



# IOWA ADMINISTRATIVE BULLETIN

*Published Biweekly*

VOLUME XLV  
June 14, 2023

NUMBER 25  
Pages 2853 to 2867

## CONTENTS IN THIS ISSUE

Pages 2859 to 2866 include **ARC 7038C** to **ARC 7039C**

### ADMINISTRATIVE SERVICES DEPARTMENT

Public notice . . . . . 2859

### ALL AGENCIES

Agency identification numbers . . . . . 2857  
Citation of administrative rules . . . . . 2854  
Schedule for rule making . . . . . 2855

### EARLY CHILDHOOD IOWA STATE BOARD[249]

Editorial note: agency transferred . . . . . 2867

### ECONOMIC DEVELOPMENT

#### AUTHORITY[261]

Notice, Employer child care tax credit,  
ch 57 **ARC 7039C** . . . . . 2859

### EDITORIAL NOTE

Rules and chapters of various agencies  
transferred . . . . . 2867

### INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Filed, Pharmacy benefits managers, 59.2,  
59.8(5), 59.11 **ARC 7038C** . . . . . 2863

### PUBLIC HEARINGS

Summarized list . . . . . 2856

## 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]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048  
Telephone: 515.281.3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### CITATION of Administrative Rules

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

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)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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 2023

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
<b>**Dec. 21 '22**</b>	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23
<b>**Jan. 4**</b>	Jan. 25	Feb. 14	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 20	Feb. 8	Feb. 28	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 3	Feb. 22	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 17	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sep. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sep. 18
Mar. 17	Apr. 5	Apr. 25	May 10	<b>**May 10**</b>	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	<b>**June 21**</b>	July 12	Aug. 16	Nov. 13
<b>**May 10**</b>	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sep. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sep. 27	Dec. 25
<b>**June 21**</b>	July 12	Aug. 1	Aug. 16	<b>**Aug. 16**</b>	Sep. 6	Oct. 11	Jan. 8 '24
July 7	July 26	Aug. 15	Aug. 30	Sep. 1	Sep. 20	Oct. 25	Jan. 22 '24
July 21	Aug. 9	Aug. 29	Sep. 13	Sep. 15	Oct. 4	Nov. 8	Feb. 5 '24
Aug. 4	Aug. 23	Sep. 12	Sep. 27	Sep. 29	Oct. 18	Nov. 22	Feb. 19 '24
<b>**Aug. 16**</b>	Sep. 6	Sep. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 4 '24
Sep. 1	Sep. 20	Oct. 10	Oct. 25	<b>**Oct. 25**</b>	Nov. 15	Dec. 20	Mar. 18 '24
Sep. 15	Oct. 4	Oct. 24	Nov. 8	<b>**Nov. 8**</b>	Nov. 29	Jan. 3 '24	Apr. 1 '24
Sep. 29	Oct. 18	Nov. 7	Nov. 22	<b>**Nov. 22**</b>	Dec. 13	Jan. 17 '24	Apr. 15 '24
Oct. 13	Nov. 1	Nov. 21	Dec. 6	<b>**Dec. 6**</b>	Dec. 27	Jan. 31 '24	Apr. 29 '24
<b>**Oct. 25**</b>	Nov. 15	Dec. 5	Dec. 20	<b>**Dec. 20**</b>	Jan. 10 '24	Feb. 14 '24	May 13 '24
<b>**Nov. 8**</b>	Nov. 29	Dec. 19	Jan. 3 '24	<b>**Jan. 3 '24**</b>	Jan. 24 '24	Feb. 28 '24	May 27 '24
<b>**Nov. 22**</b>	Dec. 13	Jan. 2 '24	Jan. 17 '24	Jan. 19 '24	Feb. 7 '24	Mar. 13 '24	June 10 '24
<b>**Dec. 6**</b>	Dec. 27	Jan. 16 '24	Jan. 31 '24	Feb. 2 '24	Feb. 21 '24	Mar. 27 '24	June 24 '24
<b>**Dec. 20**</b>	Jan. 10 '24	Jan. 30 '24	Feb. 14 '24	Feb. 16 '24	Mar. 6 '24	Apr. 10 '24	July 8 '24

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
1	Wednesday, June 21, 2023	July 12, 2023
2	Friday, July 7, 2023	July 26, 2023
3	Friday, July 21, 2023	August 9, 2023

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

**ALCOHOLIC BEVERAGES DIVISION[185]**

Retail alcohol licenses,  
amendments to chs 1, 4, 5,  
8, 17, 18  
IAB 5/31/23

**Regulatory Analysis**

1918 Hulsizer Rd.  
Ankeny, Iowa

June 20, 2023  
9 to 10 a.m.

**EDUCATION DEPARTMENT[281]**

Students First Act—education  
savings accounts, ch 20  
IAB 5/31/23 **ARC 7023C**  
(See also **ARC 7024C**)

State Board Room, Second Floor  
Grimes State Office Bldg.  
Des Moines, Iowa

Via videoconference:

[IDOE.zoom.us/j/93664266923?pwd=RV1vc2wxWTR6Q1VsU0t4eWc0blpPQT09](https://IDOE.zoom.us/j/93664266923?pwd=RV1vc2wxWTR6Q1VsU0t4eWc0blpPQT09)

June 20, 2023  
9 to 10 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation and Water Quality Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
OMBUDSMAN[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Child Advocacy Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]

LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA [741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA [751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA [787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

**ADMINISTRATIVE SERVICES DEPARTMENT****Public Notice**

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR  
COMMENCING JULY 1, 2023, AND ENDING JUNE 30, 2024

In accordance with Iowa Code section 618.11, the Iowa Department of Administrative Services Director hereby publishes the lineage rate\* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2023, and ending on June 30, 2024, in the following amounts:

\* Lineage rate: "...each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11)

One insertion = 59.5 cents

Each subsequent insertion = 40.1 cents

The rate becomes effective on July 1, 2023. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 4.9% for the 12 months ended April 2023. The April index was the most recent index available as of May 10, 2023, the date this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, the calculation and publication of the rate by the Director of the Department of Administrative Services shall be exempt from the provisions of Iowa Code chapters 17A and 25B.

If you have questions regarding this notice, please contact:

Adam Steen, Director  
Department of Administrative Services  
1305 E. Walnut St., Third Floor  
Des Moines, Iowa 50319  
Telephone: 515.720.6176  
Email: [adam.steen@iowa.gov](mailto:adam.steen@iowa.gov)

**ARC 7039C****ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to employer child care tax credit  
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt new Chapter 57, "Employer Child Care Tax Credit," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 237A.31.

*State or Federal Law Implemented*

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

This rule making implements, in whole or in part, Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.

*Purpose and Summary*

Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181, establishes an employer child care tax credit. The credit is equal to the proportion of the federal employer-provided child care tax credit for which the employer was eligible in the same tax year attributable to expenditures made in Iowa. The aggregate amount of tax credits authorized annually is \$2 million.

The proposed new Chapter 57 describes how the proportion of the federal credit attributable to expenditures in Iowa will be calculated and outlines the application process for the credit.

A Regulatory Analysis, including the proposed rule text, was published on April 5, 2023. A public hearing was held on April 26, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on May 1, 2023.

One change from the proposed rules as published in the Regulatory Analysis has been made. Clarification has been added that an application that can be partially approved without exceeding the maximum aggregate amount of tax credits may be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond the impact of the legislation it is intended to implement.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on July 5, 2023. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@iowaeda.com)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 57:

CHAPTER 57  
EMPLOYER CHILD CARE TAX CREDIT

**261—57.1(237A) Definitions.**

*“Authority”* means the economic development authority created in Iowa Code section 15.105.

*“Department”* means the Iowa department of revenue.

*“Federal credit”* means the federal employer-provided child care tax credit provided in Section 45F of the Internal Revenue Code.

*“Qualified child care expenditure”* means the same as defined in Section 45F of the Internal Revenue Code.

*“Qualified child care facility”* means the same as defined in Section 45F of the Internal Revenue Code.

*“Qualified child care resource and referral expenditure”* means the same as defined in Section 45F of the Internal Revenue Code.

*“Tax credit”* means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

**261—57.2(237A) Authorization of tax credits.**

**57.2(1)** An employer child care tax credit is authorized pursuant to Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.

**57.2(2)** The proportion of a taxpayer's federal credit attributable to expenditures made in Iowa equals the ratio that the sum of the amount described in paragraph 57.2(2)“a” bears to the sum total of the amount described in paragraph 57.2(2)“b.” The ratio shall be expressed as a percentage rounded to the nearest hundredth percent.

*a.* The qualified child care expenditures paid or incurred with respect to a qualified child care facility in Iowa, plus qualified child care resource and referral expenditures paid or incurred with respect to Iowa employees.

*b.* The qualified child care expenditures and qualified child care resource and referral expenditures.

**261—57.3(237A) Application and issuance process.**

**57.3(1)** The authority will develop a standardized application pertaining to the authorization and distribution of tax credits. The application will request information relating to the taxpayer's eligibility for the federal credit, the proportion of the federal credit attributable to expenditures made by the taxpayer in Iowa as calculated pursuant to subrule 57.2(2), and any other information required by the authority. The certified public accountant (CPA) examination conducted pursuant to rule 261—57.4(237A) shall be submitted with the application.

**57.3(2)** A taxpayer shall submit an application for the credit within 90 calendar days of the end of the tax year during which qualified child care expenditures and qualified child care resource and referral expenditures are paid or incurred.

**57.3(3)** The authority shall issue tax credit certificates in the order the applications are determined complete and qualified until the maximum aggregate amount of tax credits that may be authorized pursuant to Iowa Code section 237A.31(3)“a” is reached. Applications for tax credits received in

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

excess of the maximum aggregate amount of tax credits available each fiscal year will be denied by the authority. An application that can be partially approved without exceeding the maximum aggregate amount of tax credits may be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount.

**57.3(4)** The authority will issue a tax credit certificate to an approved taxpayer in an amount that represents the maximum amount of tax credit the taxpayer may claim. To receive the tax credit, the taxpayer shall file a claim with the department in accordance with any applicable administrative rules adopted by the department. An approved taxpayer's tax credit may be subject to reduction in such circumstances described by any applicable rules adopted by the department.

**261—57.4(237A) CPA examination.**

**57.4(1)** A taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the taxpayer's qualified child care expenditures and qualified child care resource and referral expenditures in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601.

**57.4(2)** The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the qualified child care expenditures paid or incurred with respect to a qualified child care facility in Iowa and qualified child care resources and referral expenditures paid or incurred with respect to Iowa employees are eligible for a tax credit pursuant to Iowa Code section 237A.31 and all rules adopted by the authority and by the department pursuant to Iowa Code section 237A.31 in all material respects. The documents reviewed by the CPA shall be provided to the authority upon request. The authority may deny a tax credit application if such documents are requested and are not provided to the authority within 60 days.

These rules are intended to implement Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.

ARC 7038C

## INSURANCE DIVISION[191]

Adopted and Filed

## Rule making related to pharmacy benefits managers

The Insurance Division hereby amends Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 510, 510B and 510C and 2022 Iowa Acts, House File 2384, section 22.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2384.

*Purpose and Summary*

These amendments update Chapter 59 to implement changes made in 2022 Iowa Acts, House File 2384, regarding pharmacy benefits managers. This rule making adds new definitions for “dosage unit,” “ingredient costs,” “prescription drug cost reimbursement fee,” and “wholesale acquisition cost.” This rule making also adds provisions regarding penalties and the pharmacy benefits manager annual report.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6825C**. A public hearing was held on February 2, 2023, at 1 p.m. at 1963 Bell Avenue, Suite 100, Des Moines, Iowa.

The Division received oral and written comments from the Iowa Pharmacy Association (IPA) and the Pharmaceutical Care Management Association (PCMA). The Division also received combined written comments from the National Association of Chain Drug Stores (NACDS) and the National Association of Specialty Pharmacy (NASP).

Concerns were expressed regarding the inclusion of certain definitions, the manner in which certain terms were defined and the content of the annual report.

Definitions for “brand-name drug,” “generic drug” and “specialty drug” were not adopted and a new definition for “dosage unit” was adopted based on comments received by the Division. Time frames were adjusted for consistency with other Division rules regarding submission of the quarterly complaint summary. The Division also made changes to the content of the annual report required for submission by pharmacy benefits managers to ensure that the information requested is in accordance with statutorily defined terminology and eliminated references to reporting information based on the national business of a pharmacy benefits manager.

*Adoption of Rule Making*

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on May 24, 2023.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

## INSURANCE DIVISION[191](cont'd)

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on July 19, 2023.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** definitions of “Dosage unit,” “Ingredient costs,” “Prescription drug cost reimbursement fee” and “Wholesale acquisition cost” in rule **191—59.2(510B)**:

“*Dosage unit*” means the same as defined in 45 CFR Section 149.710.

“*Ingredient costs*” means the costs of the component of the prescription drug for prescriptions dispensed. Ingredient costs do not include dispensing fees, copayments received by the pharmacy, service fees or any other type of reimbursement paid to the pharmacy by a pharmacy benefits manager.

“*Prescription drug cost reimbursement fee*” means the dollar amount reimbursed by a third-party payor to the pharmacy benefits manager for the ingredient costs of a prescription drug. The prescription drug cost reimbursement fee may be a type of third-party payor administrative service fee.

“*Wholesale acquisition cost*” means the same as defined in 42 U.S.C. Section 1395w-3a(c)(6)(B).

ITEM 2. Adopt the following **new** subrule 59.8(5):

**59.8(5) Penalties.** A pharmacy benefits manager that fails to timely submit to the commissioner a complete quarterly complaint summary shall pay a late fee of \$100. If a pharmacy benefits manager fails to submit a complete quarterly complaint summary within 30 days after the calendar quarter has ended, the pharmacy benefits manager may be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

ITEM 3. Renumber subrules **59.11(4)** to **59.11(6)** as **59.11(5)** to **59.11(7)**.

ITEM 4. Adopt the following **new** subrule 59.11(4):

**59.11(4) Report content.**

*a.* Reporting requirement elements.

(1) A pharmacy benefits manager shall provide information about all rebates, as defined in Iowa Code section 510C.1, which shall include but not be limited to any consideration, incentive, disbursement, discount, payment and any other pecuniary transaction that is provided directly or indirectly to the pharmacy benefits manager from a pharmaceutical manufacturer that adjusts the price of the wholesale acquisition cost of a prescription drug.

(2) An administrative fee, as defined in Iowa Code section 510C.1, shall include but not be limited to any consideration, incentive, disbursement, payment and any other pecuniary transaction, other than a rebate, that is provided directly or indirectly to the pharmacy benefits manager from a pharmaceutical manufacturer.

(3) The aggregate dollar amount of a rebate shall be reported as the wholesale acquisition cost of a prescription drug minus the price negotiated by the pharmacy benefits manager for the same prescription drug.

(4) Aggregate dollar amounts reported shall be reported as gross aggregate dollar amounts using generally accepted accounting principles (GAAP).

(5) Information requested about pharmacies shall include any pharmacy services administrative organizations that may represent pharmacies.

## INSURANCE DIVISION[191](cont'd)

(6) A third-party payor administrative service fee, as defined in Iowa Code section 510C.1, shall include but not be limited to any consideration, incentive, disbursement, payment and any other pecuniary transaction that is provided directly or indirectly to the pharmacy benefits manager from a third-party payor.

(7) A third-party payor administrative service fee, as defined in Iowa Code section 510C.1, shall not be reported as a benefit or incurred claim provided under a health benefit plan.

*b.* Information required under Iowa Code section 510C.2(1)“*a*” shall include:

(1) The aggregate dollar amount of all rebates received by the pharmacy benefits manager, either directly or indirectly through a proxy, contractor, subsidiary or parent company, for its business in Iowa.

(2) The rebate amounts received, based on the information reported in subparagraph 59.11(4)“*b*”(1), for each of the top prescription drugs for which the pharmacy benefits manager received the highest dollar amount of rebates from the pharmaceutical manufacturer.

1. Report the aggregate dollar amount of the rebate for each of the top prescription drugs reported pursuant to subparagraph 59.11(4)“*b*”(2).

2. Report the aggregate dollar amount of the rebate that was:

- Passed through to a third-party payor;
- Passed through to enrollees at the point of sale of a prescription drug; and
- Retained by the pharmacy benefits manager.

(3) The rebate amounts received, based on the information reported in subparagraph 59.11(4)“*b*”(1), for each of the top prescription drugs dispensed based on volume of dosage units for which the pharmacy benefits manager reimbursed pharmacies.

1. Report the aggregate dollar amount of the rebate for each of the top prescription drugs reported pursuant to subparagraph 59.11(4)“*b*”(3).

2. Report the aggregate dollar amount of the rebate that was:

- Passed through to a third-party payor;
- Passed through to enrollees at the point of sale of a prescription drug; and
- Retained by the pharmacy benefits manager.

*c.* Information required under Iowa Code section 510C.2(1)“*b*” shall include the aggregate dollar amount of all administrative fees received by the pharmacy benefits manager, either directly or indirectly through a proxy, contractor, subsidiary or parent company, for its business in Iowa.

*d.* Information required under Iowa Code section 510C.2(1)“*c*” shall include:

(1) The aggregate dollar amount of all third-party payor administrative service fees received by the pharmacy benefits manager, either directly or indirectly through a proxy, contractor, subsidiary or parent company, for its business in Iowa.

(2) The aggregate dollar amount of all prescription drug cost reimbursement fees received by the pharmacy benefits manager, either directly or indirectly through a proxy, contractor, subsidiary or parent company, for its business in Iowa.

(3) The aggregate prescription drug cost reimbursement fee, based on the top prescription drugs reported in subparagraph 59.11(4)“*b*”(2), received for each drug that was:

1. Paid to the pharmacies as reimbursement from the pharmacy benefits manager for the ingredient costs of prescriptions dispensed by the pharmacies.

2. Retained by the pharmacy benefits manager.

*e.* Information required under Iowa Code section 510C.2(1)“*d*” shall include the aggregate dollar amount of all rebates received by the pharmacy benefits manager that the pharmacy benefits manager did not pass through to the third-party payor through its business in Iowa that is conducted either directly or indirectly through a proxy, contractor, subsidiary or parent company.

*f.* Information required under Iowa Code section 510C.2(1)“*e*” shall include the aggregate dollar amount of all administrative fees received by the pharmacy benefits manager that the pharmacy benefits

INSURANCE DIVISION[191](cont'd)

manager did not pass through to the third-party payor through its business in Iowa that is conducted either directly or indirectly through a proxy, contractor, subsidiary or parent company.

[Filed 5/24/23, effective 7/19/23]

[Published 6/14/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/14/23.

The following rules and chapters have been editorially amended and transferred within the Iowa Administrative Code as indicated in the chart below. The transferred rules and chapters can be found in the June 14, 2023, Iowa Administrative Code Supplement and will be published concurrently in the Iowa Administrative Code on the same date.

<b>Previous Rule or Chapter</b>	<b>Subject</b>	<b>New Rule or Chapter</b>
249 IAC 1	Early Childhood Iowa Initiative	441 IAC 121
421 IAC 2.14	Personally Identifiable Information	441 IAC 9.16
481 IAC 32	Consumable Hemp Products	641 IAC 156
489 IAC 5.14	Personally Identifiable Information	441 IAC 9.17
541 IAC 9	Fiscal Oversight of the Early Childhood Iowa Initiative	441 IAC 122
817 IAC 6.12	Availability of Records	441 IAC 9.19