Accredited Herd (Cervidae), or originate from a Qualified Herd (Cervidae), with test dates shown on the Certificate of Veterinary Inspection. Herd status and SCT test are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules, effective January 22, 1999.

ITEM 2. Adopt the following **new** subrule 64.73(4):

64.73(4) The TB Stat-Pak test for cervids.

ITEM 3. Amend paragraph **65.9(3)“a”(1)“1”** as follows:

1. Originate from a herd not under quarantine and be tested negative for tuberculosis (TB) within 90 days of importation by the Single Cervical Tuberculin (SCT) test (Cervidae) or by the Cervid TB Stat-Pak test; or

ARC 0634C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 189A.7(8), the Agriculture and Land Stewardship Department hereby gives Notice of Intended Action to amend Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

The amendments update references to federal regulations in order to retain recognition of the state meat and poultry program. The federal requirement to have and maintain a recall plan is also added in Item 2.

Any interested person may make written comments or suggestions on the proposed amendments on or before March 26, 2013. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

No waiver provision is included in the proposed amendments; however, the Department’s general waiver rule would apply.

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

These amendments are intended to implement Iowa Code section 159.5(8) and Iowa Code chapter 189A.

The following amendments are proposed.

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

21—76.1(189A) Federal Wholesome Meat Act regulations adopted. Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

ITEM 2. Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted. Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, is hereby adopted in its entirety with the following exceptions: 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, 381.128, Subpart R, Subpart T, Subpart V, Subpart W; and in addition thereto, the following subsections shall be expanded to include:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 4. Amend rule 21—76.4(189A) as follows:

21—76.4(189A) Inspection required. Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

ITEM 5. Amend rule 21—76.13(189A) as follows:

21—76.13(189A) Voluntary inspections of exotic animals. Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

ITEM 6. Amend rule 21—76.14(189A) as follows:

21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.

1. All federal regulations adopted in 21—76.1(189A).
2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2009~~ 2013.

This rule is intended to implement Iowa Code chapters 170 and 189A.

ARC 0641C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 43, “Pupil Transportation,” Iowa Administrative Code.

This Notice proposes to update the current rule which provides for a bus inspection fee of \$28 per inspection. The amendment would increase the fee to \$40 per inspection effective July 1, 2013. This increase in the fee would pay for an additional inspector.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before March 26, 2013, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on March 26, 2013, from 10 to 11 a.m. at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

EDUCATION DEPARTMENT[281](cont'd)

After analysis and review of this rule making, there is no jobs impact to this proposed amendment. This amendment is intended to implement Iowa Code section 285.8(4). The following amendment is proposed.

Amend rule 281—43.30(285) as follows:

281—43.30(285) Semiannual inspection. To facilitate the semiannual inspection program, school and school district officials shall send their buses to inspection centers as scheduled. A sufficient number of drivers or other school personnel shall be available at the inspection to operate the equipment for the inspectors. The fee for each vehicle inspected shall be \$20 effective July 1, 2005; \$25 effective July 1, 2007; and \$28 effective July 1, 2009. Effective July 1, 2013, the fee for each vehicle inspected shall be \$40.

ARC 0639C

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 88, “Managed Health Care Providers,” Iowa Administrative Code.

The purpose of this amendment is to clarify policy on the treatment of income and resources for institutionalized spouses who apply for the Programs of All-Inclusive Care for the Elderly (PACE). Specifically, the amendment will clarify policy on the treatment of income and resources for certain institutionalized spouses who apply for PACE.

The effect of this amendment will be to clarify policy that PACE enrollees are considered to be institutionalized for Medicaid eligibility purposes and that spousal impoverishment eligibility rules do apply. The clarification will assist income maintenance workers in making correct determinations of eligibility for PACE.

Any interested person may make written comments on the proposed amendment on or before March 26, 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 specific situations because it confers a benefit and because all Medicaid members are subject to the same rules regarding the determination of eligibility for PACE. 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.

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend paragraph **88.84(1)“a”** as follows:

a. Basic eligibility requirements.

(1) The person must be 55 years of age or older.

(2) The person must reside in the service area of the PACE organization.

(3) The person must be eligible for Medicaid pursuant to the provisions in 441—Chapter 75 for persons in a medical institution.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~(3)~~ (4) The department must determine that the person is eligible for Iowa Medicaid pursuant to 441—Chapter 76.
- (4) ~~(5)~~ The department must determine that the person needs the nursing facility level of care.
- ~~(5)~~ (6) The person must meet any additional program-specific eligibility conditions imposed under the PACE program agreement. These additional conditions shall not modify the requirements stated in this subrule.

ARC 0637C

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 217.6 and chapter 249J, the Department of Human Services proposes to amend Chapter 92, “IowaCare,” Iowa Administrative Code.

Amendments to Chapter 92 are being proposed to add language to include Indian Health Care providers in the IowaCare network to serve IowaCare-eligible Native Americans.

The inclusion of Indian Health Care providers in the IowaCare network for IowaCare-eligible Native Americans is required by the American Recovery and Reinvestment Act of 2009 (PL 111-5), Section 5006(d). Pursuant to the federal requirement, Indian Health Care providers have been allowed to enroll in the IowaCare network to serve Native Americans since November 2012. These proposed amendments revise the Department’s rules to reflect the federally required policy, which allows the estimated 300 IowaCare-eligible Native Americans the option to receive care from participating Indian Health Care providers as well as from their assigned medical home.

Any interested person may make written comments on the proposed amendments on or before March 26, 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 the amendments are required by federal law which does not allow for any waiver and because these amendments confer a benefit by allowing for coverage of services provided by Indian Health Care providers. 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 217.6 and chapter 249J.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Indian” and “Indian health care provider” in rule **441—92.1(249A,249J)**:

“*Indian*” means a Native American eligible, as an Indian, to receive health care services from an Indian health care provider as defined in this rule.

“*Indian health care provider*” means a health care program operated by the Indian Health Service of the U.S. Department of Health and Human Services or by an Indian tribe, tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. § 1603.

ITEM 2. Amend subrule 92.8(1) as follows:

92.8(1) Provider network. Except as provided in subrules 92.8(3) through ~~92.8(6)~~ 92.8(5), IowaCare members shall have medical assistance only for services provided to the member by:

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. to c. No change.

d. Any physician, advanced registered nurse practitioner, or physician assistant who is part of a medical institution listed in this subrule. Physician assistants are able to render covered services as auxiliary personnel of a physician pursuant to 441—subrule 78.1(13); or

e. An Indian health care provider enrolled in the IowaCare program, for services provided to Indians.

ITEM 3. Amend paragraph **92.8(3)“c”** as follows:

c. For persons who reside in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County, the services listed in this subrule are covered only when provided by the University of Iowa Hospitals and Clinics or when provided by an Indian health care provider to an Indian.

ITEM 4. Amend subrule 92.8(6) as follows:

92.8(6) Medical home. As a condition of participation in the IowaCare program, network providers designated pursuant to subrule 92.8(1) other than Indian health care providers must also qualify as medical homes, pursuant to Iowa Code chapter 135, division XXII.

a. and b. No change.

c. If an IowaCare member resides in a designated county near a designated medical home provider, the department shall assign the member to that provider. If an IowaCare member who is assigned to a medical home and who is not an Indian chooses to go to another provider without a referral from the medical home:

(1) and (2) No change.

d. Subject to subrule 92.8(1), services provided to Indians assigned to a medical home may be covered by the IowaCare program if:

(1) Provided by the assigned medical home or pursuant to a referral by the assigned medical home;

or

(2) Provided by an Indian health care provider enrolled in the IowaCare program or pursuant to a referral by an Indian health care provider enrolled in the IowaCare program.

ARC 0638C

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 92, “IowaCare,” Iowa Administrative Code.

This amendment adjusts the premiums for medical assistance benefits under the IowaCare program to reflect the revised 2013 Federal Poverty Levels (FPLs) based on income for the household size.

IowaCare members with income over 150 percent of the FPL will have their premium amount adjusted at their next eligibility review on and after April 1, 2013, to adjust for the changes to the 2013 FPL.

IowaCare applicants who are approved for eligibility effective on and after April 1, 2013, will have their premium assessment calculated based on the new premium scale.

Any interested person may make written comments on the proposed amendment on or before March 26, 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does not provide for waivers in specific situations because all members should be subject to the same sliding scale for IowaCare premiums. 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 paragraph 92.7(1)“a” as follows:

a. The monthly premium is based on the household’s countable monthly income as a percentage of the federal poverty level for a household of that size. If there is more than one IowaCare member in a household, a single premium is established for coverage of all of the members in the household. Subject to the annual update pursuant to paragraph 92.7(1)“b,” for certification periods beginning on or after April 1, ~~2012~~ 2013, premiums are as follows:

When there is one IowaCare member in the household and the household’s income is at or below:	The member’s premium amount is:
150% of federal poverty level	\$0
160% of federal poverty level	\$51 <u>52</u>
170% of federal poverty level	\$55 <u>56</u>
180% of federal poverty level	\$58 <u>59</u>
190% of federal poverty level	\$61 <u>62</u>
200% of federal poverty level	\$65 <u>66</u>

When there are two or more IowaCare members in the household and the household’s income is at or below:	The household’s premium amount is:
150% of federal poverty level	\$0
160% of federal poverty level	\$69 <u>70</u>
170% of federal poverty level	\$73 <u>74</u>
180% of federal poverty level	\$78 <u>79</u>
190% of federal poverty level	\$82 <u>83</u>
200% of federal poverty level	\$86 <u>87</u>

ARC 0628C

REAL ESTATE COMMISSION[193E]

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 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 17, “Approval of Schools, Courses, and Instructors,” Iowa Administrative Code.

The proposed amendment to subrule 17.5(1) will expand the current scope of continuing education course topics.

REAL ESTATE COMMISSION[193E](cont'd)

The proposed amendment was requested and brought before the Real Estate Commission by an approved real estate education provider. The Real Estate Commission proposes the amendment with no objection from any Commission member.

A public hearing will be held on March 26, 2013, in the Bureau Conference Room, Second Floor, 1920 SE Hulsizer Road, Ankeny, Iowa, at 9 a.m., at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received before the end of the business day on March 26, 2013. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to david.batts@iowa.gov.

The proposed amendment has no fiscal impact on the state of Iowa.

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

This amendment is intended to implement Iowa Code section 272C.1.

The following amendment is proposed.

Amend subrule 17.5(1) as follows:

17.5(1) The commission will consider courses in the following areas to be acceptable for approval:

a. to n. No change.

o. Market analysis; ~~and~~

p. Real estate market procedures; and

q. Technology and the practice of real estate.

USURY

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

March 1, 2012 — March 31, 2012	4.00%
April 1, 2012 — April 30, 2012	4.00%
May 1, 2012 — May 31, 2012	4.25%
June 1, 2012 — June 30, 2012	4.00%
July 1, 2012 — July 31, 2012	3.75%
August 1, 2012 — August 31, 2012	3.50%
September 1, 2012 — September 30, 2012	3.50%
October 1, 2012 — October 31, 2012	3.75%
November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%
February 1, 2013 — February 28, 2013	3.75%
March 1, 2013 — March 31, 2013	4.00%

ARC 0636C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services (DAS) hereby amends Chapter 41, "Auditing Claims," Iowa Administrative Code.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0553C**. No public comment was received. No changes were made to the amendment since publication of the Notice.

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

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

This amendment will become effective April 10, 2013.

The following amendment is adopted.

Amend subrule 41.7(8) as follows:

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

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

b. and *c.* No change.

[Filed 2/14/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0619C**AGING, DEPARTMENT ON[17]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging hereby amends Chapter 1, "Introduction, Abbreviations and Definitions," Iowa Administrative Code.

The amendments work towards the creation of a single and comprehensive chapter of definitions applicable to all administrative rules chapters within the Department's administrative rules section.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0508C**. The Department received no written comments. These amendments are identical to those published under Notice of Intended Action.

The Commission on Aging adopted these amendments on February 8, 2013.

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

These amendments are intended to implement Iowa Code chapter 231.

These amendments will become effective on April 10, 2013.

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

The following amendments are adopted.

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

“*ADRC coordination center*” means an entity designated by the department that carries out duties and functions as mandated in rules promulgated by the department.

“*ADRC local access point*” means an entity designated by an ADRC coordination center that carries out duties and functions as mandated in rules promulgated by the department.

“*Aging and disability resource center*” or “*ADRC*” means the same as “Aging and Disability Resource Center” as defined in the federal Act.

“*Options counseling*” means the service of providing an interactive process whereby individuals receive guidance in their deliberations to make informed choices about long-term supports. The process is directed by the individual and may include others whom the individual chooses or those who are legally authorized to represent the individual. Options counseling may include but is not limited to the following: (1) a personal interview and assessment to discover strengths, values, and preferences of the individual and screenings for entitlement program eligibility, (2) a facilitated decision-making process which explores resources and service options and supports the individual in weighing pros and cons, (3) developing action steps toward a goal or a long-term support plan and assistance in applying for and accessing support options, and (4) follow-up to ensure supports and decisions are assisting the individual.

“*Options counselor*” means the person(s) responsible for providing the service of options counseling.

ITEM 2. Amend rule **17—1.5(231)**, definition of “Department on aging,” as follows:

“*Department on aging*” or “*department*” means the sole state agency responsible for administration of the Older Americans Act and Iowa Code ~~chapter~~ chapters 231, and 231E ~~and~~ 249H and other applicable laws or rules.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0621C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging hereby amends Chapter 2, “Department on Aging,” Iowa Administrative Code.

The amendments provide updated information regarding the mission statement and organizational structure of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0506C**. The Department received no written comments. These amendments are identical to those published under Notice of Intended Action.

The Commission on Aging adopted these amendments on February 8, 2013.

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

These amendments are intended to implement Iowa Code chapter 231.

These amendments will become effective on April 10, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 17—2.1(231) as follows:

17—2.1(231) Mission statement. The mission of the department on aging is to ~~provide advocacy, information, educational and prevention services to older individuals so they may find Iowa a healthy, safe, productive and enjoyable place to live and work.~~ develop a comprehensive, coordinated and

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

cost-effective system of long-term living and community support services that help individuals maintain health and independence in their homes and communities.

ITEM 2. Amend rule 17—2.5(231) as follows:

17—2.5(231) Organizational units of the department. The department's activities are performed by employees within the office of the director, two divisions and the office of elder rights. Grants will be managed by the appropriate division, office of the director or office of elder rights, dependent upon the source and intended use of funds.

2.5(1) Office of the director. The office of the director is comprised of the director, ~~administrative support, public information officer, division administrators and legislative liaison.~~ the assistant director, the state long-term care ombudsman, the policy coordinator, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) Division of administration. The ~~administrative division~~ division of administration is responsible for the following:

- a. Coordinating, reviewing and processing the multiyear area plans from the area agencies on aging;
- b. Developing and processing the State Plan Funding Application to the federal government;
- c. Monitoring, assessing, evaluating and auditing the ~~13~~ area agencies on aging for general area plan performance;
- d. Maintaining accountability for all state, federal and local funds for which the department is responsible;
- e. Managing a variety of department administrative responsibilities (including but not limited to budget preparation, personnel activities, ordering supplies and purchasing equipment);
- f. Developing and maintaining computerized information systems which compile and analyze data to assess the quality and priorities of the department's programs; and
- g. Processing information for presentation in reports, pamphlets, brochures, videotapes and the news media.

2.5(3) Division of elder programs and advocacy. The division of elder programs and advocacy ~~division~~ is responsible for the following:

- a. Developing program initiatives related to the department's mission;
- b. Reviewing and commenting upon laws, regulations, and rules that impact programs and services for older individuals;
- c. Program development related to:
 - (1) ~~The continua of long-term~~ Long-term care options;
 - (2) Case management program for the frail elderly;
 - (3) Nutrition and health promotion;
 - (4) Information and assistance;
 - (5) Adult day and respite services;
 - (6) Housing, including elder group homes and assisted living;
 - (7) Access to public benefits;
 - (8) Mature worker programs, including pension counseling; and
 - (9) Caregiver programs;
- d. Providing customer services related to older individuals' rights issues;
- e. Monitoring and assessing services related to older individual programs and advocacy issues;
- f. Outreach to older individuals in greatest need (minority, rural, low-income and persons with disabilities);
- g. Coordination and advocacy efforts which involve partnerships with a variety of public and private agencies; and
- h. Providing educational opportunities such as conferences, workshops and other means of informing older individuals and their caregivers.

2.5(4) Office of elder rights. The office of elder rights includes:

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

- a. The office of the state long-term care ombudsman which is responsible for all applicable duties contained within the federal Act and ~~the duties as outlined in 17 IAC 8~~ state law;
- b. Legal assistance development related to the department's mission and duties as outlined ~~in 17 IAC 7~~ within the federal Act and state law;
- c. Elder abuse policy development, prevention, education and intervention and duties as outlined ~~in 17 IAC 15~~ within the federal Act and state law; and
- d. Providing customer services related to older individuals' rights issues.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0623C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging hereby amends Chapter 7, "Area Agency on Aging Service Delivery," Iowa Administrative Code.

These amendments allow:

1. Area agencies on aging to utilize the most current Dietary Guidelines for Americans when determining meal content as provided by nutrition service providers.
2. Area agencies on aging the flexibility to plan menus using a current diet manual that is chosen by the area agency on aging and approved by the Department. Currently, area agencies on aging are mandated to use a specific diet manual provided by the Department.
3. Area agencies on aging the flexibility to provide notification of the opening, relocation, or termination of a nutrition site within 30 days. Currently, area agencies on aging are mandated to provide notification of these events 30 days prior to the occurrence of the event. It is often impossible for area agencies on aging to comply with this notification requirement.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0505C**. The Department received no written comments. These amendments are identical to those published under Notice of Intended Action.

The Commission on Aging adopted these amendments on February 8, 2013.

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

These amendments are intended to implement Iowa Code chapter 231.

These amendments will become effective on April 10, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 7.14(1) as follows:

7.14(1) Each meal served by the nutrition services provider, whether at a congregate meal site, home-delivered or elsewhere, must comply with the current Dietary Guidelines for Americans, published by the Secretary of Health and Human Services and the Secretary of Agriculture, and provide to each participating older individual:

- a. A minimum of 33 1/3 percent of the RDA/AI as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the program provides one meal per day;
- b. A minimum of 66 2/3 percent of the allowances if the program provides two meals per day; and
- c. One hundred percent of the allowances if the program provides three meals per day.

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

ITEM 2. Amend rule 17—7.18(231) as follows:

17—7.18(231) Special dietary needs. The AAA shall ensure that special dietary needs of program participants are met where feasible and appropriate, including the particular requirements arising from the health, religious, or ethnic backgrounds of eligible participants.

7.18(1) The following criteria shall be used to determine feasibility and appropriateness:

a. Sufficient numbers of older individuals who have special dietary needs exist to make the provision practical;

b. Skills and food necessary to provide the special menus are available.

7.18(2) Special dietary and therapeutic menus must be planned under the supervision of a licensed dietitian in accordance with a current diet manual approved by the director and supplied to each AAA by the department. Certified menus must be submitted to the department at least two weeks prior to the initial use of the menus.

7.18(3) A written physician's order for each older individual requesting a therapeutic diet shall be obtained prior to the older individual's receipt of the meal and kept on file where the meal is prepared and served. The order shall be interpreted by a licensed dietitian and the individual's physician.

ITEM 3. Amend rule 17—7.23(231) as follows:

17—7.23(231) Requirements for opening or closing congregate nutrition sites. The AAA shall notify the department ~~in writing at least, via electronic mail or other written notification, within 30 days prior to~~ of the AAA's opening, relocating, or terminating a nutrition site. The notification must include:

1. Reasons for the action;
2. Impact on eligible individuals;
3. Impact on nearby meal sites; and
4. Impact on provision of nutrition-related services.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0624C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging hereby adopts a new Chapter 23, "Aging and Disability Resource Center," Iowa Administrative Code.

The rules establish the structure for the Aging and Disability Resource Center as directed by Iowa Code section 231.64.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0507C**. The Department received no written comments. These rules are identical to those published under Notice of Intended Action.

The Commission on Aging adopted these rules on February 8, 2013.

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

These rules are intended to implement Iowa Code section 231.64.

These rules will become effective on April 10, 2013.

The following amendment is adopted.

Adopt the following new 17—Chapter 23:

CHAPTER 23 AGING AND DISABILITY RESOURCE CENTER

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

17—23.1(231) General. The aging and disability resource center (ADRC) serves to assist individuals in living healthy, independent, and fulfilled lives in the community. The ADRC will work to ensure that individuals accessing the long-term care services and supports system experience the same process and receive the same information about service options wherever they enter the system.

17—23.2(231) Authority. The department has been given authority to administer the aging and disability resource center by Iowa Code section 231.64.

17—23.3(231) Aging and disability resource center. The department shall administer the aging and disability resource center and shall do all of the following:

1. Perform all duties mandated by federal and state law.
2. Designate ADRC coordination centers.
3. Provide technical assistance to ADRC coordination centers.
4. Provide oversight of ADRC coordination centers to ensure compliance with federal and state law and applicable rules and regulations.

17—23.4(231) ADRC coordination centers. An ADRC coordination center designated by the department shall do all of the following:

- 23.4(1)** Perform all duties mandated by federal and state law and applicable rules and regulations.
- 23.4(2)** Increase the accessibility of community long-term care services and supports by providing comprehensive information, referral, and assistance regarding the full range of available public and private long-term care programs, options, service providers, and resources within a community.
- 23.4(3)** Develop a community long-term care services and supports enrollment system.
- 23.4(4)** Provide options counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term care.
- 23.4(5)** Serve as a point of entry for programs that provide consumer access to the range of publicly supported long-term care programs.
- 23.4(6)** Designate ADRC local access points.
- 23.4(7)** Provide technical assistance to ADRC local access points.
- 23.4(8)** Establish an advisory council to advise the ADRC coordination center and to review and comment on ADRC coordination center policies and actions.
- 23.4(9)** Provide oversight of ADRC local access points to ensure compliance with federal and state law, applicable rules and regulations, and policies and mandates as determined by the advisory board.

17—23.5(231) ADRC local access points. An ADRC local access point designated by an ADRC coordination center shall do all of the following:

1. Perform one or more functions of an ADRC coordination center.
2. Maintain an agreement with the ADRC coordination center, in the form of a referral agreement, contract, memorandum of understanding, or similar document, which specifies the duties of the ADRC local access point.
3. Serve on the advisory board of the ADRC coordination center.

17—23.6(231) Population served. The aging and disability resource center, ADRC coordination centers, and ADRC local access points shall assist the following individuals in seeking long-term care services and supports:

1. Older individuals;
2. Individuals with disabilities who are aged 18 or older;
3. Family caregivers of older individuals;
4. Family caregivers of individuals with disabilities who are aged 18 or older;
5. Individuals who inquire about or request assistance on behalf of older individuals; and

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

6. Individuals who inquire about or request assistance on behalf of individuals with disabilities who are aged 18 or older.

These rules are intended to implement Iowa Code section 231.64.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0625C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 231.23, the Iowa Department on Aging hereby rescinds Chapter 28, "Iowa Senior Living Program—Home- and Community-Based Services for Seniors," Iowa Administrative Code.

Chapter 28 is no longer necessary or applicable to the operations of the Iowa Department on Aging or the area agencies on aging due to the elimination of the Senior Living Trust Fund. The chapter was promulgated based on the creation of the Senior Living Trust Fund and is rescinded entirely based on the Fund's elimination.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0516C**. The Department received no written comments. This amendment is identical to that published under Notice of Intended Action.

The Commission on Aging adopted this amendment on February 8, 2013.

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

This amendment is intended to implement Iowa Code chapter 231.

This amendment will become effective on April 10, 2013.

The following amendment is adopted.

Rescind and reserve **17—Chapter 28**.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0626C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.14 and 231.23 and 2012 Iowa Acts, House File 2320, the Iowa Department on Aging hereby adopts a new Chapter 29, "Reduction of Area Agencies on Aging," Iowa Administrative Code.

The rules establish the procedure to be followed by area agencies on aging during the process to reduce area agencies on aging, as mandated by 2012 Iowa Acts, House File 2320.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0498C**. The rules were also Adopted and Filed Emergency and published on the same date in the Iowa Administrative Bulletin as **ARC 0499C**. The Department received no written comments. Except for the updating of the implementation sentence of Chapter 29, these rules are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Commission on Aging adopted these rules on February 8, 2013.

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

These rules are intended to implement Iowa Code chapter 231 and 2012 Iowa Acts, House File 2320.

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

These rules will become effective on April 10, 2013, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendment is adopted.

Adopt the following new 17—Chapter 29:

CHAPTER 29
REDUCTION OF AREA AGENCIES ON AGING

17—29.1(231) General. The Iowa department on aging is mandated, pursuant to 2012 Iowa Acts, House File 2320, to reduce the number of area agencies on aging effective July 1, 2013. These rules shall be used to supplement current department rules. If these rules conflict with another rule of the department, these rules shall be given priority. These rules shall terminate on July 1, 2014.

17—29.2(231) Definitions. Words and phrases used in this chapter shall be as defined in 17—Chapter 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter:

“*Assets*” means any funds, goods, property, or equipment that is owned, operated, maintained, or in the possession of an area agency on aging and that has been acquired by said area agency on aging with public funds obtained due to designation as an area agency on aging.

“*Dedesignated area agencies on aging*” means area agencies on aging that have been dedesignated by the commission effective June 30, 2013.

“*Designated area agencies on aging*” means area agencies on aging designated by the commission to serve the newly designated planning and service areas effective July 1, 2013.

17—29.3(231) Dedesignation—identification of organization.

29.3(1) Dedesignated area agencies on aging shall cease all business and operations conducted pursuant to designation as an area agency on aging as of 11:59 p.m. on June 30, 2013. Ceasing all business and operations conducted pursuant to designation as an area agency on aging does not include any remaining actions that must be taken to accomplish complete closure of the dedesignated area agency on aging, including but not limited to satisfying debts, completing a final audit, and filing a final tax return.

29.3(2) After 11:59 p.m. on June 30, 2013, dedesignated area agencies on aging shall not operate as an area agency on aging and shall not take any actions that create the appearance of operating as an area agency on aging.

29.3(3) After 11:59 p.m. on June 30, 2013, dedesignated area agencies on aging shall cease to use the term “area agency on aging” in any manner for purposes of entity identification.

17—29.4(231) Cooperation mandated. Dedesignated area agencies on aging shall cooperate in good faith with designated area agencies on aging to accomplish a safe, orderly, and uninterrupted transfer of services to individuals receiving services within the newly designated planning and service areas and to accomplish a safe and orderly transfer of files, records, and assets. Cooperation includes, but is not limited to, providing necessary documents and assets and adhering to federal and state laws, rules, and regulations governing transfer of files, records, and assets.

17—29.5(231) Assumption of services provided to individuals.

29.5(1) Designated area agencies on aging shall submit information to the department outlining the plan to assume the role of providing services in a safe and orderly manner to all individuals currently receiving services from the dedesignated area agencies on aging located within the counties that comprise the designated area agency on aging’s planning and service area.

29.5(2) The plan shall be received by the department by the close of business on February 15, 2013. The plan shall be submitted to the department in writing and sent to the following address: Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

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

29.5(3) The plan shall include at a minimum the following information:

- a.* The full plan to ensure that services received by individuals through the dedesignated area agency on aging shall be transitioned to the designated area agency on aging in a safe and orderly manner;
- b.* The full plan to ensure that individuals receiving services from the dedesignated area agency on aging shall continue to receive services at the designated area agency on aging that are, at a minimum, consistent with the services the individual received at the dedesignated area agency on aging;
- c.* The full plan to ensure that individuals receiving services from the dedesignated area agency on aging will be transitioned to the designated area agency on aging without a disruption of services;
- d.* The location of the main office for the designated area agency on aging and the location of all satellite offices; and
- e.* The signature of the executive director and board chairperson of the designated area agency on aging attesting that the designated area agency on aging is able to meet the needs of individuals receiving services within the newly designated planning and service area and that the needs of these individuals will be met without a disruption of services during the transition period.

29.5(4) The department, in its discretion, may request additional information from the dedesignated area agency on aging, the designated area agency on aging, or both, as it deems required by the circumstances.

29.5(5) The department, in its discretion, shall accept or reject the plan to assume services. If the department rejects the plan to assume services, the department shall provide the designated area agency on aging with a plan of correction and shall require the designated area agency on aging to resubmit the plan to assume services according to the plan of correction.

29.5(6) Failure to comply with this rule may result in one or more of the following:

- a.* The designated area agency on aging may be required to accept and follow technical assistance provided by the department.
- b.* The designated area agency on aging may be subject to additional monitoring, including but not limited to desk and on-site monitoring.
- c.* The designated area agency on aging may be subject to dedesignation pursuant to 17—Chapter 4.

17—29.6(231) Transfer of assets.

29.6(1) Dedesignated area agencies on aging shall submit information to the department outlining the dedesignated area agency on aging's plan to transfer all assets to the designated area agency on aging that will provide services to the same counties served by the dedesignated area agency on aging.

29.6(2) The plan shall be received by the department by the close of business on February 15, 2013. The plan shall be submitted to the department in writing and sent to the following address: Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

29.6(3) The plan shall include at a minimum the following information:

- a.* A list of all assets that will be transferred to the designated area agency on aging that will provide services to the same counties served by the dedesignated area agency on aging;
- b.* The estimated fair market value of each item provided in the list of assets and the basis for the estimated value;
- c.* The date of purchase, purchase price, and funding source for each asset;
- d.* The name and address of the designated area agency on aging that will receive the assets upon transfer;
- e.* The manner in which each of the assets will be transferred;
- f.* An explanation of how the dedesignated area agency on aging will comply with federal and state laws, rules, and regulations pertaining to the transfer of assets;
- g.* The projected date on which the transfers will occur; and
- h.* The signature of the executive director and board chairperson of the dedesignated area agency on aging attesting that the dedesignated area agency on aging has cooperated in good faith with the designated area agency on aging to accomplish the transfer and that the list of assets is accurate as of the date of submission of the plan.

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

29.6(4) The department, in its discretion, may request additional information from the dedesignated area agency on aging, the designated area agency on aging, or both, as it deems required by the circumstances.

29.6(5) The department, in its discretion, shall accept or reject the plan to transfer assets. If the department rejects the plan to transfer assets, the department shall provide the dedesignated area agency on aging with a plan of correction and shall require the dedesignated area agency on aging to resubmit the plan to transfer assets according to the plan of correction.

29.6(6) Failure to comply with this rule may result in one or more of the following:

a. The dedesignated area agency on aging may be required to accept and follow technical assistance provided by the department.

b. The dedesignated area agency on aging may be subject to additional monitoring, including but not limited to desk and on-site monitoring.

c. The dedesignated area agency on aging may be subject to dedesignation pursuant to 17—Chapter 4. This dedesignation is a distinct and separate procedure and would be effective prior to June 30, 2013.

29.6(7) The designated area agency on aging shall accept all assets provided by the dedesignated area agency on aging and shall determine appropriate disposition of all assets pursuant to federal and state laws, rules, and regulations.

17—29.7(231) Transfer of client files and records.

29.7(1) Dedesignated area agencies on aging shall submit information to the department outlining the dedesignated area agency on aging's plan to transfer all client files and records to the designated area agency on aging that will provide services to the same counties served by the dedesignated area agency on aging.

29.7(2) The plan shall be received by the department by the close of business on February 15, 2013. The plan shall be submitted to the department in writing and sent to the following address: Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

29.7(3) The plan regarding the transfer of client files and records shall include at a minimum the following:

a. An explanation of how the dedesignated area agency on aging will comply with federal and state laws, rules, and regulations pertaining to the transfer of client files and records;

b. The projected date on which the transfer will occur; and

c. The signature of the executive director and board chairperson of the dedesignated area agency on aging attesting that the dedesignated area agency on aging has cooperated in good faith with the designated area agency on aging to accomplish the transfer.

29.7(4) The department, in its discretion, may request additional information from the dedesignated area agency on aging, the designated area agency on aging, or both, as it deems required by the circumstances.

29.7(5) The department, in its discretion, shall accept or reject the plan to transfer client files and records. If the department rejects the plan to transfer client files and records, the department shall provide the dedesignated area agency on aging with a plan of correction and shall require the dedesignated area agency on aging to resubmit the plan to transfer client files and records according to the plan of correction.

29.7(6) Failure to comply with this rule may result in one or more of the following:

a. The dedesignated area agency on aging may be required to accept and follow technical assistance provided by the department.

b. The dedesignated area agency on aging may be subject to additional monitoring, including but not limited to desk and on-site monitoring.

c. The dedesignated area agency on aging may be subject to dedesignation pursuant to 17—Chapter 4. This dedesignation is a distinct and separate procedure and would be effective prior to June 30, 2013.

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

29.7(7) The designated area agency on aging shall accept all files and records provided by the dedesignated area agency on aging and shall determine appropriate disposition of all files and records pursuant to federal and state laws, rules, and regulations.

29.7(8) The designated area agency on aging shall keep and maintain files and records for a minimum of three years, or for a time period otherwise determined by federal and state laws, rules, and regulations, whichever period of time is longer.

17—29.8(231) Closing audit and interim financial statements.

29.8(1) Dedesignated area agencies on aging shall provide the year-end audit for state fiscal year 2013 to the department no later than December 31, 2013.

29.8(2) Each dedesignated area agency on aging shall provide interim financial statements, bank statements, and notification of any significant purchase or disposition of assets, as related to state and federal funds, to the department for the fiscal quarters ending December 31, 2012, March 31, 2013, and June 30, 2013, within 30 days after the end of each fiscal quarter. The interim financial statements shall include the balance sheet, the income statement, and the statement of cash flows. In its discretion, the department may request additional supporting documentation, which shall be provided by the dedesignated area agency on aging according to guidelines and time frames supplied by the department.

29.8(3) Failure to comply with any provision of this rule may result in one or more of the following:

a. The dedesignated area agency on aging may be required to accept and follow technical assistance provided by the department.

b. The dedesignated area agency on aging may be subject to additional monitoring, including but not limited to desk and on-site monitoring.

c. The dedesignated area agency on aging may be subject to dedesignation pursuant to 17—Chapter 4. This dedesignation is a distinct and separate procedure and would be effective prior to June 30, 2013.

These rules are intended to implement 2012 Iowa Acts, chapter 1028.

[Filed 2/8/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0629C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby adopts an amendment to Chapter 10, "General Requirements," Iowa Administrative Code.

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on November 28, 2012, as **ARC 0471C**.

This amendment expands the definition of "public health settings" to include programs affiliated with the Early Childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I and day care centers (excluding home-based day care centers).

A public hearing was held on January 8, 2013, and written comments were accepted through that date. One person attended the public hearing. The Board office received 31 written comments concerning this amendment. Comments were received from private practice dental hygienists, dental hygienists in public health settings, community college educators, a community health center director/dentist, a public health center president/CEO, licensed dentists, I-Smile coordinators, a dental hygiene student, Delta Dental of Iowa, the Iowa Dental Association, the Iowa Association for the Education of Young Children, and the Iowa Primary Care Association.

Comments from those in favor of the amendment indicated that allowing dental hygienists working under a public health supervision agreement with a dentist to provide services in day care and ECI would

DENTAL BOARD[650](cont'd)

help provide access to care to a target population in need of oral health care. The following are selections from the comments received that advocated for the adoption of the amendment:

1. "...by providing non-invasive dental screenings, fluoride varnish and OHI [oral hygiene instructions] we are giving these children a better chance to being cavity free and finding a local dentist for a lifetime.

"...we can refer them to the appropriate dentist, educate them, and work with the dental community to prevent decay and educate parents about the causes of decay before the age of 3 or 4. We know as dental professionals that prevention is key to oral health and also in reducing costs from Medicaid and dental treatment/surgery."

- (Katie McBurney, R.D.H., I-SMILE Coordinator, Marion County Public Health, Knoxville, Iowa)

2. "The Poverty Level for children living in Iowa has increased since 2000 by 50.5%. Nationally it has increased 33.3%. The Poverty Line was set at \$22,314 in 2010 for a family of four. These families cannot afford dental care. In 2011 over 79,000 Medicaid enrolled children ages 0-5 did not see a dentist. Dental Hygienists with a Public Health Supervision Agreement need to be able to see these children and provide preventive services. Adding Day Care Centers allows greater access to preventive services by Public Health Supervision Hygienists. Hygienist's [*sic*] refer these children to dentists and give preventive services that can save a life and prevent chronic infection for our children in Iowa."

- (Carol Van Aernam, R.D.H., Indianola, Iowa)

3. "I am a hygienist working for Community Health Care. I also do screenings at WIC two days per week, and also do Head Start screenings twice per year. I have no doubt that you are aware of all of the same statistics that I am:

➤ Barriers to regular dental care are lack of insurance, lack of dental health literacy, and few dental providers taking Medicaid.

➤ In 2011, 119,053 Medicaid enrolled children ages 0-12 did not see a dentist.

○ Ages 0-2: 55,540 Medicaid enrolled children did not see a dentist.

○ Ages 3-5: 24,143 Medicaid enrolled children did not see a dentist.

➤ In 2011 Medicaid Enrolled Children Receiving a Dental Service from Title V Contractors.

○ Children ages 0-2: 10,509 received a dental service, 56,485 did not.

○ Children ages 3-5: 11,903 received a dental service, 45,779 did not.

➤ According to the Iowa Kids Count Report in 2011, 16.2% of Iowa Children live in poverty.

➤ Hygienists deliver essential Preventive Services, Education, and refer these individuals to dentists.

➤ Public health supervision of dental hygienists has allowed the state of Iowa to develop the I-Smile program significantly enhancing access to quality oral health care.

➤ According to the 2011 I-Smile report nearly 110,000 Iowa children between the ages of 0-12 received a dental service from a dentist in 2011, a 54% increase over 2005 numbers.

➤ The same report indicates that over 26,000 Iowa children, ages 0-12, received a dental service from a Title V contractor, a 231% increase since 2005."

- (Bianca Carmona, R.D.H., Community Health Care)

4. "As a dentist in a public health clinic and a graduate student in dental public health, I understand the barriers that children face to accessing dental services in Iowa. Although children's access to dental care in Iowa far exceeds many other states, a subset of children continue to go year after year without utilizing the dental care system for reasons that are out of their control. The best way to change this is to maximize the number of locations at which children are exposed to the dental healthcare system, and do so as early in their childhood as possible.

"Currently, young children are exposed to oral health personnel at locations such as Head Start preschools, WIC centers, schools, and federally qualified health centers (FQHCs). In many cases, these personnel are public health dental hygienists who are able to have a presence in institutions whose clients are dentally underserved. These institutions are typically places where other oral health professionals would not otherwise be located. Increasing the scope of settings where public health hygienists are able to work will improve access to dental care for children in Iowa. In this case, the setting happens to be day care centers. Day care centers should therefore be included in the list of

DENTAL BOARD[650](cont'd)

public health settings in which public health dental hygienists are able to perform their duties. This action will increase the robustness of our state's oral healthcare system and have a positive impact on the oral health of Iowa's children."

- (Julie Reynolds, D.D.S., St. Luke's Dental Health Center, Cedar Rapids, Iowa)

5. "I strongly agree with adding day care centers as a public health setting in which dental hygienists can provide oral health services under their public health supervision agreements. The key to reducing oral disease among Iowa children is to screen for problems early and educate both parents and caregivers about the importance of good oral health. Daycare centers are an ideal place to provide these services..."

- (Mary Kay Brinkman, R.D.H., Urbandale, Iowa)

All but one of the written comments received were in support of the proposed rule amendment. The Iowa Dental Association (IDA) expressed concern that the Board "noticed the Rule Amendment without adequate consideration for patient safety and without considering the need for enhanced oversight of participants in a public health supervision arrangement." The IDA indicated that it is concerned that patient safety may be "unnecessarily compromised by expanding the number of settings in which dental hygienists are permitted to provide dental hygiene services under a public health supervision arrangement." IDA indicated that its concern is based on the fact that under a public health supervision agreement a dentist need not be physically present to supervise the services provided by a dental hygienist. IDA requested that the Board delay implementation of the rule amendment and "conduct a comprehensive review of the patient safety implications."

During the Notice publication process, a question was raised about the usage of "day care" vs. "child care" in the proposed amendment. Although the term "day care" was used in the Notice, "child care" is used almost universally in the Iowa Code, most notably in chapters 135, 237, 237A and 279. In the Iowa Administrative Code, "child care" is used, particularly in reference to child care centers and in-home providers (see 441—Chapters 109, 110, 118, and 170). By contrast, "day care" is mostly used in reference to adult day services (see Iowa Code chapter 231D). Also, during the comment period, the Iowa Association for the Education of Young Children suggested changing "day care" to "child care." The Association indicated that "child care" is "commonly accepted language used by the profession for the service of providing care to children."

Prior to adopting the final amendment, the Board requested a presentation about public health supervision. A presentation on this subject was given at the Board's January 31, 2013, meeting. The presentation included a description of the reasons this type of supervision was first adopted by the Board in 2003; a discussion about the procedures followed by the Iowa Department of Public Health's Bureau of Oral Health for review and maintenance of the public health supervision agreements between dental hygienists and dentists; a review of the role of the Iowa Dental Board, a regulatory and licensing board; a discussion of the terms in the existing public health supervision agreements; and a report about complaints received in the past ten years that involve public health supervision. There have been no complaints about patient safety that involve public health supervision agreements.

The Board considered the comments received, the public benefits sought to be achieved by adoption of this amendment, noted the lack of complaints over the past ten years related to public health supervision and voted to adopt the final amendment with one revision to the Noticed amendment. In the adopted amendment, the term "day care" has been changed to "child care."

This amendment was adopted by the Dental Board on February 11, 2013.

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

This amendment is intended to implement Iowa Code section 153.33.

This amendment will become effective on April 10, 2013.

The following amendment is adopted.

Amend subrule 10.5(1) as follows:

10.5(1) *Public health settings defined.* For the purposes of this rule, public health settings are limited to schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers);

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federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; and federal, state, or local public health programs.

[Filed 2/12/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0618C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby amends Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," and Chapter 15, "Fees," Iowa Administrative Code.

These amendments were published under Notice of Intended Action in the November 28, 2012, Iowa Administrative Bulletin as **ARC 0473C**.

These amendments correct a cross reference in the rules applicable to dental hygiene licensure by credentials and streamline the initial registration process for dental assistants applying for registration within three months of the next renewal due date. Dental assistant applicants applying close to a renewal cycle will pay the application fee and the renewal fee at the same time. Their registrations will be issued for a period of 24 months plus the amount of time remaining until the next renewal due date. This change will eliminate the need for applicants to submit two separate applications and fees within one three-month period. Similar rule amendments were adopted for the initial licensure and renewal for dentists and dental hygienists. These amendments extend the same simplified process to dental assistant applicants.

A public hearing was held on January 8, 2013, and written comments were accepted through that date. No comments were received, and no one attended the public hearing. These amendments are identical to the amendments published under Notice.

The Iowa Dental Board adopted these amendments on January 31, 2013.

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

These amendments are intended to implement Iowa Code sections 153.33 and 153.39.

These amendments will become effective on April 10, 2013.

The following amendments are adopted.

ITEM 1. Amend subparagraph **11.6(2)"e"(1)** as follows:

(1) Passed an examination approved by the board in accordance with Iowa Code section 147.34(1) and administered by a regional or national testing service. The clinical examinations approved by the board are specified in 650—subrule ~~12.4(5)~~ 12.3(5).

ITEM 2. Amend subrules 15.3(13) and 15.3(14) as follows:

15.3(13) *Dental assistant registration only application.* ~~The fee for an application for registration as a registered dental assistant is \$40.~~

a. Application fee. The application fee for dental assistant registration is \$40.

b. Initial registration period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the registration application fee. A dental assistant registration shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a registrant shall pay the renewal fee as specified in 650—15.4(153).

15.3(14) *Combined application—dental assistant registration and qualification in radiography.* ~~The fee for a combined application for both registration as a registered dental assistant and radiography qualification is \$60.~~

a. Application fee. The application fee for a combined application for both registration as a registered dental assistant and radiography qualification is \$60.

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b. Initial combined registration and radiography qualification period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the combined registration/radiography qualification application fee. A dental assistant registration and radiography qualification shall not be issued for a period less than three months or longer than two years and three months. Thereafter, the applicant shall pay the renewal fee as specified in 650—15.4(153).

[Filed 2/5/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0617C**DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby adopts amendments to Chapter 35, "Iowa Practitioner Review Committee," Iowa Administrative Code.

These amendments were published under Notice of Intended Action in the November 28, 2012, Iowa Administrative Bulletin as **ARC 0472C**.

These amendments remove term limits for membership on the Iowa Practitioner Review Committee; provide for terms which begin on May 1 and end on April 30; require an annual election of a chairperson and vice chairperson whose terms begin on May 1; and clarify that participation in the program occurs through either a practitioner's self-reporting or a referral from the Dental Board. The amendments bring the Committee's practices in line with other committees of the Dental Board.

A public hearing was held on January 8, 2013, and written comments were accepted through that date. No comments were received, and no one attended the public hearing. These amendments are identical to the amendments published under Notice.

The Iowa Dental Board adopted these amendments on January 31, 2013.

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

These amendments are intended to implement Iowa Code section 153.33.

These amendments will become effective on April 10, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 35.1(3) as follows:

35.1(3) Composition of the committee. The chairperson of the board shall appoint the members of the IPRC. Committee members, except the executive director, shall be appointed for three-year terms, ~~for a maximum of three terms which begin on May 1 and terminate on April 30.~~ The committee shall elect a chairperson and vice chairperson annually at the last meeting of each calendar year to begin serving a one-year term on January 1 closest to April 30. The chairperson and vice chairperson will serve one-year terms beginning on May 1. The membership of the IPRC may include, but is not limited to:

- a. Executive director of the board or the director's designee from the board's staff;
- b. One practitioner who has remained free of addiction for a period of no less than two years following successful completion of a board-approved recovery program, a board-ordered probation for drug or alcohol dependency, addiction, or abuse, or an IPRC contract;
- c. One physician/counselor with expertise in substance abuse/addiction treatment programs;
- d. One psychiatrist or one psychologist; and
- e. One public member.

ITEM 2. Amend subrule 35.1(4) as follows:

35.1(4) Eligibility. To be eligible for participation in the IPP, a practitioner must self-report an impairment or suspected impairment directly to the office of the board or be referred by the board

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pursuant to rule 650—35.2(272C). A practitioner is deemed ineligible to participate in the program if the license committee or IPRC finds sufficient evidence of any of the following:

- a. The practitioner is engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third person or for personal profit or gain;
- b. At the time of the self-report, the practitioner is already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;
- c. The practitioner has caused harm or injury to a patient;
- d. There is currently a board investigation of the practitioner that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;
- e. The practitioner has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of dentistry, dental hygiene, or dental assisting;
- f. The practitioner provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the board or committee; or
- g. There is currently a complaint before the board related to an impairment.

[Filed 2/5/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0633C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249.3 and 2012 Iowa Acts, chapter 1133, section 18, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

The purpose of these amendments is to implement cost-of-living increases to several State Supplementary Assistance program categories in accordance with 20 CFR 416.2095 and 416.2096 and 2012 Iowa Acts, chapter 1133, section 18, amending 2011 Iowa Acts, chapter 129, section 124, subsections 2 and 3.

Effective January 1, 2013, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2011, through September 30, 2012. The increase announced by the Social Security Administration is 1.7 percent. In order to comply with the federal maintenance-of-effort or "pass-along" requirement in calendar year 2013 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except In-Home Health-Related Care (IHHRC) provider rates and the Supplement for Medicare and Medicaid Eligibles) effective January 1, 2013, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Compliance with the maintenance-of-effort requirement for state supplements is a condition of eligibility for state participation in the federal Medicaid program. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0488C** on December 12, 2012, to allow for public comment. These amendments were also Adopted and Filed Emergency and published as **ARC 0489C** on the same date. The Department received no comments. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

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These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

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

These amendments are intended to implement Iowa Code section 249.3 and 2012 Iowa Acts, chapter 1133, section 18, amending 2011 Iowa Acts, chapter 129, section 124, subsections 2 and 3.

These amendments will become effective May 1, 2013, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$357~~ \$364. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$357~~ \$364 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend subrule 52.1(1) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

\$765 <u>\$774</u>	Care allowance
\$95 <u>\$98</u>	Personal allowance
\$860 <u>\$872</u>	Total

ITEM 4. Amend subrule 52.1(2) as follows:

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative	\$1,055	<u>\$1,074</u>
b. Aged or disabled client, eligible spouse, and a dependent relative	\$1,405	<u>\$1,430</u>
c. Blind client and a dependent relative	\$1,077	<u>\$1,096</u>
d. Blind client, aged or disabled spouse, and a dependent relative	\$1,427	<u>\$1,452</u>
e. Blind client, blind spouse, and a dependent relative	\$1,449	<u>\$1,474</u>

ITEM 5. Amend subrule 52.1(3) as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$28.92~~ \$29.30. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) No change.
- (2) An allowance of ~~\$95~~ \$98 to meet personal expenses and Medicaid copayment expenses.
- (3) to (6) No change.

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b. to g. No change.

[Filed 2/13/13, effective 5/1/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0631C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

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

These amendments:

- Clarify dental coverage criteria.
- Reduce exception to policy requests by adding coverage for nitrous oxide under certain circumstances and establishing prior authorization requirements for tissue grafts, antimicrobial agents, denture replacements, and denture rebase.
 - Increase the frequency with which topical fluoride applications provided by dentists are allowed.
 - Add prior authorization requirements for crowns, anterior partial dentures, an oral appliance for obstructive sleep apnea, and occlusal guards.
 - Remove prior authorization requirements for periodontal surgical procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0497C** on December 12, 2012.

The Department received one comment from the public requesting to invoke the provisions of the Governor's Executive Order Number 80. The Department is holding a meeting with the person who commented to ensure that the person's concerns are addressed.

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

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

These amendments will become effective May 1, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 441—78.4(249A) as follows:

441—78.4(249A) Dentists. Payment will be made for medical and surgical services furnished by a dentist to the extent these services may be performed under state law either by doctors of medicine, osteopathy, dental surgery or dental medicine and would be covered if furnished by doctors of medicine or osteopathy. Services must be reasonable, necessary, and cost-effective for the prevention, diagnosis, and treatment of dental disease or injuries or for oral devices necessary for a medical condition. Payment will also be made for the following dental procedures ~~subject to the exclusions for services to adults 21 years of age and older set forth in subrule 78.4(14):~~

78.4(1) Preventive services. Payment shall be made for the following preventive services:

a. Oral prophylaxis, including necessary scaling and polishing, is payable only once in a six-month period except for persons who, because of a physical or mental disability condition, need more frequent care. Documentation supporting the need for oral prophylaxis performed more than once in a six-month period must be maintained.

b. Topical application of fluoride is payable once ~~in a six-month period except for people who need more frequent applications because of physical or mental disability.~~ every 90 days. (This does not include the use of fluoride prophylaxis paste as fluoride treatment.)

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c. Pit and fissure sealants are payable for placement on deciduous and permanent posterior teeth only. Reimbursement for sealants is restricted to work performed on members through 18 years of age and on members who have a physical or mental disability condition that impairs their ability to maintain adequate oral hygiene. Replacement sealants are covered when medically necessary, as documented in the patient record.

d. Space management services are payable in mixed dentition when premature loss of teeth would permit existing teeth to shift and cause a handicapping malocclusion or there is too little dental ridge to accommodate either the number or the size of teeth and significant dental disease will result if the condition is not corrected.

78.4(2) Diagnostic services. Payment shall be made for the following diagnostic services:

a. A comprehensive oral evaluation is payable once per ~~patient member~~ per ~~dentist dental practice~~ in a three-year period when the ~~patient member~~ has not been seen that by a dentist in the dental practice during the three-year period.

b. No change.

c. A ~~complete full~~ complete full mouth radiograph survey₂ consisting of a minimum of 14 periapical films and bite-wing films, or a panoramic radiograph with bite-wings is a payable service once in a five-year period, except when medically necessary to evaluate development; and to detect anomalies, injuries and diseases. Complete Full mouth radiograph surveys are not payable under the age of six except when medically necessary. A panographic-type radiography with bite-wings is considered the same as a ~~complete full~~ complete full mouth radiograph survey.

d. to j. No change.

k. Diagnostic casts are payable only for orthodontic cases or dental implants or when requested by the Iowa Medicaid enterprise medical services unit's dental consultant.

l. Cone beam images are payable when medically necessary for situations including, but not limited to, detection of tumors, positioning of severely impacted teeth, supernumerary teeth or dental implants.

78.4(3) Restorative services. Payment shall be made for the following restorative services:

a. to c. No change.

d. ~~Two laboratory fabricated crowns using nonprecious materials, other than stainless steel, are payable per member in a 12-month period. Additional laboratory fabricated crowns using nonprecious materials, other than stainless steel, are payable when prior authorization has been obtained. Noble metals are payable for crowns when members are allergic to all other restorative materials. Stainless steel crowns are payable when a more conservative procedure would not be serviceable. (Cross-reference 78.28(2) "e")~~

d. Crowns are payable when there is at least a fair prognosis for maintaining the tooth as determined by the Iowa Medicaid enterprise medical services unit and a more conservative procedure would not be serviceable.

(1) Stainless steel crowns are limited to primary and permanent posterior teeth and are covered when coronal loss of tooth structure does not allow restoration with an amalgam or composite restoration. Placement on permanent posterior teeth is allowed only for members who have a mental or physical condition that limits their ability to tolerate the procedure for placement of a different crown.

(2) Aesthetic coated stainless steel crowns and stainless steel crowns with a resin window are limited to primary anterior teeth.

(3) Laboratory-fabricated crowns, other than stainless steel, are limited to permanent teeth and require prior authorization. Approval shall be granted when coronal loss of tooth structure does not allow restoration with an amalgam or composite restoration or there is evidence of recurring decay surrounding a large existing restoration, a fracture, a broken cusp(s), or an endodontic treatment.

(4) Crowns with noble or high noble metals require prior authorization. Approval shall be granted for members who meet the criteria for a laboratory-fabricated crown, other than stainless steel, and who have a documented allergy to all other restorative materials.

e. Cast post and core, steel post and composite or post and amalgam in addition to a crown is are payable when a tooth is functional and the integrity of the tooth would be jeopardized by no post support.

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f. Payment as indicated will be made for the following ~~restorative restoration~~ restoration procedures:

(1) Amalgam or acrylic buildups, including any pins, are considered ~~part of the preparation for the completed restoration~~ a core buildup.

(2) to (4) No change.

~~(5) A two-surface anterior composite restoration will be payable as a one-surface restoration if it involved the lingual surface.~~

(5) Two separate one-surface restorations are payable as a two-surface restoration (i.e., an occlusal pit restoration and a buccal pit restoration are a two-surface restoration).

(6) Tooth preparation, temporary restorations, cement bases, pulp capping, impressions, and local anesthesia ~~and inhaled anesthesia~~ are included in the restorative fee and may not be billed separately.

(7) and (8) No change.

(9) An amalgam or composite restoration is not payable following a sedative filling in the same tooth unless the sedative filling was placed more than 30 days previously.

78.4(4) Periodontal services. Payment may be made for the following periodontal services:

a. Full-mouth debridement to enable comprehensive periodontal evaluation and diagnosis is payable once every 24 months. This procedure is not payable on the same date of service when other prophylaxis or periodontal services are performed.

b. Periodontal scaling and root planing is payable once every 24 months when prior approval has been received. ~~A request for approval must be accompanied by a plan for treatment, a completed copy of a periodontal probe chart that exhibits pocket depths, history and radiograph(s).~~ Payment for periodontal scaling and root planing will be approved when interproximal and subgingival calculus is evident in X-rays or when justified and documented that curettage, scaling or root planing is required in addition to routine prophylaxis. Prior approval shall be granted per quadrant when radiographs demonstrate subgingival calculus or loss of crestal bone and when the periodontal probe chart shows evidence of pocket depths of 4 mm or greater. (Cross-reference 78.28(2) "a"(1))

c. Periodontal surgical procedures which include gingivoplasty, osseous surgery, and osseous allograft are payable services when prior approval has been received. ~~A request for approval must be accompanied by a plan for treatment, a completed copy of a periodontal probe chart that exhibits pocket depths, history and radiograph(s).~~ Payment for these surgical procedures will be approved after periodontal scaling and root planing has been provided, a reevaluation examination has been completed, and the patient member has demonstrated reasonable oral hygiene, ~~unless the patient is unable to demonstrate reasonable oral hygiene because of physical or mental disability or in cases which demonstrate gingival hyperplasia resulting from drug therapy.~~ Payment is also allowed for members who are unable to demonstrate reasonable oral hygiene due to a physical or mental condition, or who exhibit evidence of gingival hyperplasia, or who have a deep carious lesion that cannot be otherwise accessed for restoration. (Cross-reference 78.28(2) "a"(2))

d. ~~Tissue grafts. Pedicle soft tissue graft, and free soft tissue graft, and subepithelial connective tissue graft~~ are payable services with prior approval ~~based on a written narrative describing medical necessity.~~ Authorization shall be granted when the amount of tissue loss is causing problems such as continued bone loss, chronic root sensitivity, complete loss of attached tissue, or difficulty maintaining adequate oral hygiene. (Cross-reference 78.28(2) "a"(3)(2))

e. Periodontal maintenance therapy which includes oral prophylaxis, measurement of pocket depths and limited root planing and scaling is a payable service when prior approval has been received requires prior authorization. ~~A request for approval must be accompanied by a periodontal treatment plan, a completed copy of a periodontal probe chart which exhibits pocket depths, periodontal history and radiograph(s).~~ Payment for periodontal maintenance therapy may be approved after periodontal scaling and root planing or periodontal surgical procedures have been provided. Periodontal maintenance therapy may be approved once per three-month interval for moderate to advanced cases ~~if the condition would deteriorate without treatment.~~ Approval shall be granted for members who have completed periodontal scaling and root planing at least three months prior to the initial periodontal maintenance therapy and the periodontal probe chart shows evidence of pocket depths of 4 mm or greater. (Cross-reference 78.28(2) "a"(4)(3))

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~~f.~~ Payment as indicated will be made for the following periodontal services:

- ~~(1) Periodontal scaling and root planing, gingivoplasty, osseous surgery will be paid per quadrant.~~
- ~~(2) Gingivoplasty will be paid per tooth.~~
- ~~(3) Osseous allograft will be paid as a single site if one site is involved, or if more than one site is involved, payment will be made for multiple sites.~~

f. Tissue regeneration procedures require prior authorization. Approval shall be granted when radiographs show evidence of recession in relation to the muco-gingival junction and the bone level indicates the tooth has a fair to good long-term prognosis.

g. Localized delivery of antimicrobial agents requires prior authorization. Approval shall be granted when at least one year has elapsed since periodontal scaling and root planing was completed, the member has maintained regular periodontal maintenance, and pocket depths remain at a moderate to severe depth with bleeding on probing. Authorization is limited to once per site every 12 months.

78.4(5) Endodontic services. Payment shall be made for the following endodontic services:

a. Root canal treatments on permanent anterior and posterior teeth when there is presence of extensive posttreatment restorative procedures are not necessary and when missing teeth do not jeopardize the integrity or function of the dental arches decay, infection, draining fistulas, severe pain upon chewing or applied pressure, prolonged sensitivity to temperatures, or a discolored tooth indicative of a nonvital tooth.

b. No change.

c. Surgical endodontic treatment is payable when prior approval has been received. Payment for, including an apicoectomy, performed as a separate surgical procedure; an apicoectomy, performed in conjunction with endodontic procedure; an apical curettage; a root resection; or excision of hyperplastic tissue will be approved is payable when nonsurgical treatment has been attempted and a reasonable time of approximately one year has elapsed after which failure has been demonstrated. Surgical endodontic procedures may be indicated when:

- (1) Conventional root canal treatment cannot be successfully completed because canals cannot be negotiated, debrided or obturated due to calcifications, blockages, broken instruments, severe curvatures, and dilacerated roots.
- (2) Correction of problems resulting from conventional treatment including gross underfilling, perforations, and canal blockages with restorative materials. (Cross-reference 78.28(2) "~~d~~" "c")

d. Endodontic retreatment when prior authorization has been received. Authorization for retreatment of a tooth with previous endodontic treatment shall be granted when the conventional treatment has been completed, a reasonable time has elapsed since the initial treatment, and failure has been demonstrated with a radiograph and narrative history. A reasonable period of time is approximately one year if the treating dentist is the same and may be less if the member must see a different dentist.

78.4(6) Oral surgery—medically necessary. Payment shall be made for medically necessary oral surgery services furnished by dentists to the extent that these services may be performed under state law either by doctors of medicine, osteopathy, dental surgery or dental medicine and would be covered if furnished by doctors of medicine or osteopathy, as defined in rule 441—78.1(249A). These services will be reimbursed in a manner consistent with the physician's reimbursement policy. The following surgical procedures are also payable when performed by a dentist:

a. to h. No change.

~~i.~~ General anesthesia, intravenous sedation, and non-intravenous conscious sedation are payable services when the extensiveness of the procedure indicates it or there is a concomitant disease or impairment which warrants its use.

~~j.~~ i. Routine postoperative care is considered part of the fee for surgical procedures and may not be billed separately.

~~k.~~ j. Payment may be made for postoperative care where need is shown to be beyond normal follow-up care or for postoperative care where the original service was performed by another dentist.

78.4(7) Prosthetic services. Payment may be made for the following prosthetic services:

a. An immediate denture ~~and~~ or a first-time complete denture ~~including six~~. Six months' postdelivery care is included in the reimbursement for the denture. ~~An immediate denture and a~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

first-time complete denture are payable when the denture is provided to establish masticatory function. An immediate denture or a first-time complete denture is payable only once following the removal of teeth it replaces. A complete denture is payable only once in a five-year period except when the denture is broken beyond repair, lost or stolen, or no longer fits due to growth or changes in jaw structure and is required to prevent significant dental problems. Replacement of complete dentures due to resorption in less than a five-year period is not payable.

b. A removable partial denture replacing anterior teeth, ~~including six months' postdelivery care when prior approval has been received. Approval shall be granted when radiographs demonstrate adequate space for replacement of a missing anterior tooth. Six months' postdelivery care is included in the reimbursement for the denture.~~ A removable partial denture replacing anterior teeth is payable only once in a five-year period unless the removable partial denture is broken beyond repair, lost or stolen, or no longer fits due to growth or changes in jaw structure and is required to prevent significant dental problems. Replacement of a removable partial denture replacing anterior teeth due to resorption in less than a five-year period is not payable.

c. A removable partial denture replacing posterior teeth including six months' postdelivery care when prior approval has been received. ~~A removable partial denture replacing posterior teeth~~ Approval shall be ~~approved~~ granted when the member has fewer than eight posterior teeth in occlusion, ~~excluding third molars,~~ or the member has a full denture in one arch, and a partial denture replacing posterior teeth is required in the opposing arch to balance occlusion. When one removable partial denture brings eight posterior teeth in occlusion, no additional removable partial denture will be approved. ~~Six months' postdelivery care is included in the reimbursement for the denture.~~ A removable partial denture replacing posterior teeth is payable only once in a five-year period unless the removable partial denture is broken beyond repair, lost or stolen, or no longer fits due to growth or changes in jaw structure and is required to prevent significant dental problems. Replacement of a removable partial denture replacing posterior teeth due to resorption in less than a five-year period is not payable. (Cross-reference 78.28(2)"e""b"(1))

d. A fixed partial denture (including an acid etch fixed partial denture) replacing anterior teeth when prior approval has been received. ~~A fixed partial denture (including an acid etch fixed partial denture) replacing anterior teeth shall be approved for members whose medical condition precludes the use of a removable partial denture.~~ Approval shall be granted for members who:

- (1) ~~Have a physical or mental condition that precludes the use of a removable partial denture,~~ or
- (2) ~~Have an existing bridge that needs replacement due to breakage or extensive, recurrent decay.~~

High noble or noble metals shall be approved only when the member is allergic to all other restorative materials. ~~A fixed partial denture replacing anterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair.~~ (Cross-reference 78.28(2)"e""b"(2))

e. A fixed partial denture (including an acid etch fixed partial denture) replacing posterior teeth when prior approval has been received. ~~A fixed partial denture (including an acid etch fixed partial denture) replacing posterior teeth~~ Approval shall be approved granted for the member ~~members who meet the criteria for a removable partial denture and:~~

- (1) ~~whose medical~~ Have a physical or mental condition that precludes the use of a removable partial denture ~~and who has fewer than eight posterior teeth in occlusion,~~ or
- (2) ~~if the member has~~ Have a full denture in one arch and a partial fixed denture replacing posterior teeth is required in the opposing arch to balance occlusion. ~~When one fixed partial denture brings eight posterior teeth in occlusion, no additional fixed partial denture will be approved.~~

High noble or noble metals will be approved only when the member is allergic to all other restorative materials. ~~A fixed partial denture replacing posterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair.~~ (Cross-reference 78.28(2)"e""(3))

f. Obturator for surgically excised palatal tissue or deficient velopharyngeal function of cleft palate patients.

g. Chairside relines and laboratory-processed relines are payable only once per prosthesis every 12 months, beginning 6 months after placement of the denture.

h. Laboratory processed relines are payable only once per prosthesis every 12 months.

i. h. Tissue conditioning is a payable service twice per prosthesis in a 12-month period.

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~~j. i.~~ Two repairs per prosthesis in a 12-month period are payable.

~~k. j.~~ Adjustments to a complete or removable partial denture are payable when medically necessary after six months' postdelivery care. An adjustment consists of removal of acrylic material or adjustment of teeth to eliminate a sore area or to make the denture fit better. Warming dentures and massaging them for better fit or placing them in a sonic device does not constitute an adjustment.

~~l. k.~~ Dental implants and related services when prior authorization has been received. Prior authorization shall be granted when the member is missing significant oral structures due to cancer, traumatic injuries, or developmental defects such as cleft palate and cannot use a conventional denture.

~~l.~~ Replacement of complete or partial dentures in less than a five-year period requires prior authorization. Approval shall be granted once per denture replacement per arch in a five-year period when the denture has been lost, stolen or broken beyond repair or cannot be adjusted for an adequate fit. Approval shall also be granted for more than one denture replacement per arch within five years for members who have a medical condition that necessitates thorough mastication. Approval will not be granted in less than a five-year period when the reason for replacement is resorption.

~~m.~~ A complete or partial denture rebase requires prior approval. Approval shall be granted when the acrylic of the denture is cracked or has had numerous repairs and the teeth are in good condition.

~~n.~~ An oral appliance for obstructive sleep apnea requires prior approval and must be custom-fabricated. Approval shall be granted in accordance with Medicare criteria.

78.4(8) Orthodontic procedures. Payment may be made for the following orthodontic procedures:

~~a.~~ Orthodontic services to treat handicapping malocclusions are payable with prior approval. A score of 26 or above on the index from "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J. A. Salzmänn, D.D.S., American Journal of Orthodontics, October 1968, is required for approval.

~~(1) A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility to dental caries, and impaired speech due to malpositions of the teeth. Treatment of handicapping malocclusions will be approved only for the severe and the most handicapping. Assessment of the most handicapping malocclusion is determined by the magnitude of the following variables: degree of malalignment, missing teeth, angle classification, overjet and overbite, openbite, and crossbite.~~

~~(2) A request to perform an orthodontic procedure must be accompanied by an interpreted cephalometric radiograph and study models trimmed so that the models simulate centric occlusion of the patient. A written plan of treatment must accompany the diagnostic aids. Posttreatment records must be furnished upon request of the Iowa Medicaid enterprise.~~

~~(3) Approval may be made for eight units of a three-month active treatment period. Additional units may be approved by the Iowa Medicaid enterprise's orthodontic consultant if found to be medically necessary. Minor treatment to control harmful habits when prior approval has been received. Approval shall be granted when it is cost-effective to lessen the severity of a malformation such that extensive treatment is not required. (Cross-reference 78.28(2)-"d"-"c")~~

~~b.~~ Space management services shall be payable when there is too little dental ridge to accommodate either the number or the size of teeth and if not corrected significant dental disease will result. Interceptive orthodontic treatment of the transitional dentition when prior approval has been received. Approval shall be granted when it is cost-effective to lessen the severity of a malformation such that extensive treatment is not required.

~~c.~~ Tooth guidance for a limited number of teeth or interceptive orthodontics is a payable service when extensive treatment is not required. Pretreatment records are not required. Comprehensive orthodontic treatment when prior approval has been received. Approval is limited to members under 21 years of age and shall be granted when the member has a severe handicapping malocclusion with a score of 26 or above using the index from the "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J.A. Salzmänn, D.D.S., American Journal of Orthodontics, October 1968.

78.4(9) Treatment in a hospital. Adjunctive general services. Payment will be approved for dental treatment rendered a hospitalized patient only when the mental, physical, or emotional condition of the

HUMAN SERVICES DEPARTMENT[441](cont'd)

patient prevents the dentist from providing necessary care in the office. Payment may be made for the following:

a. Treatment in a hospital. Payment will be approved for dental treatment rendered to a hospitalized member only when the mental, physical, or emotional condition of the member prevents the dentist from providing necessary care in the office.

b. Treatment in a nursing facility. Payment will be approved for dental treatment provided in a nursing facility. When more than one patient is examined during the same nursing home visit, payment will be made by the Medicaid program for only one visit to the nursing home.

c. Office visit. Payment will be approved for an office visit for care of injuries or abnormal conditions of the teeth or supporting structure when treatment procedures or examinations are not billed for that visit.

d. Office calls after hours. Payment will be approved for office calls after office hours in emergency situations. The office call will be paid in addition to treatment procedures.

e. Drugs. Payment will be made for drugs dispensed by a dentist only if there is no licensed retail pharmacy in the community where the dentist's office is located. If eligible to dispense drugs, the dentist should request a copy of the Prescribed Drugs Manual from the Iowa Medicaid enterprise provider services unit. Payment will not be made for the writing of prescriptions.

f. Anesthesia. General anesthesia, intravenous sedation, and nonintravenous conscious sedation are payable services when the extensiveness of the procedure indicates it or there is a concomitant disease or impairment which warrants use of anesthesia. Inhalation of nitrous oxide is payable when the age or physical or mental condition of the member necessitates the use of minimal sedation for dental procedures.

g. Occlusal guard. A removable dental appliance to minimize the effects of bruxism and other occlusal factors requires prior approval. Approval shall be granted when the documentation supports evidence of significant loss of tooth enamel, tooth chipping, headaches or jaw pain.

78.4(10) Treatment in a nursing facility. Orthodontic services to members 21 years of age or older. Payment will be approved for dental treatment provided in a nursing facility. When more than one patient is examined during the same nursing home visit, payment will be made by the Medicaid program for only one visit to the nursing home. Orthodontic procedures are not covered for members 21 years of age or older.

78.4(11) Office visit. Payment will be approved for an office visit for care of injuries or abnormal conditions of the teeth or supporting structure when treatment procedures or exams are not billed for that visit.

78.4(12) Office calls after hours. Payment will be approved for office calls after office hours in emergency situations. The office call will be paid in addition to treatment procedures.

78.4(13) Drugs. Payment will be made for drugs dispensed by a dentist only if there is no licensed retail pharmacy in the community where the dentist's office is located. If eligible to dispense drugs, the dentist should request a copy of the Prescribed Drugs Manual from the Iowa Medicaid enterprise provider services unit. Payment will not be made for writing prescriptions.

78.4(14) Services to members 21 years of age or older. Orthodontic procedures are not covered for members 21 years of age or older.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend subrule 78.28(2) as follows:

78.28(2) Dental services. Dental services which require prior approval are as follows:

a. The following periodontal services:

(1) Payment for periodontal Periodontal scaling and root planing. Payment will be approved when interproximal and subgingival calculus is evident in X-rays or when justified and documented that curettage, scaling or root planing is required in addition to routine prophylaxis. (Cross-reference 78.4(4) "b") pursuant to the criteria at 78.4(4) "b."

(2) Payment for pedicle soft tissue graft and free soft tissue graft will be approved when the written narrative describes medical necessity. Payment for other periodontal surgical procedures will

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~be approved after periodontal sealing and root planing has been provided, a reevaluation examination has been completed, and the patient has demonstrated reasonable oral hygiene, unless the patient is unable to demonstrate reasonable oral hygiene because of physical or mental disability or in cases which demonstrate gingival hyperplasia resulting from drug therapy. (Cross-reference 78.4(4)“e”)~~

~~(3) (2) Payment for pedicle Pedicle soft tissue graft, and free soft tissue graft, and subepithelial tissue graft. Payment will be approved when the written narrative describes medical necessity. (Cross-reference 78.4(4)“d”) pursuant to the criteria at 78.4(4)“d.”~~

~~(4) (3) Periodontal maintenance therapy. Payment for periodontal maintenance therapy may be approved after periodontal sealing and root planing or periodontal surgical procedures have been provided. will be approved pursuant to the criteria at 78.4(4)“e.” Periodontal maintenance therapy may be approved once per three-month interval for moderate to advanced cases if the condition would deteriorate without treatment. (Cross-reference 78.4(4)“e”)~~

~~(4) Tissue regeneration. Payment will be approved pursuant to the criteria at 78.4(4)“f.”~~

~~(5) Localized delivery of antimicrobial agents. Payment will be approved pursuant to the criteria at 78.4(4)“g.”~~

~~b. —Surgical endodontic treatment which includes an apicoectomy, performed as a separate surgical procedure; an apicoectomy, performed in conjunction with endodontic procedure; an apical curettage; a root resection; or excision of hyperplastic tissue will be approved when nonsurgical treatment has been attempted and a reasonable time has elapsed after which failure has been demonstrated. Surgical endodontic procedures may be indicated when:~~

~~(1) —Conventional root canal treatment cannot be successfully completed because canals cannot be negotiated, debrided or obturated due to calcifications, blockages, broken instruments, severe curvatures, and dilacerated roots.~~

~~(2) —Correction of problems resulting from conventional treatment including gross underfilling, perforations, and canal blockages with restorative materials. (Cross-reference 78.4(5)“e”)~~

~~e. b. The following prosthetic services:~~

~~(1) A removable partial denture replacing posterior anterior teeth. Payment will be approved when the member has fewer than eight posterior teeth in occlusion or the member has a full denture in one arch, and a partial denture replacing posterior teeth is required in the opposing arch to balance occlusion. pursuant to the criteria at 78.4(7)“b.” When one removable partial denture brings eight posterior teeth in occlusion, no additional removable partial denture will be approved. A removable partial denture replacing posterior teeth is payable only once in a five-year period unless the removable partial denture is broken beyond repair, lost or stolen, or no longer fits due to growth or changes in jaw structure, and is required to prevent significant dental problems. Replacement of a removable partial denture replacing posterior teeth due to resorption in less than a five-year period is not payable. (Cross-reference 78.4(7)“e”)~~

~~(2) A fixed partial denture (including an acid-etch fixed partial denture) replacing anterior teeth. Payment will be approved for members whose medical condition precludes the use of a removable partial denture. pursuant to the criteria at 78.4(7)“d.” High noble or noble metals will be approved only when the member is allergic to all other restorative materials. A fixed partial denture replacing anterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair. (Cross-reference 78.4(7)“d”)~~

~~(3) A fixed removable partial denture replacing posterior teeth. (including an acid-etch fixed partial denture) replacing posterior teeth will be approved for members whose medical condition precludes the use of a removable partial denture and who have fewer than eight posterior teeth in occlusion or if the member has a full denture in one arch and a partial denture replacing posterior teeth is required in the opposing arch to balance occlusion. When one fixed partial denture brings eight posterior teeth in occlusion, no additional fixed partial denture will be approved. High noble or noble metals will be approved only when the member is allergic to all other restorative materials. A fixed partial denture replacing posterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair. (Cross-reference 78.4(7)“e”) Payment will be approved pursuant to the criteria at 78.4(7)“c.”~~

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~~(4) A fixed partial denture replacing posterior teeth. Dental implants and related services will be authorized when the member is missing significant oral structures due to cancer, traumatic injuries, or developmental defects such as cleft palate and cannot use a conventional denture. Payment will be approved pursuant to the criteria at 78.4(7) "e."~~

~~(5) Dental implants and related services. Payment will be approved pursuant to the criteria at 78.4(7) "k."~~

~~(6) Replacement of complete or partial dentures in less than a five-year period. Payment will be approved pursuant to the criteria at 78.4(7) "l."~~

~~(7) A complete or partial denture rebase. Payment will be approved pursuant to the criteria at 78.4(7) "m."~~

~~(8) An oral appliance for obstructive sleep apnea. Payment will be approved pursuant to the criteria at 78.4(7) "n."~~

~~d. c. Orthodontic The following orthodontic services: to treat a handicapping malocclusion are payable with prior approval. A score of 26 or above on the index from "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J. A. Salzmann, D.D.S., American Journal of Orthodontics, October 1968, is required for approval.~~

~~(1) A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility to dental caries, and impaired speech due to malpositions of the teeth. Treatment of handicapping malocclusions will be approved only for the severe and the most handicapping. Assessment of the most handicapping malocclusion is determined by the magnitude of the following variables:~~

- ~~1. Degree of malalignment;~~
- ~~2. Missing teeth;~~
- ~~3. Angle classification;~~
- ~~4. Overjet and overbite;~~
- ~~5. Openbite; and~~
- ~~6. Crossbite.~~

~~(1) Minor treatment to control harmful habits. Payment will be approved pursuant to the criteria at 78.4(8) "a."~~

~~(2) A request to perform an orthodontic procedure must be accompanied by an interpreted cephalometric radiograph and study models trimmed so that the models simulate centric occlusion of the patient. A written plan of treatment must accompany the diagnostic aids. Posttreatment records must be furnished upon request of the Iowa Medicaid enterprise medical services unit.~~

~~(2) Interceptive orthodontic treatment. Payment will be approved pursuant to the criteria at 78.4(8) "b."~~

~~(3) Approval may be made for eight units of a three-month active treatment period. Additional units may be approved by the department's orthodontic consultant if the additional units are found to be medically necessary. (Cross-reference 78.4(8) "a")~~

~~(3) Comprehensive orthodontic treatment. Payment will be approved pursuant to the criteria at 78.4(8) "c."~~

~~e. More than two laboratory-fabricated crowns will be approved in a 12-month period for anterior teeth that cannot be restored with a composite or amalgam restoration and for posterior teeth that cannot be restored with a composite or amalgam restoration or stainless steel crown. (Cross-reference 78.4(3) "d")~~

~~d. The following restorative services:~~

~~(1) Laboratory-fabricated crowns other than stainless steel. Payment will be approved pursuant to the criteria at 78.4(3) "d"(3).~~

~~(2) Crowns with noble or high noble metals. Payment will be approved pursuant to the criteria at 78.4(3) "d"(4).~~

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~~*f. e.* Endodontic retreatment of a tooth, will be authorized when the conventional treatment has been completed, a reasonable time has elapsed, and failure has been demonstrated with a radiograph and narrative history. Payment will be approved pursuant to the criteria at 78.4(5) "d."~~

f. Occlusal guard. Payment will be approved pursuant to the criteria at 78.4(9) "g."

[Filed 2/13/13, effective 5/1/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0632C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

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

These amendments expand prior authorization requirements for diabetic equipment and supplies not covered by rebate agreements. If the Department has a current agreement for a rebate with at least one manufacturer of a particular category of diabetic equipment or supplies (such as blood glucose monitors, blood glucose test strips, lancing devices, lancets, or diabetic syringes), prior authorization will be required for any equipment or supplies in that category produced by manufacturers that have not contracted with the Department to provide a rebate. However, this requirement will not apply to supplies for members receiving care in a nursing facility or an intermediate care facility for persons with an intellectual disability. Prior authorization will be granted when medically necessary.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0496C** on December 12, 2012. The Department received no comments and made no substantive changes. In paragraph 78.10(4)"b," the phrase "intermediate care facility for the mentally retarded" was changed to "intermediate care facility for persons with an intellectual disability" to reflect updated terminology.

These amendments do not provide for waivers in specified situations because prior authorization may be requested for products from manufacturers without rebate agreements. In addition, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

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

These amendments will become effective May 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 78.10(2) as follows:

78.10(2) Durable medical equipment. DME is equipment which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, and is appropriate for use in the home.

a. No change.

b. Only the following types of durable medical equipment can be covered through the Medicaid program:

Alternating pressure pump.

Automated medication dispenser. See 78.10(2)"d" 78.10(5)"d" for prior authorization requirements.

Bedpan.

Blood glucose monitors, ~~subject to the limitation in 78.10(2)"e."~~ See 78.10(5)"e" for prior authorization requirements.

Blood pressure cuffs.

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- Cane.
 - Cardiorespiratory monitor (rental and supplies).
 - Commode.
 - Commode pail.
 - Crutches.
 - Decubitus equipment.
 - Dialysis equipment.
 - Diaphragm (contraceptive device).
 - Enclosed bed. See ~~78.10(2)“d”~~ 78.10(5)“a” for prior authorization requirements.
 - Enuresis alarm system (bed-wetting alarm device) for members five years of age or older.
 - Hospital bed.
 - Hospital bed accessories.
 - Inhalation equipment.
 - Insulin infusion pump. See ~~78.10(2)“d”~~ 78.10(5)“b” and 78.10(5)“e” for prior authorization requirements.
 - Lymphedema pump.
 - Neuromuscular stimulator.
 - Oximeter.
 - Oxygen, subject to the limitations in 78.10(2)“a” and 78.10(2)“c.”
 - Patient lift (Hoyer).
 - Phototherapy bilirubin light.
 - Pressure unit.
 - Protective helmet.
 - Respirator.
 - Resuscitator bags and pressure gauge.
 - Seat lift chair.
 - Suction machine.
 - Traction equipment.
 - Urinal (portable).
 - Vaporizer.
 - Ventilator.
 - Vest airway clearance system. See ~~78.10(2)“d”~~ 78.10(5)“c” for prior authorization requirements.
 - Walker.
 - Wheelchair—standard and adaptive.
 - Whirlpool bath.
- c.* No change.
- ~~*d.* Prior authorization is required for the following medical equipment and supplies (Cross reference 78.28(1)):~~
- ~~(1) Enclosed beds. Payment for an enclosed bed will be approved when prescribed for a patient who meets all of the following conditions:

 - ~~1. The patient has a diagnosis related cognitive or communication impairment that results in risk to safety.~~
 - ~~2. The patient’s mobility puts the patient at risk for injury.~~
 - ~~3. The patient has suffered injuries when getting out of bed.~~~~
 - ~~(2) External insulin infusion pumps. Payment will be approved according to Medicare coverage criteria.~~
 - ~~(3) Vest airway clearance systems. Payment will be approved for a vest airway clearance system when prescribed by a pulmonologist for a patient with a diagnosis of a lung disorder if all of the following conditions are met:

 - ~~1. Pulmonary function tests for the 12 months before the initiation of the vest demonstrate an overall significant decrease of lung function.~~~~

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~~2.—The patient resides in an independent living situation or has a medical condition that precludes the caregiver from administering traditional chest physiotherapy.~~

~~3.—Treatment by flutter device failed or is contraindicated.~~

~~4.—Treatment by intrapulmonary percussive ventilation failed or is contraindicated.~~

~~5.—All other less costly alternatives have been tried.~~

~~(4) Automated medication dispenser. Payment will be approved for an automated medication dispenser when prescribed for a member who meets all of the following conditions:~~

~~1.—The member has a diagnosis indicative of cognitive impairment or age-related factors that affect the member's ability to remember to take medications.~~

~~2.—The member is on two or more medications prescribed to be administered more than one time a day.~~

~~3.—The availability of a caregiver to administer the medications or perform setup is limited or nonexistent.~~

~~4.—Less costly alternatives, such as medisets or telephone reminders, have failed.~~

~~(5) Blood glucose monitors and diabetic test strips produced by a manufacturer that does not have a current agreement to provide a rebate to the department for monitors or test strips provided through the Medicaid program. Prior approval shall be granted when the member's medical condition necessitates use of a blood glucose monitor or diabetic test strips produced by a manufacturer that does not have a current rebate agreement with the department.~~

~~e.—Blood glucose monitors are covered through the Medicaid program only if:~~

~~(1) The monitor is produced by a manufacturer that has a current agreement to provide a rebate to the department for monitors provided through the Medicaid program; or~~

~~(2) Prior authorization based on medical necessity is received pursuant to rule 441—79.8(249A) for a monitor produced by a manufacturer that does not have a current rebate agreement with the department.~~

ITEM 2. Amend subrule 78.10(4) as follows:

78.10(4) Medical supplies. Medical supplies are nondurable items consumed in the process of giving medical care, for example, nebulizers, gauze, bandages, sterile pads, adhesive tape, and sterile absorbent cotton. Medical supplies are payable for a specific medicinal purpose. This does not include food or drugs. However, active pharmaceutical ingredients and excipients that are identified as preferred on the preferred drug list published by the department pursuant to Iowa Code section 249A.20A are covered. Medical supplies shall not be dispensed at any one time in quantities exceeding a 31-day supply for active pharmaceutical ingredients and excipients or a three-month supply for all other items. After the initial dispensing of medical supplies, the provider must document a refill request from the Medicaid member or the member's caregiver for each refill.

a. Only the following types of medical supplies and supplies necessary for the effective use of a payable item can be purchased through the medical assistance program:

Active pharmaceutical ingredients and excipients identified as preferred on the preferred drug list published pursuant to Iowa Code section 249A.20A.

Catheter (indwelling Foley).

Colostomy and ileostomy appliances.

Colostomy and ileostomy care dressings, liquid adhesive, and adhesive tape.

~~Diabetic blood glucose test strips, subject to the limitation in 78.10(4)“e.”~~

Diabetic supplies, other than blood glucose test strips (including but not limited to blood glucose test strips, lancing devices, lancets, needles, syringes, and diabetic urine test supplies). See 78.10(5)“e” for prior authorization requirements.

Dialysis supplies.

Diapers (for members aged four and above).

Disposable catheterization trays or sets (sterile).

Disposable irrigation trays or sets (sterile).

Disposable saline enemas (e.g., sodium phosphate type).

Disposable underpads.

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Dressings.
 Elastic antiembolism support stocking.
 Enema.
 Hearing aid batteries.
 Respirator supplies.
 Surgical supplies.
 Urinary collection supplies.

b. Only the following types of medical supplies will be approved for payment for members receiving care in a nursing facility or an intermediate care facility for ~~the mentally retarded~~ persons with an intellectual disability when prescribed by the physician, physician assistant, or advanced registered nurse practitioner:

Catheter (indwelling Foley).
 Colostomy and ileostomy appliances.
 Colostomy and ileostomy care dressings, liquid adhesive and adhesive tape.
 Diabetic supplies (including but not limited to lancing devices, lancets, needles and syringes, blood glucose test strips, and diabetic urine test supplies).
 Disposable catheterization trays or sets (sterile).
 Disposable irrigation trays or sets (sterile).
 Disposable saline enemas (e.g., sodium phosphate type).

~~*e.* Diabetic blood glucose test strips are covered through the Medicaid program only if:~~

~~(1) The strips are produced by a manufacturer that has a current agreement to provide a rebate to the department for test strips provided through the Medicaid program, or
 (2) Prior authorization is received pursuant to rule 441—79.8(249A) for test strips produced by a manufacturer that does not have a current rebate agreement with the department, based on medical necessity.~~

ITEM 3. Adopt the following new subrule 78.10(5):

78.10(5) Prior authorization requirements. Prior authorization pursuant to rule 441—79.8(249A) is required for the following medical equipment and supplies (Cross-reference 78.28(1)):

a. Enclosed beds. Payment for an enclosed bed will be approved when prescribed for a patient who meets all of the following conditions:

(1) The patient has a diagnosis-related cognitive or communication impairment that results in risk to safety.
 (2) The patient's mobility puts the patient at risk for injury.
 (3) The patient has suffered injuries when getting out of bed.

b. External insulin infusion pumps. Payment will be approved according to Medicare coverage criteria.

c. Vest airway clearance systems. Payment will be approved for a vest airway clearance system when prescribed by a pulmonologist for a patient with a diagnosis of a lung disorder if all of the following conditions are met:

(1) Pulmonary function tests for the 12 months before the initiation of the vest demonstrate an overall significant decrease in lung function.
 (2) The patient resides in an independent living situation or has a medical condition that precludes the caregiver from administering traditional chest physiotherapy.
 (3) Treatment by flutter device failed or is contraindicated.
 (4) Treatment by intrapulmonary percussive ventilation failed or is contraindicated.
 (5) All other less costly alternatives have been tried.

d. Automated medication dispenser. Payment will be approved for an automated medication dispenser when prescribed for a member who meets all of the following conditions:

(1) The member has a diagnosis indicative of cognitive impairment or age-related factors that affect the member's ability to remember to take medications.

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(2) The member is on two or more medications prescribed to be administered more than one time per day.

(3) The availability of a caregiver to administer the medications or perform setup is limited or nonexistent.

(4) Less costly alternatives, such as medisets or telephone reminders, have failed.

e. Diabetic equipment and supplies. If the department has a current agreement for a rebate with at least one manufacturer of a particular category of diabetic equipment or supplies (by healthcare common procedure coding system (HCPCS) code), prior authorization is required for any equipment or supplies in that category produced by a manufacturer that does not have a current agreement to provide a rebate to the department (other than supplies for members receiving care in a nursing facility or an intermediate care facility for persons with an intellectual disability). Prior approval shall be granted when the member's medical condition necessitates use of equipment or supplies produced by a manufacturer that does not have a current rebate agreement with the department.

ITEM 4. Amend paragraph **78.28(1)“k”** as follows:

~~*k.* Prior authorization is required for blood glucose monitors and diabetic test strips produced by a manufacturer that does not have a current agreement to provide a rebate to the department for monitors or test strips provided through the Medicaid program. The department shall approve payment when a blood glucose monitor or diabetic test strips produced by a manufacturer that does not have a current rebate agreement with the department are medically necessary.~~ Diabetic equipment and supplies. Payment will be approved pursuant to the criteria at 78.10(5)“e.”

[Filed 2/13/13, effective 5/1/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0635C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543D.5, the Iowa Real Estate Appraiser Examining Board hereby amends Chapter 11, “Continuing Education,” Iowa Administrative Code.

The adopted amendments to Chapter 11 allow all continuing education to be taken via distance education, and they also clarify the amount of time a student must be present for live instruction in order to gain educational credit. Iowa Code chapter 543D does not allow more than 50 percent of the required instructional hours to be taken through correspondence and home-study courses. Home-study and correspondence programs, as those terms relate to Iowa Code section 543D.16(2), refer to self-study programs which are not generally approved by the Appraiser Qualifications Board for continuing education credit because such courses do not usually provide a reciprocal environment where the student has verbal or written communication with the instructor. The statutory limitation on correspondence and home-study courses does not apply to interactive programs that are approved by the Appraiser Qualifications Board (AQB) and AQB-approved delivery mechanisms. The Appraiser Examining Board in recent months has received many waiver requests for the required classroom hours.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 26, 2012, as **ARC 0534C**. No public comment was received on these amendments. These amendments are identical to those published under Notice of Intended Action.

There is no fiscal impact to the State of Iowa.

These amendments were adopted by the Board on February 14, 2013.

These amendments are subject to waiver or variance pursuant to 193F—Chapter 11.

After analysis and review of this rule making, no direct impact on jobs has been found, although a positive impact could exist. This rule making makes the renewal of a credential for associate or certified

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

appraisers more flexible and helps them take their required continuing education in a way that reduces the burden on small businesses.

These amendments are intended to implement Iowa Code chapters 17A, 272C, 543D, and 546.

These amendments shall become effective April 10, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 11.2(2) as follows:

11.2(2) ~~A maximum of 14 of the required 28~~ All continuing education credit hours may be acquired in approved distance education programs.

ITEM 2. Amend subrule 11.2(7) as follows:

11.2(7) ~~Successful completion of a continuing education program requires 90 percent attendance that at least 50 minutes of every class hour be attended by the student. Continuing education credits shall not be granted to attendees who are present for less than 90 percent of the scheduled class meeting 50 minutes of every class hour.~~

[Filed 2/14/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.

ARC 0630C

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

This amendment condenses the "undergraduate domestic student" and "nondegree student" fees into one fee for each of the three universities; renames the "graduate domestic student" fee as the "graduate/professional domestic student" fee for both the University of Northern Iowa and Iowa State University; renames the "graduate international student" fee as the "graduate/professional international student" fee for both the University of Northern Iowa and Iowa State University; increases the graduate application fees for Iowa State University; and adds a reentry fee for the University of Northern Iowa. The changes in the fee titles allow for consistency among the universities. The fee increases at Iowa State University and the establishment of the new fee at the University of Northern Iowa help cover processing costs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 28, 2012, as **ARC 0469C**. A comment period was established. No comments were received. The adopted amendment is identical to the proposed amendment.

The Board of Regents adopted the amendment on February 6, 2013.

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

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective on April 10, 2013.

The following amendment is adopted.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

REGENTS BOARD[681](cont'd)

University of Iowa

Undergraduate domestic student <u>and nondegree student</u>	\$40
Undergraduate international student	\$85
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
PharmD student	\$100
Reentry fee	\$20
Nondegree student	\$40

Iowa State University

Undergraduate domestic student <u>and nondegree student</u>	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$40 <u>\$60</u>
Graduate/professional international student	\$90 <u>\$100</u>
Veterinary Medicine	\$75
Nondegree student	\$40

University of Northern Iowa

Undergraduate domestic student <u>and nondegree student</u>	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$50
Graduate/professional international student	\$70
Nondegree student	\$40
<u>Reentry fee</u>	<u>\$20</u>

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 2/12/13, effective 4/10/13]

[Published 3/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/13.