



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1579 to 1666

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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]; 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.

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### 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 2022

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 '23**</b>	Jan. 25 '23	Feb. 14 '23	Mar. 1 '23	Mar. 3 '23	Mar. 22 '23	Apr. 26 '23	July 24 '23
Jan. 20 '23	Feb. 8 '23	Feb. 28 '23	Mar. 15 '23	Mar. 17 '23	Apr. 5 '23	May 10 '23	Aug. 7 '23
Feb. 3 '23	Feb. 22 '23	Mar. 14 '23	Mar. 29 '23	Mar. 31 '23	Apr. 19 '23	May 24 '23	Aug. 21 '23
Feb. 17 '23	Mar. 8 '23	Mar. 28 '23	Apr. 12 '23	Apr. 14 '23	May 3 '23	June 7 '23	Sep. 4 '23
Mar. 3 '23	Mar. 22 '23	Apr. 11 '23	Apr. 26 '23	Apr. 28 '23	May 17 '23	June 21 '23	Sep. 18 '23
Mar. 17 '23	Apr. 5 '23	Apr. 25 '23	May 10 '23	<b>**May 10 '23**</b>	May 31 '23	July 5 '23	Oct. 2 '23
Mar. 31 '23	Apr. 19 '23	May 9 '23	May 24 '23	May 26 '23	June 14 '23	July 19 '23	Oct. 16 '23
Apr. 14 '23	May 3 '23	May 23 '23	June 7 '23	June 9 '23	June 28 '23	Aug. 2 '23	Oct. 30 '23
Apr. 28 '23	May 17 '23	June 6 '23	June 21 '23	<b>**June 21 '23**</b>	July 12 '23	Aug. 16 '23	Nov. 13 '23
<b>**May 10 '23**</b>	May 31 '23	June 20 '23	July 5 '23	July 7 '23	July 26 '23	Aug. 30 '23	Nov. 27 '23
May 26 '23	June 14 '23	July 4 '23	July 19 '23	July 21 '23	Aug. 9 '23	Sep. 13 '23	Dec. 11 '23
June 9 '23	June 28 '23	July 18 '23	Aug. 2 '23	Aug. 4 '23	Aug. 23 '23	Sep. 27 '23	Dec. 25 '23
<b>**June 21 '23**</b>	July 12 '23	Aug. 1 '23	Aug. 16 '23	<b>**Aug. 16 '23**</b>	Sep. 6 '23	Oct. 11 '23	Jan. 8 '24
July 7 '23	July 26 '23	Aug. 15 '23	Aug. 30 '23	Sep. 1 '23	Sep. 20 '23	Oct. 25 '23	Jan. 22 '24
July 21 '23	Aug. 9 '23	Aug. 29 '23	Sep. 13 '23	Sep. 15 '23	Oct. 4 '23	Nov. 8 '23	Feb. 5 '24
Aug. 4 '23	Aug. 23 '23	Sep. 12 '23	Sep. 27 '23	Sep. 29 '23	Oct. 18 '23	Nov. 22 '23	Feb. 19 '24
<b>**Aug. 16 '23**</b>	Sep. 6 '23	Sep. 26 '23	Oct. 11 '23	Oct. 13 '23	Nov. 1 '23	Dec. 6 '23	Mar. 4 '24
Sep. 1 '23	Sep. 20 '23	Oct. 10 '23	Oct. 25 '23	<b>**Oct. 25 '23**</b>	Nov. 15 '23	Dec. 20 '23	Mar. 18 '24
Sep. 15 '23	Oct. 4 '23	Oct. 24 '23	Nov. 8 '23	<b>**Nov. 8 '23**</b>	Nov. 29 '23	Jan. 3 '24	Apr. 1 '24
Sep. 29 '23	Oct. 18 '23	Nov. 7 '23	Nov. 22 '23	<b>**Nov. 22 '23**</b>	Dec. 13 '23	Jan. 17 '24	Apr. 15 '24
Oct. 13 '23	Nov. 1 '23	Nov. 21 '23	Dec. 6 '23	<b>**Dec. 6 '23**</b>	Dec. 27 '23	Jan. 31 '24	Apr. 29 '24
<b>**Oct. 25 '23**</b>	Nov. 15 '23	Dec. 5 '23	Dec. 20 '23	<b>**Dec. 20 '23**</b>	Jan. 10 '24	Feb. 14 '24	May 13 '24
<b>**Nov. 8 '23**</b>	Nov. 29 '23	Dec. 19 '23	Jan. 3 '24	<b>**Jan. 3 '24**</b>	Jan. 24 '24	Feb. 28 '24	May 27 '24
<b>**Nov. 22 '23**</b>	Dec. 13 '23	Jan. 2 '24	Jan. 17 '24	Jan. 19 '24	Feb. 7 '24	Mar. 13 '24	June 10 '24
<b>**Dec. 6 '23**</b>	Dec. 27 '23	Jan. 16 '24	Jan. 31 '24	Feb. 2 '24	Feb. 21 '24	Mar. 27 '24	June 24 '24
<b>**Dec. 20 '23**</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>
15	Wednesday, January 4, 2023	January 25, 2023
16	Friday, January 20, 2023	February 8, 2023
17	Friday, February 3, 2023	February 22, 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\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, January 6, 2023, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov). The following rules will be reviewed:

### ADMINISTRATIVE SERVICES DEPARTMENT[11]

Annual comprehensive financial report, 40.1, 110.3 Notice **ARC 6752C**..... 12/14/22  
 Physician assistants, 63.2(2)“h,” 63.19 Notice **ARC 6753C** ..... 12/14/22  
 State driver guidelines for state vehicle use and fueling, amendments to ch 103 Notice **ARC 6751C**..... 12/14/22

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

E-15 access standard, ch 86 Filed **ARC 6732C** ..... 12/14/22

### COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

Health care professional recruitment program, 14.1, 14.2(6) Filed **ARC 6729C**..... 12/14/22  
 Future ready Iowa skilled workforce last-dollar scholarship program—part-time enrollment,  
 15.3(1)“j”(1) Filed **ARC 6730C**..... 12/14/22  
 Rural Iowa primary care loan repayment program, 24.2, 24.3, 24.5 to 24.8 Filed **ARC 6731C**..... 12/14/22  
 Mental health professional loan repayment program, ch 31 Notice **ARC 6759C** ..... 12/14/22

### DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Expanded functions, 10.3(1)“e,” 23.1 to 23.7 Filed **ARC 6733C**..... 12/14/22

### ECONOMIC DEVELOPMENT AUTHORITY[261]

Empower rural Iowa initiative, amendments to chs 28 to 30, 220 to 222 Notice **ARC 6737C**..... 12/14/22  
 Historic preservation tax credit, amendments to ch 49 Filed **ARC 6728C**..... 12/14/22  
 Employee stock ownership plan (ESOP) formation assistance, 56.2 to 56.4 Notice **ARC 6738C**..... 12/14/22

### EDUCATION DEPARTMENT[281]

Open enrollment, amendments to chs 6, 17, 36 Filed **ARC 6726C** ..... 12/14/22  
 English learners—terminology, amendments to chs 19, 23, 41, 60, 67, 68, 77, 79, 98, 120  
Filed **ARC 6724C**..... 12/14/22  
 Charter schools—funding, 19.11(4)“c,” 19.12 Filed **ARC 6725C** ..... 12/14/22  
 Community college accreditation—faculty, 24.5 Notice **ARC 6756C** ..... 12/14/22  
 Work-based learning, 49.3(1), 49.7(2) Notice **ARC 6758C**..... 12/14/22  
 Preparation programs—teacher interns, practitioners, administrators, 77.11(2), 79.13(4),  
 79.15(6) Filed **ARC 6722C** ..... 12/14/22  
 Paraeducator preparation programs—approval, reevaluation, 80.5, 80.7 Notice **ARC 6757C**..... 12/14/22  
 Operational function sharing; supplementary weighting, 97.7 Filed **ARC 6723C** ..... 12/14/22

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Definition of “storm water discharge associated with industrial activity”; NPDES general  
 permit nos. 1 through 4, 60.2, 64.15 Filed **ARC 6734C** ..... 12/14/22  
 Solid waste—five-year review of rules, amend chs 100, 102, 114, 115, 120; rescind ch 104  
Notice **ARC 6755C** ..... 12/14/22

### HUMAN SERVICES DEPARTMENT[441]

Application for assistance—definitions, forms, cross-references, 50.1 to 50.5 Filed **ARC 6773C** ..... 12/28/22  
 State supplementary assistance eligibility—five-year review of rules, 51.3, 51.6, 51.9(1)  
Filed **ARC 6774C**..... 12/28/22  
 Payment—assistance standards, 52.1 Filed **ARC 6775C** ..... 12/28/22  
 Iowa health and wellness plan, ch 74 Notice **ARC 6765C**..... 12/28/22  
 Medical and remedial services—acute psychiatric intensive care, 78.3(8), 79.1(5)“i”  
Filed **Emergency After Notice** **ARC 6781C** ..... 12/28/22  
 Provider reimbursement rates; fee schedules, 78.27(10)“f,” 78.34(9)“g,” 78.41(2)“i,”  
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 Non-state government owned nursing facilities—quality incentive payment program,  
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 Nursing facilities—major renovations, Medicaid utilization rates, 81.1, 81.6(16)“h”  
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Intermediate care facilities for persons with an intellectual disability—five-year review of rules, 82.1 to 82.3, 82.5, 82.7, 82.8, 82.13(1), 82.14, 82.15(1), 82.17(2) <u>Filed</u> <b>ARC 6776C</b> .....	12/28/22
Early and periodic screening, diagnosis, and treatment—five-year review of rules, amendments to ch 84 <u>Filed</u> <b>ARC 6777C</b> .....	12/28/22
Collections—five-year review of rules, amendments to ch 95 <u>Filed</u> <b>ARC 6778C</b> .....	12/28/22
Information and records—five-year review of rules, 96.1(3)“a,” 96.3(2)“b” <u>Filed</u> <b>ARC 6779C</b> .....	12/28/22
Collection services center—five-year review of rules, 97.2, 97.5, 97.6 <u>Filed</u> <b>ARC 6780C</b> .....	12/28/22
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Governor’s award for quality care, 54.8 <u>Notice</u> <b>ARC 6742C</b> .....	12/14/22

### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Pharmacy benefits managers, amendments to ch 59 <u>Notice</u> <b>ARC 6740C</b> , also <u>Filed Emergency</u> <b>ARC 6739C</b> .....	12/14/22
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### **LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Five-year review of rules, amendments to chs 1, 3, 4, 9, 10, 160, 169, 176, 215 to 217, 220 <u>Notice</u> <b>ARC 6771C</b> .....	12/28/22
Child labor—power-driven bakery machines, pizza dough roller exception, 32.8(10) <u>Filed</u> <b>ARC 6764C</b> .....	12/28/22
Physician assistants, amendments to chs 155, 169, 173, 174, 176, 177 <u>Filed</u> <b>ARC 6760C</b> .....	12/28/22

### **LAW ENFORCEMENT ACADEMY[501]**

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NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Lifetime trout fishing license for disabled veterans; annual fishing and hunting licenses for veterans, 15.12(1) <u>Notice</u> <b>ARC 6754C</b> .....	12/14/22
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### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Psychologists—five-year review of rules, amendments to chs 5, 240 to 243 <u>Notice</u> <b>ARC 6769C</b> .....	12/28/22
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Contact information—challenges to administrative levies, marijuana and controlled substances tax stamp, 25.1, 262.2 <u>Notice</u> <b>ARC 6748C</b> .....	12/14/22
Register of eligible candidates—assessor, deputy assessor, 103.12 <u>Notice</u> <b>ARC 6747C</b> .....	12/14/22
Pass-through entity composite returns, amend chs 302, 304, 307, 404, 501, 601, 700; adopt ch 405 <u>Notice</u> <b>ARC 6746C</b> .....	12/14/22

### **TRANSPORTATION DEPARTMENT[761]**

Iowa byways program, 132.1, 132.2, 132.3(5), 132.4 <u>Notice</u> <b>ARC 6749C</b> .....	12/14/22
RISE program, amendments to ch 163 <u>Notice</u> <b>ARC 6750C</b> .....	12/14/22
Foreign certificate of title, 400.4 <u>Notice</u> <b>ARC 6770C</b> .....	12/28/22

### **UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Access to affiliate records, requirements for annual filings, and asset and service transfers—review of rules, 31.1, 31.3, 31.5(2) <u>Filed</u> <b>ARC 6761C</b> .....	12/28/22
Nonutility activities—recordkeeping and cost allocations, amendments to ch 33 <u>Filed</u> <b>ARC 6762C</b> .....	12/28/22

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Veterans license fee fund, 17.1 to 17.3 Filed **ARC 6763C**..... 12/28/22

**VOTER REGISTRATION COMMISSION[821]**

Five-year review of rules, 1.8(5)“b,” 2.14(2), 2.15(5), 2.16, 3.1 to 3.4, 7.2, 9.1 Notice **ARC 6772C**..... 12/28/22

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Waylon Brown  
2415 Highway 218  
Osage, Iowa 50461

Representative Mike Boussetot  
Ankeny, Iowa  
House District 37

Senator Julian Garrett  
P.O. Box 493  
Indianola, Iowa 50125

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Senator Jesse Green  
2344 360th Street  
Harcourt, Iowa 50544

Representative Amy Nielsen  
North Liberty, Iowa

Senator Robert Hogg  
P.O. Box 1361  
Cedar Rapids, Iowa 52406

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 50317

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Representative Mike Sexton  
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Nate Ristow  
**Administrative Rules Coordinator**  
Governor’s Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone: 515.281.5211

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Solid waste—five-year review of rules, amend chs 100, 102, 114, 115, 120; rescind ch 104  
IAB 12/14/22 **ARC 6755C**

Via video/conference call  
Contact Theresa Stiner  
Email: [theresa.stiner@dnr.iowa.gov](mailto:theresa.stiner@dnr.iowa.gov)

January 3, 2023  
1:30 p.m.

**INSURANCE DIVISION[191]**

Pharmacy benefits managers, amendments to ch 59  
IAB 12/14/22 **ARC 6740C**  
(See also **ARC 6739C**)

1963 Bell Ave., Suite 100  
Des Moines, Iowa

January 5, 2023  
1 to 3 p.m.

**NATURAL RESOURCE COMMISSION[571]**

Lifetime trout fishing license for disabled veterans; annual fishing and hunting licenses for veterans, 15.12(1)  
IAB 12/14/22 **ARC 6754C**

Via video/conference call  
Contact Joe Larscheid  
Email: [fisheries@dnr.iowa.gov](mailto:fisheries@dnr.iowa.gov)

January 24, 2023  
10 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Psychologists—five-year review of rules, amendments to chs 5, 240 to 243  
IAB 12/28/22 **ARC 6769C**

Fifth Floor Conference Room 526  
Lucas State Office Bldg.  
Des Moines, Iowa

January 17, 2023  
9 to 9:30 a.m.

**REVENUE DEPARTMENT[701]**

Contact information—challenges to administrative levies, marijuana and controlled substances tax stamp, 25.1, 262.2  
IAB 12/14/22 **ARC 6748C**

Via video/conference call  
Contact Nick Behlke  
Email: [nick.behlke@iowa.gov](mailto:nick.behlke@iowa.gov)

January 3, 2023  
11 a.m.  
(If requested)

Register of eligible candidates—assessor, deputy assessor, 103.12  
IAB 12/14/22 **ARC 6747C**

Via video/conference call  
Contact Nick Behlke  
Email: [nick.behlke@iowa.gov](mailto:nick.behlke@iowa.gov)

January 3, 2023  
10 a.m.  
(If requested)

Pass-through entity composite returns, amend chs 302, 304, 307, 404, 501, 601, 700; adopt ch 405  
IAB 12/14/22 **ARC 6746C**

Via video/conference call  
Contact Michael Mertens  
Email: [michael.mertens@iowa.gov](mailto:michael.mertens@iowa.gov)

January 13, 2023  
10 to 11 a.m.  
(If requested)



**TRANSPORTATION DEPARTMENT[761]**

Iowa byways program, 132.1, 132.2, 132.3(5), 132.4 IAB 12/14/22 <b>ARC 6749C</b>	Via conference call Contact Tracy George Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a>	January 5, 2023 9 a.m. (If requested)
RISE program, amendments to ch 163 IAB 12/14/22 <b>ARC 6750C</b>	Via conference call Contact Tracy George Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a>	January 5, 2023 10 a.m. (If requested)
Foreign certificate of title, 400.4 IAB 12/28/22 <b>ARC 6770C</b>	Via conference call Contact Tracy George Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a>	January 19, 2023 9 a.m. (If requested)

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 6765C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to Iowa health and wellness plan  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to rescind Chapter 74, “Iowa Health and Wellness Plan,” Iowa Administrative Code, and adopt a new Chapter 74 with the same title.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 249A.4 and 249N.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 249A.4 and 249N.6.

*Purpose and Summary*

Chapter 74 was reviewed as part of the Department’s five-year rules review. Chapter 74 defines and structures the Iowa Health and Wellness Plan. The chapter is proposed to be rescinded and replaced to eliminate rules that are outdated, redundant and inconsistent. Terminology is updated in the new chapter. The references to marketplace choice have been removed since it no longer exists. Retroactive enrollment has been updated to include residential nursing facilities. The website has been added as a payment method for contributions. Members will no longer be required to pay premiums when no services were provided.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*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*

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:

Rescind 441—Chapter 74 and adopt the following **new** chapter in lieu thereof:

CHAPTER 74  
IOWA HEALTH AND WELLNESS PLAN

PREAMBLE

This chapter defines and structures the Iowa Health and Wellness Plan, effective January 1, 2014, and administered by the department of human services (department) pursuant to Iowa Code chapters 249A and 249N. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver granted by the Secretary. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

**441—74.1(249A,249N) Definitions.** The following definitions apply to this chapter in addition to the definitions in 441—Chapter 75.

“*Countable income*” means “modified adjusted gross income” (MAGI) or “household income,” as applicable, determined pursuant to 42 U.S.C. §1396a(e)(14).

“*Enrollment period*” means the 12-month period for which Iowa Health and Wellness plan eligibility is established.

“*Essential health benefits*” means the essential health benefits defined at 42 U.S.C. §18022.

“*Iowa Dental Wellness Plan*” means the managed care dental benefit program set forth in 441—Chapter 73.

“*Iowa Health and Wellness Plan*” means the medical assistance program set forth in this chapter for individuals with countable income that does not exceed 133 percent of the federal poverty level.

“*Iowa wellness plan*” means the benefits and services provided to Iowa Health and Wellness Plan members.

“*Managed care organization*” means an entity that (1) is under contract with the department to provide services to Medicaid recipients and (2) meets the definition of “health maintenance organization” as defined in Iowa Code section 514B.1.

“*Medically exempt individual*” means an individual exempt from mandatory enrollment in an alternative benefit plan pursuant to 42 CFR §440.315 as amended to May 16, 2022.

“*Minimum essential coverage*” means health insurance defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code.

“*Prepaid ambulatory health plan*” has the meaning set forth in 42 CFR §438.2 as amended to May 16, 2022.

“*Qualified employer-sponsored coverage*” shall be defined pursuant to 42 U.S.C. §1396e1(b).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—74.2(249A,249N) Eligibility factors.** Except as more specifically provided in this chapter, Iowa Health and Wellness Plan eligibility shall be determined according to the requirements of 441—Chapter 75.

**74.2(1) Persons covered.** Subject to the additional requirements of this chapter and of 441—Chapter 75, medical assistance under the Iowa Health and Wellness Plan shall be available to persons 19 through 64 years of age who:

- a. Are not eligible for medical assistance in a mandatory group under 441—Chapter 75;
- b. Have countable income at or below 133 percent of the federal poverty level for their household size;
- c. Are not entitled to or enrolled in Medicare benefits under Part A or Part B of Title XVIII of the Social Security Act; and
- d. Are not pregnant at the time of application or reenrollment.

**74.2(2) Parents or caretakers of dependent children.** All children under the age of 21 living with a parent or caretaker who will be claimed as a dependent by the parent or caretaker for state or federal income tax purposes must be enrolled in Medicaid, in the Children's Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent's or caretaker's eligibility for Iowa Health and Wellness Plan benefits.

**74.2(3) Citizenship.** To be eligible for Iowa Health and Wellness Plan benefits, a person must meet the citizenship requirements in 441—Chapter 75.

**441—74.3(249A,249N) Application.** Medicaid application policies and procedures described in 441—Chapter 76 shall apply to applications for the Iowa Health and Wellness Plan.

**441—74.4(249A,249N) Financial eligibility.**

**74.4(1) Countable income.** Individuals are financially eligible for the Iowa Health and Wellness Plan if their countable income is no more than 133 percent of the federal poverty level, as of the date of a decision on initial or ongoing eligibility.

**74.4(2) Household size.** For financial eligibility purposes, household size shall be determined according to the modified adjusted gross income (MAGI) methodology.

**441—74.5(249A,249N) Enrollment period.**

**74.5(1) Effective dates of eligibility.** Iowa Health and Wellness Plan eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of rule 441—74.8(249A,249N).

**74.5(2) Reinstatement.** Enrollment for the Iowa Health and Wellness Plan may be reinstated without a new application in accordance with 441—Chapter 76.

**74.5(3) Presumptive eligibility.** The enrollment period of 12 consecutive months shall not apply to individuals temporarily enrolled in Medicaid based on a presumptive eligibility determination by a qualified entity in accordance with 441—Chapter 76.

**74.5(4) Retroactive enrollment.** Medical assistance shall be available to a pregnant woman or an infant (under one year of age), or a resident of a nursing facility licensed under Iowa Code chapter 135C, for all or any of the three months preceding the month in which an application is filed when eligibility requirements are met in accordance with 441—Chapter 76.

**441—74.6(249A,249N) Reporting changes.**

**74.6(1) Reporting requirements.** In addition to the reporting requirements in 441—Chapter 76, as a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member turns 65.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- d. The member becomes entitled or enrolled in Medicare Part A or Part B or both.
- e. A child under the age of 21 living with the member loses minimum essential coverage if the member is the child's parent or caretaker and will claim the child as a dependent for state or federal income tax purposes.

f. The member is pregnant.

**74.6(2) *Untimely report.*** When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with 441—Chapters 75 and 11. Program expenditures may include, but are not limited to, premiums and capitation payments.

**74.6(3) *Effective date of change.*** After enrollment, changes reported during the month that affect the member's eligibility shall be effective the first day of the next calendar month unless:

- a. Timely notice of adverse action is required as specified in 441—subrule 16.3(1); or
- b. The enrollment period has expired and the member is not eligible for a new enrollment period.

**441—74.7(249A,249N) *Reenrollment.*** A new eligibility determination is required for consecutive 12-month enrollment periods. The reenrollment process will follow the requirements in 441—Chapter 76.

**441—74.8(249A,249N) *Terminating enrollment.*** Iowa Health and Wellness Plan enrollment shall end when any of the following occurs:

1. The enrollment period ends and coverage for the next enrollment period has not been renewed.
2. The member becomes eligible for medical assistance in a mandatory coverage group under 441—Chapter 75.
3. The member is found to have been ineligible for any reason.
4. The member dies.
5. The member turns 65.
6. The member abandons Iowa residency.
7. The member becomes entitled or enrolled in Medicare Part A or Part B or both.
8. A child under the age of 21 living with the member loses minimum essential coverage, if the member is the child's parent or caretaker and will claim the child as a dependent for state or federal income tax purposes.
9. The member's countable income exceeds 133 percent of the federal poverty level.
10. The Iowa Health and Wellness Plan is discontinued according to the requirements in rule 441—74.14(249A,249N).
11. The member does not pay monthly contributions as required by subrule 74.11(2).

**441—74.9(249A,249N) *Recovery.*** The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with 441—Chapter 75.

**74.9(1)** The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—Chapter 75.

**74.9(2)** Funds received from third parties, including Medicare, by a provider other than a state mental health institute shall be reported to the department or the managed care organization, and an adjustment shall be made to a previously submitted claim.

**441—74.10(249A,249N) *Right to appeal.***

**74.10(1)** Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed to the extent permitted by 441—Chapter 7.

**74.10(2)** Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A,249N).

**441—74.11(249A) *Financial participation.***

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**74.11(1) Copayment.** Payment for nonemergency use of a hospital emergency department shall be subject to an \$8 copayment by the member, which shall be subtracted from the Iowa Health and Wellness Plan payment otherwise due to the provider.

**74.11(2) Monthly contributions.** Members enrolled in the Iowa Health and Wellness Plan with household income at or above 50 percent of the federal poverty level (FPL) are required to pay monthly contributions pursuant to this rule.

*a. Monthly contribution amount.* The monthly contribution amount for each member is based on the countable income of the member's household, determined pursuant to 441—Chapter 75, as a percentage of the FPL for the household. Monthly contribution amounts are as follows:

- (1) For a member with household income between 50 and 100 percent of the FPL, \$5;
- (2) For a member with household income above 100 percent of the FPL, \$10.

*b. Waiver during the first year of enrollment.* The monthly contribution will be waived during the member's first 12 months of continuous enrollment.

*c. Monthly contribution exemptions.* A member shall be exempt from monthly contribution payments when any of the following circumstances apply:

- (1) The member completed healthy behaviors pursuant to subrule 74.11(4) in the previous enrollment period.
- (2) The member is determined by the department to be a medically exempt individual pursuant to subrule 74.12(2).
- (3) The member has access to cost-effective, employer-sponsored coverage and is enrolled in the health insurance premium payment program pursuant to 441—Chapter 75.
- (4) The member is exempt from premiums pursuant to 42 CFR 447.56(a)(1)(x) as amended to May 16, 2022, as an Indian who is eligible to receive or has received an item or service furnished by an Indian health care provider or through referral under contract health services.

(5) The member claims a hardship exemption indicating that payment of the monthly contribution will be a financial hardship. The member may claim a hardship exemption by telephoning the call center designated by the department, by checking the hardship box on the billing statement (for the month of the billing statement), or by submitting a written statement to the address designated by the department. The member's hardship exemption must be received or postmarked within five working days after the monthly contribution due date. If the hardship exemption request is not made in a timely manner, the exemption shall not be granted.

*d. Billing and payment.* Form 470-5285 or 470-5285(S) shall be used for billing and collection of the monthly contribution.

(1) Method of payment. Members shall submit contribution payments to the following address: Iowa Medicaid, Iowa Health and Wellness Plan Monthly Contributions, P.O. Box 14485, Des Moines, Iowa 50306-3485. Members can also submit contributions through the department's website.

(2) Due date. When the department notifies a member of the amount of the monthly contribution, the member shall pay any monthly contributions due in accordance with the following:

1. The monthly contribution for each month is due on the last calendar day of the month that the monthly contribution is to cover.
2. If the last calendar day falls on a weekend or state or federal holiday, payment is due on the first working day following the weekend or holiday.
3. Monthly contribution payments must be received or postmarked by the due date.

(3) Application of payment. The department shall apply monthly contributions payments received to the oldest unpaid month in the current enrollment period. When monthly contributions for all months in the enrollment period have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

*e. Failure to pay monthly contributions.*

(1) An Iowa Health and Wellness Plan member with household income between 50 and 100 percent of the FPL who fails to pay the assessed monthly contributions and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with 441—Chapter 75. A member



## HUMAN SERVICES DEPARTMENT[441](cont'd)

shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

(2) An Iowa Health and Wellness Plan member with household income above 100 percent of the FPL who fails to pay the assessed monthly contribution and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall have the member's eligibility terminated. In addition, the member shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with 441—Chapter 75. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

1. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before eligibility will be terminated or the unpaid amount will be subject to recovery.

2. A member whose eligibility is terminated due to nonpayment of monthly contributions may reenroll for Medicaid benefits pursuant to 441—Chapter 76.

3. Unpaid premiums shall not be considered a collectible debt by the state if, at the member's next annual renewal date, the member does not apply for renewed eligibility, and the member has no claims for services delivered after the month of the last premium payment.

*f. Refund of monthly contributions.*

(1) Monthly contributions paid for any period shall be refunded if the member qualified for a monthly contribution exemption pursuant to paragraph 74.11(2) "c" or when a member's Iowa Health and Wellness Plan coverage is terminated for the following reasons:

1. The member is no longer eligible for coverage in the Iowa Health and Wellness Plan; or

2. The member dies.

(2) The amount of any refund shall be offset by any outstanding monthly contributions owed.

(3) The refund shall be paid within two calendar months from the date of termination from the program.

**74.11(3) Aggregate annual limits on copayments and monthly contributions.** The total aggregate annual amount of copayments and monthly contributions for an individual shall not exceed 5 percent of the household's countable annual income determined pursuant to 441—Chapter 75.

**74.11(4) Healthy behaviors.** An Iowa Health and Wellness Plan member who completes a wellness examination and health risk assessment during any enrollment year shall have monthly contributions waived in the subsequent enrollment year.

*a.* Under healthy behaviors, a wellness examination may be related to either physical health or oral health. Physical examinations must be performed by a medical provider and must assess a member's overall physical health consistent with standard clinical guidelines for preventive physical examinations and as defined by the department. Oral examinations must be performed by a dental provider consistent with standard oral health guidelines for preventive dental examinations and as defined by the department.

*b.* A health risk assessment is an assessment offered by a managed care plan through which the member is receiving Iowa Health and Wellness Plan benefits.

**441—74.12(249A) Benefits and service delivery.** Covered benefits and the service delivery method shall be determined by the member's health status.

**74.12(1) Iowa wellness plan services.** Members shall be enrolled in the Iowa Health and Wellness Plan unless the member is determined by the department to be a medically exempt individual.

*a.* Covered Iowa wellness plan services are essential health benefits; all other benefits required pursuant to 42 U.S.C. §1396u-7(b)(1)(B), including prescription drugs; and dental services consistent with 441—Chapter 78.

*b.* Members enrolled in the Iowa Health and Wellness Plan shall be subject to enrollment in managed care, other than program for all-inclusive care for the elderly (PACE) programs, pursuant to 441—Chapter 73.

*c.* Dental services shall be provided under the Iowa Dental Wellness Plan as set forth in 441—Chapter 73 through a contract with one or more dental prepaid ambulatory health plans. The department may restrict member access to those dental prepaid ambulatory health plans with which

## HUMAN SERVICES DEPARTMENT[441](cont'd)

the department contracts. The dental prepaid ambulatory health plan shall provide the member with a dental card identifying the member as eligible for dental services.

**74.12(2) *Medically exempt individuals.*** An Iowa Health and Wellness Plan member who has been determined by the department to be a medically exempt individual shall be given the choice of the benefits and service delivery method provided by the Iowa wellness plan or receiving benefits and services pursuant to 441—Chapter 78.

*a.* A member may attest to being a medically exempt individual by submitting a completed Form 470-5194.

*b.* A provider with a current national provider identifier number, an employee of the department, a designee of the department of corrections, a managed care organization, or a mental health and disability services region established pursuant to Iowa Code sections 331.388 to 331.399 may refer a member for a medically exempt individual determination by submitting a completed Form 470-5198.

*c.* Upon receipt of Form 470-5194 or 470-5198, the department shall determine whether the member qualifies as a medically exempt individual in accordance with 42 CFR §440.315 as amended to May 16, 2022.

**74.12(3) *Qualified employer-sponsored coverage.*** An individual who has access to cost-effective, employer-sponsored coverage shall be subject to enrollment in the health insurance premium payment program pursuant to 441—Chapter 75.

**441—74.13(249A,249N) Claims and reimbursement methodologies.** Payment for services provided under the Iowa wellness plan services shall be provided in accordance with 441—Chapter 79 or as provided in a contract between the department or the member’s managed care organization and the provider.

**441—74.14(249A,249N) Discontinuance of program.**

**74.14(1)** If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state, or if federal law or regulation affecting eligibility or benefits for the Iowa wellness plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

**74.14(2)** If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below 90 percent but not below 85 percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.

These rules are intended to implement Iowa Code chapters 249A and 249N.

**ARC 6766C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to quality incentive payment program and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

This proposed rule making provides for a quality incentive payment program (QIPP) for non-state government owned (NSGO) nursing facilities to promote, maintain and improve quality of care and health outcomes. The proposed amendments identify the criteria the NSGO facility must meet to qualify for participation in the program. The goal is to issue additional payments for quality of care above what is required by the Centers for Medicare and Medicaid Services. There is no fiscal impact anticipated because the provider/nursing facility will be paying the state share of the add-on rate, similar to other intergovernmental transfer programs.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. However, there will be a fiscal impact to counties or other local governmental agencies because they will be responsible for providing the provider's state share, which is completed through the intergovernmental transfer process.

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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*

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).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The following rule-making actions are proposed:

ITEM 1. Strike “non-state-owned nursing facility,” “non-state-owned facility,” and “non-state-operated nursing facility” wherever they appear in **441—Chapter 81** and insert “non-state government owned nursing facility” in lieu thereof.

ITEM 2. Strike “non-state-owned nursing facilities,” “non-state-owned facilities,” and “non-state-operated nursing facilities” wherever they appear in **441—Chapter 81** and insert “non-state government owned nursing facilities” in lieu thereof.

ITEM 3. Adopt the following new definition of “Non-state government owned nursing facility” in rule **441—81.1(249)** as follows:

“*Non-state government owned nursing facility*” or “*NSGO nursing facility*” is a nursing facility owned by a governmental entity that is not the state.

ITEM 4. Amend subparagraph **81.6(16)“c”(2)** as follows:

(2) Effective July 1, 2003, and each second year thereafter, the patient-day-weighted medians used in rate setting shall be recalculated. The ~~non-state-owned~~ non-state government owned nursing facility direct care and non-direct care patient-day-weighted medians and the Medicare-certified hospital-based nursing facility direct care and non-direct care patient-day-weighted medians shall be calculated using the latest completed cost report with a fiscal year end of the preceding December 31 or earlier. When patient-day-weighted medians are recalculated, inflation is applied from the midpoint of the cost report period to the first day of the state fiscal year rate period using the inflation factor specified in subrule 81.6(18).

ITEM 5. Adopt the following new paragraph **81.6(16)“i”**:

*i.* Quality incentive payment program (QIPP). The QIPP add-on rate shall be made to a qualified non-state government owned nursing facility (NSGO nursing facility) to promote, maintain, and improve resident quality of care and health outcomes.

(1) An NSGO nursing facility shall qualify for participation in the QIPP if all the following conditions are met:

1. The NSGO nursing facility has executed a participation agreement with the department.
2. The NSGO nursing facility has provided proof that the entity holds the NSGO nursing facility’s license and has complete operational responsibility for the NSGO nursing facility.
3. The NSGO nursing facility has filed a certification of eligibility application for the QIPP add-on rate program with the department and has received approval from the department for participation in the program.
4. The NSGO nursing facility is in compliance with all care criteria requirements.
5. The non-state government entity (NSGE) has executed a nursing facility provider contract with an NSGO nursing facility.
6. The NSGE has provided and identified the source of state share dollars for the intergovernmental transfer (IGT).
7. The NSGO nursing facility has provided proof of ownership, if applicable, as the licensed operator of the NSGO nursing facility.
8. The NSGO nursing facility has provided to the department an executed management agreement between the NSGE and the NSGO nursing facility manager if applicable.

(2) If at any time a provider is determined not eligible due to not meeting survey standards, the provider will be disqualified for the remainder of the year.

(3) An NSGO nursing facility shall qualify for participation in the QIPP if all the following quality measures are met:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Quality Measures	Metrics	Tracking/Scoring	Data Resource
<b>Staffing</b>	<p><b>Metric 1:</b> Nursing facility maintains an additional four or more hours of registered nurse (RN) coverage per day beyond the CMS minimum standard (8 hrs/day). Does not include managerial hours.</p> <p><b>Metric 2:</b> Nursing facility's per-resident day certified nursing assistants (CNAs), rehabilitation aid, and other contracted aid services are at or above one-half standard deviation above the statewide mean of per-resident-day CNA hours. CNA hours include those of CNAs, rehabilitation aid, and other contracted aide services. CNA hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.</p> <p><b>Metric 3:</b> Nursing facility's per-resident day total nursing hours are at or above one-half standard deviation above the statewide mean of per-resident-day total nursing hours. Nursing hours include those of RNs and licensed practical nurses (LPNs) including restorative nurses. Nursing hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.</p>	Staffing metrics 1, 2, and 3 must be met for facility to be eligible for per diem rate add-on payment.	Payroll-based journal (PBJ) or cost reports
<b>Infection Control</b>	<p><b>Metric 1:</b> Nursing facility has an infection control program that includes antibiotic stewardship. The program incorporates policies and training as well as monitoring, documenting, and providing staff with feedback.</p> <p><b>Metric 2:</b> Percentage of residents with urinary tract infections (UTIs) at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on minimum data set (MDS) data as applied to the nationally reported quality measures.</p> <p><b>Metric 3:</b> Percentage of residents with up-to-date pneumonia vaccine measured against a fixed benchmark that is set as the most recently published national average for the related MDS quality metric.</p>	Infection control metrics 1, 2, and 3 must be met for facility to be eligible for per diem rate add-on payment.	Nursing facility will be required to provide its infection control policy and procedure. In addition, facilities will need to provide information regarding training, monitoring, documentation and monitoring of required elements to meet this metric on a periodic basis CASPER Report MDS Assessment Care Compare
<b>Quality Measures</b>	<p><b>Metric 1:</b> Percentage of high-risk residents with pressure ulcers (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p> <p><b>Metric 2:</b> Percentage of residents who had a fall with major injury (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>	Quality measures metrics 1, 2, 3, and 4 must be met for the facility to be eligible for per diem rate add-on payment.	CASPER Report MDS Assessment Care Compare

HUMAN SERVICES DEPARTMENT[441](cont'd)

**Metric 3:** Percentage of residents who received antipsychotic medications are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.

**Metric 4:** Percentage of residents who required increased activities of daily living (ADL) assistance (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.

<b>State Survey Results</b>	Number of deficiencies is at or below the state of Iowa average number of nursing facility deficiencies AND the facility has no deficiencies with a scope of F, H, I, J, K, or L.	State survey results must be met for the facility to be eligible for per diem rate add-on payment.	Department of inspections and appeals (DIA) surveys
<b>Quality Assurance Performance Improvement (QAPI) Report</b>	Nursing facility must submit QAPI reports on quarterly basis.	QAPI results must be submitted for the facility to be eligible for per diem rate add-on payment.	QAPI reports

(3) A provider must submit the Intent to Participate Agreement on or before September 30 each year and include all necessary documentation related to the quality measures.

1. Upon receipt of the participation agreement, the department will complete a determination of eligibility based on the care criteria defined above.

2. Providers will be notified of their eligibility annually within 60 days of the agreement due date.

(4) The nursing facility QIPP add-on rate provided to a participating NSGO nursing facility under the QIPP shall not exceed Medicare payment principles pursuant to 42 CFR §447.272 and shall be calculated pursuant to 42 CFR §438.6. The QIPP add-on rate shall be calculated and paid as follows:

1. The methodology utilized to calculate the upper payment limit shall be based on the data available during the calculation period.

2. The eligible amount used in determining the QIPP add-on rate shall be the difference between the state Medicaid payment and the Medicare upper payment limit as determined, on an annual basis, using all Medicaid claims, including fee-for-service (FFS) and Medicaid managed care claims.

3. The difference calculated under numbered paragraph “2” shall be divided by total patient days pursuant to subrule 81.6(7).

4. The QIPP add-on rate shall be paid prospectively.

(5) A participating NSGO nursing facility shall notify the department of any change of ownership that may affect the participating NSGO nursing facility’s continued eligibility for the QIPP a minimum of 30 days prior to such change.

1. If a participating NSGO nursing facility changes ownership to a privately owned entity, on or after the first day of the QIPP add-on rate calculation period, the privately owned provider is no longer eligible for the QIPP add-on rate.

2. A participating facility must meet the CMS and Iowa Medicaid requirements to be classified as an NSGO nursing facility. All changes of ownership must be a fair market value transaction.

3. If it is determined that a provider is not a qualified NSGO nursing facility per CMS and Iowa Medicaid, the provider shall repay all QIPP add-on payments to the department.

(6) Providers that do not meet eligibility requirements above will be notified of the metrics that were not met.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(7) A participating NSGO nursing facility shall secure allowable intergovernmental transfer funds from a participating NSGE to provide the state share amount. The process for the intergovernmental transfer shall comply with the following:

1. The department, or the department's designee, shall notify the participating NSGO nursing facility of the state share amount to be transferred in the form of an intergovernmental transfer for purposes of seeking federal financial participation for the QIPP add-on rate, within 15 business days after the end of each month. The participating NSGO shall have until the end of the month to remit payment of the state share amount in the form of an intergovernmental transfer to the department or the department's designee.

2. If there is any outstanding intergovernmental transfer amount at the end of the payment period, the provider will not be able to participate in the QIPP the following year.

**ARC 6767C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to nursing facility renovations and Medicaid utilization rates and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2578.

*Purpose and Summary*

2022 Iowa Acts, House File 2578, reduced to \$750,000 the cost that an improvement project to an existing licensed and certified nursing facility must exceed for the project to meet the definition of "major renovations."

The previous amount was \$1.5 million. This proposed rule making lowers the threshold to the \$750,000 amount. These amendments also include HVAC projects as qualifying projects. Calculation of Medicaid utilization rates is also established as part of this proposed rule making.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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*

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 actions are proposed:

ITEM 1. Amend rule **441—81.1(249A)**, definition of “Major renovations,” as follows:

“*Major renovations*” means new construction or facility improvements to an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds ~~\$1.5 million~~ \$750,000. The ~~\$1.5 million~~ \$750,000 threshold shall be calculated based on the total depreciable asset value of new construction or facility improvements placed into service during a two-year period ending on the date the last asset was placed into service. When the property costs of an asset have been included in a facility’s financial and statistical report that has already been used in a biennial rebasing, the costs of that asset shall not be considered in determining whether the facility meets the ~~\$1.5 million~~ \$750,000 threshold.

ITEM 2. Amend subparagraph **81.6(16)“h”(2)** as follows:

(2) Eligible projects. To qualify for either the capital cost per diem instant relief add-on or the enhanced non-direct care rate component limit, a facility must have undertaken a complete replacement, new construction, or major renovations for the purpose of:

1. Rectification of a violation of Life Safety Code requirements; or
2. Development of home- and community-based waiver program services; or
3. Improving infection control by replacing or enhancing an HVAC system, as defined in Iowa Code section 105.2.

ITEM 3. Amend subparagraph **81.6(16)“h”(3)** as follows:

(3) Additional requirements for all requests. To qualify for additional reimbursement, a facility with an eligible project must also meet the following requirements:

1. The facility has Medicaid utilization at or above 40 percent ~~for the two-month period before the request for additional reimbursement is submitted.~~ Medicaid utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total licensed bed capacity as reported on the facility’s most current financial and statistical report. Medicaid patient day utilization for this purpose



HUMAN SERVICES DEPARTMENT[441](cont'd)

is calculated as total nursing facility Medicaid patient days divided by total patient days as reported on the facility's most current financial and statistical report. Medicaid hospice patient days shall be counted toward the total nursing facility Medicaid patient days.

2. to 4. No change.

**ARC 6768C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rule making related to family-centered services and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 172, "Family-Centered Services," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 234.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6.

#### *Purpose and Summary*

This chapter was reviewed as part of the Department's five-year rules review. Chapter 172, governing family-centered services, defines and describes procedures for delivery of services for the child, parent or kinship caregiver when the needs of any one of these individuals are directly related to the safety, permanency or well-being of the child, or to prevent the child from entering foster care. The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child.

These proposed amendments add and update definitions of services. The proposed amendments remove Solution Based Casework® as a requirement for non-agency-involved cases. In addition, the purpose and scope of the chapter are clarified.

#### *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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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*

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 actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Kinship navigator services” and “Solution focused meeting” in rule **441—172.1(234)**:

“*Kinship navigator services*” means the services and supports providing information, referral, and follow-up to kinship caregivers who are caring for and raising children to link kinship caregivers to benefits and other resources they need.

“*Solution focused meeting*” means a gathering of family members, friends, and formal and informal supports, with the assistance of a trained facilitator, to draw on past successes of the family in problem solving and work in partnership with the family to enhance safety of the children.

ITEM 2. Amend rule 441—172.2(234), introductory paragraph, as follows:

**441—172.2(234) Purpose and scope.** Family-centered services are services designed for the child, parent, or kinship caregiver of the child to prevent the child from entering foster care and to assist the family when the needs of the child, parent, or kinship caregiver ~~for the services~~ are directly related to the safety, permanency, or well-being of the child, ~~or to preventing the child from entering foster care.~~ The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child.

ITEM 3. Amend subrule 172.2(5) as follows:

**172.2(5)** Family-centered services shall include SBC for agency child welfare service cases ~~and non-agency involved cases~~ when criteria in subrule 172.2(1) are met.

ITEM 4. Amend subrule 172.2(6) as follows:

**172.2(6)** Based on child and family needs, a child and family with an open agency child welfare service case that are receiving SBC may also be approved to receive the following additional services, which are referred separately:

- a. SafeCare®.
- b. Family preservation services.
- c. ~~Family team decision-making (FTDM)~~ Solution focused meeting (SFM) and youth transition decision-making (YTDM) meeting facilitation.

**ARC 6771C****LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to five-year rules review  
and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 1, “Description of Organization and Procedures Before the Division,” Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Chapter 9, “Discrimination Against Employees,” Chapter 10, “General Industry Safety and Health Rules,” Chapter 160, “Employer Requirements Relating to Non-English Speaking Employees,” Chapter 169, “General Requirements for Athletic Events,” Chapter 176, “Professional Kickboxing,” Chapter 215, “Minimum Wage Scope and Coverage,” Chapter 216, “Records to Be Kept by Employers,” Chapter 217, “Wage Payments,” and Chapter 220, “Application of the Fair Labor Standards Act to Employees of State and Local Governments,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 91.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 88, 90A, 91, 91D and 91E.

*Purpose and Summary*

This rule making proposes amendments based on the Division of Labor Services’ five-year rules review.

*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*

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 875—Chapter 1.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Lanny Zieman  
Division of Labor Services  
150 Des Moines Street  
Des Moines, Iowa 50309  
Email: [lanny.zieman@iwd.iowa.gov](mailto:lanny.zieman@iwd.iowa.gov)

LABOR SERVICES DIVISION[875](cont'd)

*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*

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 actions are proposed:

ITEM 1. Amend subrule 1.12(1) as follows:

**1.12(1) Filing a request.** A request for access to a record may be sent to the division at ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa 50319, or ~~open.records@iwd.iowa.gov~~ submitted at iowaopenrecords.nextrequest.com. A request for access may be sent via facsimile to (515)281-7995 or may be delivered to the division’s office at 150 Des Moines Street, Des Moines, Iowa. If a request for access to a record is misdirected, division personnel will promptly forward the request to the appropriate person within the division.

ITEM 2. Amend rule 875—1.71(17A) as follows:

**875—1.71(17A) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this ~~division~~ chapter. However, the division in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

ITEM 3. Amend subrule 1.85(6) as follows:

**1.85(6)** “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.977.

ITEM 4. Amend subrules 3.22(1) and 3.22(2) as follows:

**3.22(1) Training format.** The employer may present the training program to the employee in any format; however, the employer shall preserve a written summary and synopsis of the training, a ~~cassette tape~~ recording of an oral presentation, or a ~~videotape~~ video recording of an audio-video presentation of the training relied upon by the employer for compliance with 29 CFR 1910.1200(h), and shall allow employees and their designated representatives access to the written synopsis, ~~tape~~ recording, or ~~videotape~~ video recording.

**3.22(2) Review by the division.** The training program shall be available for review and approval upon inspection by the division. Upon request by the commissioner, the employer shall make available the written synopsis, ~~cassette-tape~~ recording, or ~~videotape~~ video recording used or prepared by the employer. The commissioner may conduct an inspection to review an actual training program or review the employer’s records of a training program.

ITEM 5. Amend paragraph **4.3(2)“a”** as follows:

a. Completing the incident report form available at [www.iowaosha.gov](http://www.iowaosha.gov) and faxing the completed form to ~~(515)242-5076~~ (515)281-7995 or sending the completed form to [osha@iwd.iowa.gov](mailto:osha@iwd.iowa.gov);

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 6. Amend rule 875—9.3(88) as follows:

**875—9.3(88) General requirements of Iowa Code section 88.9(3).** ~~Section Iowa Code section 88.9(3)~~ provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Instituted or caused to be instituted any proceeding under or related to the Act;
3. Testified or is about to testify in any proceeding under the Act or related to the Act; or
4. Exercised on the employee's own behalf or on behalf of others any right afforded by the Act.

Any employee who believes that the employee has been discriminated against in violation of Iowa Code section 88.9(3) may, within 30 days after such violation occurs, lodge a complaint with the commissioner of labor alleging the violation. The commissioner shall then cause an appropriate investigation to be made. If, as a result of the investigation, the commissioner determines that the provisions of Iowa Code section 88.9(3) have been violated, civil action may be instituted in any appropriate district court, to restrain violations of Iowa Code section 88.9(3) and to obtain other appropriate relief, including rehiring or reinstatement of the employee to the former position with backpay. ~~Section Iowa Code section 88.9(3)~~ further provides for notification of complainants by the commissioner of determinations made pursuant to their complaints.

ITEM 7. Amend rule 875—9.4(88) as follows:

**875—9.4(88) Persons prohibited from discriminating.** Iowa Code section 88.9(3) provides that a person shall not discharge or in any manner discriminate against an employee because the employee has exercised rights under the Act. ~~Section Iowa Code section 88.3(9)~~ defines “person” as “one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.” Consequently, the prohibitions of Iowa Code section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. ~~Section Iowa Code section 88.9(3)~~ would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

ITEM 8. Amend subrule 9.5(1) as follows:

**9.5(1)** All employees are afforded the full protection of Iowa Code section 88.9(3). For purposes of the Act, an employee is defined as “an employee of an employer who is employed in a business of his employer.”

ITEM 9. Amend subrule 9.6(2) as follows:

**9.6(2)** At the same time, to establish a violation of Iowa Code section 88.9(3), the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place “but for” engagement in protected activity, Iowa Code section 88.9(3) has been violated. Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

ITEM 10. Amend subrule 9.10(1) as follows:

**9.10(1)** Discharge of, or discrimination against, any employee because the employee has “instituted or caused to be instituted any proceeding under or related to this Act” is also prohibited by Iowa Code section 88.9(3). Examples of proceedings which could arise specifically under the Act would be inspections of workplaces under Iowa Code section 88.6, an employee contest of an abatement date under Iowa Code section 88.8(3), an employee application for modification or revocation of a variance under Iowa Code section 88.5 and an employee appeal of an order of the employment appeal board under Iowa Code section 88.9(1). In determining whether a “proceeding” is “related to” the Act, the considerations discussed in rule ~~875—8.9(88)~~ 875—9.9(88) would also be applicable.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 11. Amend subrule 9.15(2) as follows:

**9.15(2)** Iowa Code section 88.9(3) provides that an employee who believes discriminatory actions have occurred in violation of Iowa Code section 88.9(3) “may, within 30 days after such violation occurs,” file a complaint with the commissioner. The major purpose of the 30-day period in this provision is to allow the commissioner to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action or where the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances which do not justify tolling of the 30-day period. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

ITEM 12. Amend rule 875—9.16(88) as follows:

**875—9.16(88) Notice of determination.** Iowa Code ~~subsection~~ section 88.9(3) provides that within 90 days of the filing of a complaint, the commissioner is to notify a complainant whether prohibited discrimination occurred. This 90-day provision is considered to be directory in nature. While every effort will be made to notify complainants of the commissioner’s determination within 90 days, there may be instances when it is not possible to meet the directory period set forth in Iowa Code ~~subsection~~ section 88.9(3).

ITEM 13. Amend rule 875—9.18(88) as follows:

**875—9.18(88) Arbitration or other agency proceedings.**

**9.18(1)** An employee who files a complaint under Iowa Code section 88.9(3) of the Act may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board or the ~~Iowa department of personnel~~ department of administrative services. The commissioner’s jurisdiction to entertain Iowa Code section 88.9(3) complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of the other agencies or bodies. The commissioner may file action in district court regardless of the pendency of other proceedings. However, the commissioner also recognizes the policy favoring voluntary resolution of disputes under proceedings in collective bargaining agreements. By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to Iowa Code section 88.9(3) complaints. Where a complainant is in fact pursuing remedies other than those provided by Iowa Code section 88.9(3), postponement of the commissioner’s determination and deferral to the results of such proceedings may be in order.

**9.18(2)** Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under Iowa Code section 88.9(3) and those proceedings are not likely to violate the rights guaranteed by Iowa Code section 88.9(3). The factual issues in such proceedings must be substantially the same as those raised by ~~a~~ an Iowa Code section 88.9(3) complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

**9.18(3)** A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, the dismissal will not ordinarily be regarded as determinative of the Iowa Code section 88.9(3) complaint.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 14. Amend rule 875—9.21(88) as follows:

**875—9.21(88) Walkaround pay disputes.** An employer's failure to pay employees for time during which they are engaged in walkaround inspections, or in other inspection-related activities, such as responding to questions of compliance officers, or participating in the opening and closing conferences, is discriminatory under ~~section~~ Iowa Code section 88.9(3) so long as neither the number of employees participating nor the time required to express employee concerns is excessive. An authorized employee representative shall be given the opportunity to accompany on the physical inspection pursuant to Iowa Code section 88.6(4) and rule 875—3.6(88).

This rule is intended to implement Iowa Code section 88.9(3).

ITEM 15. Amend rule 875—9.22(88) as follows:

**875—9.22(88) Employee refusal to comply with safety rules.** Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Iowa Code section 88.9(3). This situation should be distinguished from refusals to work, as discussed in rule ~~875—8.12(88)~~ 875—9.12(88).

ITEM 16. Amend subrule 10.2(3) as follows:

**10.2(3)** However, any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for the industry, as in 1910.12, 1910.261, 1910.262, 1910.263, 1910.264, 1910.265, 1910.266, ~~1910.267~~, and 1910.268 of 29 CFR 1910, to the extent that none of such particular standards applies.

ITEM 17. Amend **875—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~88.5(12)~~ 88.5(11).

ITEM 18. Amend rule 875—160.1(91E) as follows:

**875—160.1(91E) Purpose and scope.** The rules in this chapter are intended to implement and clarify the division of ~~labor's~~ labor services' responsibilities under Iowa Code chapter 91E. These rules apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.

ITEM 19. Amend **875—Chapter 169**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 90A ~~as amended by 2013 Iowa Acts, Senate File 430.~~

ITEM 20. Rescind rule 875—176.2(90A) and adopt the following **new** rule in lieu thereof:

**875—176.2(90A) GLORY rules adopted by reference.** The labor commissioner adopts by reference the kickboxing rules and regulations of the GLORY Kickboxing used for all GLORY Kickboxing matches and events. These rules and regulations are published by GLORY at [glorykickboxing.com/rules](http://glorykickboxing.com/rules).

ITEM 21. Amend rule 875—176.3(90A) as follows:

**875—176.3(90A) Professional boxing rules adopted by reference.** The following rules from 875—Chapter 173, Professional Boxing, are adopted by reference as kickboxing rules:

1. ~~875—173.3(90A) (Age restrictions);~~
2. 1. 875—173.6(90A) (~~Number~~ Limitations on number of bouts);
3. 2. 875—173.7(90A) (~~Contestant's~~ Contestants' arrival); and
4. 3. 875—173.18(90A) (Attendance of commissioner);
5. ~~875—173.22(90A) (Public safety);~~
6. ~~875—173.25(90A) (Locker rooms); and~~
7. ~~875—173.26(90A) (Contracts).~~

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 22. Amend rule 875—215.1(91D) as follows:

**875—215.1(91D) Requirement to pay.**

~~215.1(1)~~ Every employer shall pay to each of the employer's employees performing work in this state wages of not less than the applicable minimum hourly wage set forth in Iowa Code section 91D.1 as amended by 2007 Iowa Acts, House File 1, unless otherwise noted in 875—Chapters 215 through 220.

~~215.1(2)~~ Rescinded IAB 12/12/01, effective 1/16/02.

~~215.1(3)~~ Rescinded IAB 11/23/94, effective 1/1/95.

ITEM 23. Amend subrule 215.2(1) as follows:

**215.2(1)** The 90-calendar-day period set forth in Iowa Code section 91D.1(1) "d" as amended by 2007 Iowa Acts, House File 1, is counted from the employee's initial day of work.

ITEM 24. Amend paragraph **215.3(11)"a"** as follows:

a. Is an enterprise, other than an enterprise which is comprised exclusively of retail or service establishments and which is described in 215.3(11) "b," whose annual gross volume of sales made or business done (exclusive of excise taxes at the retail level which are separately stated) is not less than ~~\$250,000~~ \$300,000;

ITEM 25. Amend subrule 216.1(4) as follows:

**216.1(4)** *Initial employment wage rate—employer's record.* If the employer pays an initial employment wage rate as specified in Iowa Code section ~~91D.1(1)"d"~~ as amended by 2007 Iowa Acts, House File 1, 91D.1(1)"d," the employer's records shall include an indication as to the starting and ending date the employee is paid the initial employment wage rate.

SOURCE: 29 CFR 516.1.

ITEM 26. Amend rule 875—216.4(91D) as follows:

**875—216.4(91D) Posting of notices.** Every employer employing any employees subject to the minimum wage provisions of the Iowa minimum wage Act shall post and keep posted a notice explaining the Act, as prescribed by the division of labor services, in conspicuous places in every establishment where such employees are employed so as to permit them to readily observe a copy.

SOURCE: 29 CFR 516.4.

ITEM 27. Amend rule 875—216.8(91D) as follows:

**875—216.8(91D) Computations and reports.** Each employer required to maintain records under this chapter shall make extension, recomputation, or transcription of the records and shall submit to the division of labor services the reports concerning persons employed and the wages, hours, and other conditions and practices of employment set forth in the records as the commissioner may request in writing.

SOURCE: 29 CFR 516.8.

ITEM 28. Amend subrule 216.30(3) as follows:

**216.30(3)** The initial employment wage rate established in Iowa Code section 91D.1(1) "d" as amended by 2007 Iowa Acts, House File 1, shall be the basis for initial employment under this rule. The amount approved by a special order by the Secretary of Labor shall be effective if more than the amount specified in Iowa Code section ~~91D.1(1)"d"~~ as amended by 2007 Iowa Acts, House File 1, 91D.1(1)"d." If the Secretary of Labor's approved rate is lower than the initial employment wage rate, the initial employment wage rate shall be applicable for the period covered by the Secretary of Labor's order.



LABOR SERVICES DIVISION[875](cont'd)

ITEM 29. Amend subrule 217.39(2) as follows:

**217.39(2)** The amount of any individual's earnings withheld by means of any legal or equitable procedure for the payment of any debt may not exceed the restriction imposed by state or federal garnishment laws; Iowa Code section ~~642.21(1989)~~ 642.21 or the federal Consumer Protection Act, Title III, 15 U.S.C. Sections ~~1671-1677(1982)~~ 1671-1677.

SOURCE: 29 CFR 531.39.

ITEM 30. Amend paragraph **220.226(2)“c”** as follows:

c. Time spent in the training described in ~~220.226(1)“a”~~ paragraph 220.226(2)“a” or “b” is not compensable, even if all or part of the cost of the training is borne by the employer.

**ARC 6769C**

## **PROFESSIONAL LICENSURE DIVISION[645]**

### **Notice of Intended Action**

#### **Proposing rule making related to five-year review of psychologist rules and providing an opportunity for public comment**

The Board of Psychology hereby proposes to amend Chapter 5, “Fees,” Chapter 240, “Licensure of Psychologists,” Chapter 241, “Continuing Education for Psychologists,” Chapter 242, “Discipline for Psychologists,” and Chapter 243, “Practice of Psychology,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 147.76 and 2022 Iowa Acts, House File 2246.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 147.76 and 2022 Iowa Acts, House File 2246.

#### *Purpose and Summary*

The Board reviewed Chapters 240 through 244 as part of a rolling five-year review to update outdated, redundant, or inconsistent rules. The proposed amendments change the process of applying for endorsement or reactivation by requiring an applicant to only provide verification of licensure from the jurisdiction in which the applicant was most recently licensed and to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed.

This proposed rule making also incorporates revisions to add provisional licensing for predoctoral psychologists pursuant to 2022 Iowa Acts, House File 2246. The proposed amendments change the provisional license to include persons who are completing a predoctoral internship or postdoctoral residency and clarify title designations and update the fee for a provisional license. They also clarify examination eligibility, postdoctoral residency requirements, continuing education requirements for provisional license renewal, and psychologists' supervision of unlicensed individuals. In addition, the proposed amendments clarify that test materials should only be released to other psychologists with written consent.

#### *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.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*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 Board no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Tony Alden  
Professional Licensure Division  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.281.4401  
Fax: 515.281.3121  
Email: [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 17, 2023  
9 to 9:30 a.m.

Fifth Floor Conference Room 526  
Lucas State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*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).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 5.16(14) as follows:

**5.16(14)** Provisional license renewal fee is ~~\$170~~ \$120.

ITEM 2. Amend rule **645—240.1(154B)**, definition of “Provisional license,” as follows:

*“Provisional license”* means a license issued to a person who ~~has met the educational qualifications~~ is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure and is engaged in professional experience under supervision.

ITEM 3. Rescind paragraph **240.3(2)“b.”**

ITEM 4. Reletter paragraphs **240.3(2)“c”** and **“d”** as **240.3(2)“b”** and **“c.”**

ITEM 5. Amend subrule 240.4(1) as follows:

**240.4(1)** To be eligible to take the national examination, the applicant shall:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* Meet all requirements of subrules 240.2(1) to 240.2(3); and  
*b.* Provide official copies of academic transcripts sent directly from the school to the board of psychology; ~~and verifying completion of a doctoral degree in psychology in accordance with rule 645—240.3(154B).~~

~~*c.* Provide the completed supervision registration form according to the instructions on the form.~~

ITEM 6. Amend rule 645—240.5(154B,147) as follows:

**645—240.5(154B,147) Title designations.**

**240.5(1)** Students who are enrolled in an education program that satisfies the requirements of subrule 240.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

~~**240.5(1)**~~ **240.5(2)** Applicants for licensure who have met educational requirements and who are fulfilling the experience requirements specified herein completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” or “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except ~~in the employment and supervised experience during a postdoctoral residency that meet~~ meets the requirements of ~~subrules 240.6(1) and 240.6(2)~~ rule 645—240.6(154B).

~~**240.5(2)**~~ **240.5(3)** Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

~~**240.5(3)**~~ **240.5(4)** A licensed psychologist who possesses a doctoral degree may use the prefix “Dr.” or “Doctor” but shall add after the person’s name the word “psychologist.”

ITEM 7. Rescind rule 645—240.6(154B) and adopt the following new rule in lieu thereof:

**645—240.6(154B) Postdoctoral residency.**

**240.6(1)** The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

**240.6(2)** During the postdoctoral residency, the supervisee shall competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

*a.* The supervisee and supervisor shall complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

*b.* A supervisor shall not have more than three concurrent full-time supervisees.

*c.* The supervisee and supervisor shall meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.

*d.* The supervisor shall provide supervision at all times, which means the supervisor shall be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor shall identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.

*e.* The supervisee and supervisor shall have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.

*f.* The supervisor shall establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

*g.* The supervisor shall provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.

*h.* The supervisor and supervisee shall ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.

*i.* The supervisor must have reasonable access to the clinical records corresponding to the work being supervised. The supervisor shall countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.

*j.* All services must be offered in the name of the supervisor. The supervisee and supervisor must ensure that the supervisee uses a title in accordance with rule 645—240.5(154B,147).

*k.* The fee schedule and receipt of payment shall remain the sole domain of the supervisor or employing agency.

*l.* The supervisor shall maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.

*m.* The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

This rule is intended to implement Iowa Code section 154B.6.

ITEM 8. Amend paragraph **240.7(1)“a”** as follows:

*a.* Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.7(2) and at least one year of clinical experience in a health service setting that meets the requirements for ~~supervised professional experience~~ postdoctoral residency stated in subrules 240.6(1) and 240.6(2) rule 645—240.6(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Providers in Psychology to verify completion of the required clinical experience.

ITEM 9. Amend rule 645—240.9(154B) as follows:

**645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting.**

**240.9(1)** This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 645—240.6(154B), regardless of whether the individual is provisionally licensed or not.

**240.9(2)** The supervising psychologist shall:

1. *a.* Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. *b.* Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. *c.* Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. *d.* Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working ~~off-site~~ off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider ~~on-site~~ on site whenever the supervisee is working for purposes of providing emergency consultation.

5. *e.* Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

6. f. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

7. g. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. h. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. i. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. j. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. l. Maintain an ongoing record of supervision ~~which~~ that details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. m. Countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervising psychologist.

ITEM 10. Amend subrule 240.10(3) as follows:

**240.10(3)** Provides verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

ITEM 11. Rescind rule 645—240.12(85GA,ch1043) and adopt the following new rule in lieu thereof:

**645—240.12(154B) Requirements for provisional license.**

**240.12(1)** *Predoctoral internship.* An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

- a. A completed provisional license application. Applications are obtained and submitted via the board's website at [ibplicense.iowa.gov](http://ibplicense.iowa.gov).
- b. The provisional application fee payable to the Board of Psychology. The fee is nonrefundable.
- c. A copy of the applicant's acceptance letter for the predoctoral internship.
- d. Identification of the training director and the training director's contact information.
- e. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 645—240.3(154B).

**240.12(2)** *Postdoctoral residency.* An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

- a. A completed provisional license application. Applications are obtained and submitted via the board's website at [ibplicense.iowa.gov](http://ibplicense.iowa.gov).
- b. The provisional application fee payable to the Board of Psychology. The fee is nonrefundable.
- c. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 645—240.3(154B) are met.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*d.* A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

**240.12(3) Duration.** The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a.* A provisional license renewal application;
- b.* A provisional license renewal fee; and
- c.* A current supervision plan as required in these rules.

This rule is intended to implement Iowa Code section 154B.6.

ITEM 12. Amend subrule 240.13(7) as follows:

**240.13(7) Late renewal.**

*a.* The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

~~*b.*~~ To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

~~*b.*—No continuing education shall be required.~~

ITEM 13. Rescind rule 645—240.14(17A,147,272C) and adopt the following **new** rule in lieu thereof:

**645—240.14(147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**240.14(1)** Submit a reactivation application on a form provided by the board.

**240.14(2)** Pay the reactivation fee that is due as specified in 645—Chapter 5.

**240.14(3)** Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a.* Licensee's name;
- b.* Date of initial licensure;
- c.* Current licensure status; and
- d.* Any disciplinary action taken against the license.

**240.14(4)** Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

This rule is intended to implement Iowa Code section 147.11.

ITEM 14. Amend rule **645—241.1(272C)**, definition of "Licensee," as follows:

"*Licensee*" means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

ITEM 15. Adopt the following **new** subrule 241.2(6):

**241.2(6)** No hours of continuing education are required to renew a provisional license.

ITEM 16. Amend subrule 241.3(2) as follows:

**241.3(2) Specific criteria.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members ~~appointed to a first term beginning May 1, 2013, or later~~, a maximum of 2 of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. ~~Effective July 1, 2014, a~~ A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

ITEM 17. Amend subrule 242.2(1) as follows:

**242.2(1)** Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments to January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at [www.apa.org](http://www.apa.org).

ITEM 18. Amend subrule 242.2(26) as follows:

**242.2(26)** Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: [www.idph.state.ia.us/licensure](http://www.idph.state.ia.us/licensure) [idph.iowa.gov/licensure](http://idph.iowa.gov/licensure).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 19. Adopt the following **new** definition of “Test materials” in rule **645—243.1(154B)**:  
“*Test materials*” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

ITEM 20. Adopt the following **new** subrule 243.4(3):  
**243.4(3) Release of test materials.** A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

**ARC 6770C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to foreign certificates of title  
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.23(3) as amended by 2022 Iowa Acts, House File 2341.

*Purpose and Summary*

This proposed rule making updates Chapter 400 to conform the rules with 2022 Iowa Acts, House File 2341. This legislation creates a new exception from the requirement that a holder of a foreign certificate of title with an Iowa nontransferable registration must first obtain an Iowa title before transferring the vehicle. Iowa Code section 321.23 requires that an owner who has registered a foreign vehicle in Iowa, but has a foreign certificate of title, cannot transfer the vehicle before applying for and receiving an Iowa certificate of title. The new exception will allow an owner to transfer the foreign certificate of title to an insurance carrier authorized to do business in Iowa if at the time of transfer the foreign certificate of title is held by a secured party and the insurance carrier has forwarded to the secured party the sum necessary to discharge the security interest. This same exception currently exists for motor vehicle dealers who have forwarded the funds to discharge the security interest in these situations. The proposed amendment expands the exception to insurance carriers authorized to do business in Iowa as authorized in the legislation.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

*Jobs Impact*

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



## TRANSPORTATION DEPARTMENT[761](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Government and Community Relations  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on January 19, 2023, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 17, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

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

*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).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **400.4(3)“d”** as follows:

*d.* A person who registers a foreign vehicle under Iowa Code ~~subsection~~ section 321.23(3) shall be issued a nontransferable-nonnegotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as follows: If ownership is transferred to an Iowa licensed motor vehicle dealer or an insurance carrier authorized to do business in Iowa as provided in Iowa Code ~~subsection~~ section 321.23(3) as amended by 2022 Iowa Acts, House File 2341, the foreign certificate of title may be assigned to the dealer or the insurance carrier; the owner is not required to obtain an Iowa title. The dealer may then reassign the foreign title, as provided in Iowa Code ~~subsection~~ section 321.48(2) and rule 761—400.27(321,322).

ITEM 2. Amend rule **761—400.4(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.20, 321.23 as amended by 2022 Iowa Acts, House File 2341, 321.24, 321.30, 321.31, 321.45 to 321.50, 321.67, 321.515, 321.519, 322.3 and 633A.4604.

### TREASURER OF STATE

#### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for December is 6.00%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective December 9, 2022, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum 1.00%
180-364 days	Minimum .80%
One year to 397 days	Minimum .95%
More than 397 days	Minimum .85%

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

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

### 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:

USURY(cont'd)

January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%
December 1, 2022 — December 31, 2022	6.00%
January 1, 2023 — January 31, 2023	6.00%

**ARC 6772C****VOTER REGISTRATION COMMISSION[821]****Notice of Intended Action****Proposing rule making related to five-year review of rules  
and providing an opportunity for public comment**

The Voter Registration Commission hereby proposes to amend Chapter 1, “Organization, Purpose, Procedures and Definitions,” Chapter 2, “Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates,” Chapter 3, “Lists of Registered Voters,” Chapter 7, “Voter Registration Mailing Address Maintenance,” and Chapter 9, “National Change of Address Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 47.8.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 17A.7, 47.7, 48A.10A, 48A.11, 48A.38 and 48A.39.

*Purpose and Summary*

The Commission undertook a review of all of its rules as required by Iowa Code section 17A.7.

These proposed amendments conform the Commission’s rules with the Iowa Code, provide updates to citations, and clarify which version of the Iowa Voter Registration Application is “official.”

The proposed amendments to Chapter 3 include clarifying that voter list requests must be made in writing and what information the requester is required to provide and providing a clearer definition of “political purpose” that is already utilized in the Iowa Code.

*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.

## VOTER REGISTRATION COMMISSION[821](cont'd)

*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 Commission for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on January 17, 2023. Comments should be directed to:

Eric Gookin  
Office of the Secretary of the State  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50023  
Email: [eric.gookin@sos.iowa.gov](mailto:eric.gookin@sos.iowa.gov)

*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*

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 actions are proposed:

ITEM 1. Amend paragraph **1.8(5)“b”** as follows:

*b.* Within ~~90~~ 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the commission must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when a designee of the commission mails or delivers the required notification to petitioner.

ITEM 2. Amend subrule 2.14(2) as follows:

**2.14(2) Inactive.** If either an acknowledgment mailed to the registrant pursuant to Iowa Code section 48A.26, a notice mailed to the registrant pursuant to Iowa Code section 48A.27, a notice mailed to the registrant pursuant to Iowa Code section 48A.28, an absentee ballot mailed to the registrant pursuant to Iowa Code section 53.8, or a voter identification card issued pursuant to ~~2017 Iowa Acts, House File 516, section 18,~~ Iowa Code section 48A.10A is returned to the commissioner by the United States Postal Service as undeliverable, the registrant’s status shall be changed to “inactive” status. In addition, a voter registration record shall be made “inactive” pursuant to Iowa Code section 48A.27, subsection 4, paragraph “c,” during the annual NCOA process. Inactive registrations will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27, 48A.28, 48A.29 or 48A.30, requests an absentee ballot, votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person at the

## VOTER REGISTRATION COMMISSION[821](cont'd)

polling place, pursuant to Iowa Code section 49.77(3), or shall restore their voter registration to “active” status pursuant to rule 721—21.301(53) when voting by absentee ballot.

ITEM 3. Amend subrule 2.15(5) as follows:

**2.15(5)** If the application is verified, but the registered voter’s name does not appear in the department of transportation-issued driver’s license and nonoperator’s identification card files, the commissioner shall issue a voter identification card to the registered voter’s address on file pursuant to ~~2017 Iowa Acts, House File 516, section 18~~ Iowa Code section 48A.10A.

ITEM 4. Amend rule 821—2.16(47,48A) as follows:

**821—2.16(47,48A) Form of official Iowa voter registration application.** The official Iowa voter registration application pursuant to Iowa Code section 48A.11 shall be the most recent State of Iowa Official Voter Registration Form ~~Revised 4/9/2014~~ approved by the commission.

ITEM 5. Amend rule 821—3.1(48A) as follows:

**821—3.1(48A) List defined.** For the purposes of this rule, a “list” of registered voters is any information from one or more voter registration records related to any individual or group of registered voters. ~~Statistical~~ Statewide statistical data, regularly generated by the state commissioner, containing no personally identifiable information is not a “list.”

ITEM 6. Amend rule 821—3.2(48A) as follows:

**821—3.2(48A) Request for list.**

**3.2(1) Requests.** A request for a list of registered voters may be made in writing on a Specifications for Voter List form submitted to either a county commissioner or the state registrar. ~~A commissioner or the registrar may accept a request for a list made via telephone provided the commissioner or registrar is confident that both the requester and the commissioner or registrar clearly understand the specifics of the request and provided the requester agrees that the voter registration information will only be used for the purposes set forth in Iowa Code section 48A.39.~~ If a request is unclear or ambiguous, the commissioner or registrar may require that the request be submitted in writing.

**3.2(2) Definition.** The term “political purpose” means ~~research, advocacy, or education relating to the election, administration, or governance of public policies or officials~~ a noncommercial purpose related to the express advocacy of a candidate or ballot issue.

**3.2(3) Usage.** A person in possession of voter list information shall not post or otherwise provide access to any portion of that information through unrestricted access on the Internet. Using voter registration information, including resale or redistribution of the voter registration list without written permission of the state registrar, for purposes other than those permitted by Iowa Code section 48A.39 shall constitute an aggravated misdemeanor pursuant to Iowa Code section 39A.3(1) “c.”

ITEM 7. Amend rule 821—3.3(48A) as follows:

**821—3.3(48A) Contents of written request.** Each written request for a list of registered voters shall contain all of the following information:

1. The name of the requester.
2. The address of the requester.
3. The telephone number of the requester.
4. A description of the records to be included in the list.
5. A description of the sequence of the records on the list.
6. A description of the output medium for the list.
7. The date of the request.
8. The date the list is desired.
9. ~~The~~ A written explanation regarding the specific intended use of the list.
10. The following signed statement: “I am aware that information from voter registration records may be used lawfully only to request a registrant’s vote, for a genuine political purpose, for bona fide

## VOTER REGISTRATION COMMISSION[821](cont'd)

political research, or for a bona fide official purpose by an elected official. I understand that ~~using the information for any commercial purpose is a serious misdemeanor under Iowa law.~~ the use of voter registration information, including resale or redistribution of the voter registration list without written permission of the Iowa Secretary of State's Office, for purposes other than those permitted by Iowa Code section 48A.39 is an aggravated misdemeanor. I agree to pay the cost of the above ordered list ~~upon~~ prior to delivery."

ITEM 8. Rescind and reserve rule **821—3.4(48A)**.

ITEM 9. Amend rule 821—7.2(48A) as follows:

**821—7.2(48A) Voter registration acknowledgment card returned from mailing address as undeliverable.** If a voter registration acknowledgment card or voter identification card issued pursuant to ~~2017 Iowa Acts, House File 516, section 18,~~ Iowa Code section 48A.10A is mailed to the mailing address listed on a voter's registration record and the acknowledgment is returned to the county registrar as undeliverable by the United States Post Office, the county registrar shall leave the voter's status as active or pending, remove the mailing address from the voter's registration record, and mail another registration acknowledgment or voter identification card to the voter's residential address. If the acknowledgment or voter identification card mailed to the voter's residential address is also returned as undeliverable by the United States Post Office, the voter's registration record shall be made inactive, and the voter shall be mailed a notice as required by Iowa Code section 48A.29, subsection 1.

ITEM 10. Amend rule 821—9.1(48A) as follows:

**821—9.1(48A) State registrar to organize.**

**9.1(1)** The state registrar of voters shall annually ~~offer to every county commissioner the opportunity to participate~~ facilitate participation for all counties in the registrar's submittal of voter registration records to a licensed vendor of the United States Postal Service for matching with national change of address (NCOA) records.

**9.1(2)** The vendor used by the state registrar shall be selected in accordance with all procurement laws and rules of the state and the department of administrative services, unless the state registrar utilizes the electronic registration information center pursuant to Iowa Code section 47.7(3) "f."

**9.1(3)** The state registrar shall prepare a file of all registered voters in all counties ~~whose commissioners have chosen to participate in the program.~~ The file shall be in the form and format required by the vendor. The voter records contained in the file shall be categorized according to the following statuses: active, inactive, and pending.

**9.1(4)** Upon receipt of the NCOA data from the vendor, the state registrar shall promptly prepare a data file for each county to process in a batch-processing module at the county level. There shall be three statuses of NCOA records: processed, unprocessed, and deleted. The batch-processing screen's default shall be a display of all unprocessed records. The state registrar shall prescribe and notify each ~~participating~~ commissioner about how the commissioner shall process the NCOA records.

## ARC 6781C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency After Notice

## Rule making related to medical and remedial care

The Human Services Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 249A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 249A and 2022 Iowa Acts, House Files 2546 and 2578.

*Purpose and Summary*

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2546, which requires Iowa Medicaid to establish a rate for psychiatric intensive care in Iowa, was passed. 2022 Iowa Acts, House File 2578, which requires implementation of a tiered rate reimbursement methodology for psychiatric intensive inpatient care under the Medicaid program no later than January 1, 2023, was also passed.

This rule making defines “acute psychiatric intensive care” and identifies how a patient meets the need for that level of care. This rule making also identifies the payment methodology for the acute psychiatric intensive care services.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6619C**.

The Department received comments from three individuals representing two agencies. The comments and the Department’s responses are listed below:

**UnityPoint Health**

UnityPoint Health acknowledged and thanked both the Iowa Department of Health and Human Services (HHS) and the Iowa Hospital Association for their efforts in convening a workgroup of interested stakeholders for the development of psychiatric intensive care Medicaid administrative rules and rates. UnityPoint Health was an active participant in the state-sponsored pre-rule-making sessions to develop these rules, and UnityPoint Health’s feedback, along with that of other providers, was incorporated into the proposed rules. As such, UnityPoint Health generally supported the rules without substantive changes but did offer some operational feedback.

**Comment 1:** UnityPoint Health respectfully requested that HHS continue to monitor both minor and geriatric patients to evaluate future inclusion for psychiatric intensive care services.

**Department response:** The scope of the current rules was established to ensure timely implementation of 2022 Iowa Acts, House Files 2546 and 2578. Fiscal estimations that support the appropriation in House File 2578 were based on the limited demographic identified in the rules. The Department concurs that additional conversation regarding expansion of this rate to include minor and geriatric patients is merited in the future. Iowa Medicaid is developing a monitoring plan for ongoing evaluation of rate implementation that may help inform future conversations.

**Comment 2:** UnityPoint Health expressed concern that neither hospitals nor managed care organizations (MCOs) will have sufficient time to update their software systems by the effective date of these amendments. As a result, it is reasonable to believe that full program implementation will be

## HUMAN SERVICES DEPARTMENT[441](cont'd)

delayed and that billing start dates will vary by hospital and/or MCO as HHS and the Iowa Legislature evaluate the effectiveness of this program and the adequacy of rates. UnityPoint Health encouraged a deeper dive into program/service utilization to ascertain when rates would be fully able to be billed to make an informed judgment.

**Department response:** These amendments and associated rates are being implemented in an expedited fashion while maintaining a strong collaborative effort with affected partners. The MCOs have been actively engaged in development of claims processing and utilization management standards. A policy clarification was submitted to the MCOs November 9, 2022, to provide written documentation needed to ensure MCO system updates will be in place by January 2023. The same information was shared with the psychiatric intensive care workgroup, including hospitals and MCOs, throughout October and November 2022. The Department acknowledges even with these efforts, this is a new rate that will take time and education to fully implement across all Iowa hospitals. Iowa Medicaid is developing a monitoring plan for ongoing evaluation of the rules and rate implementation that will include monitoring program and service utilization.

During the public notice and comment period, the state workgroup discussed additional changes to the rules. UnityPoint Health reviewed these proposed revisions, which are included below. UnityPoint Health opposed some changes and supported others.

**Comment 3:** A change was proposed to remove the following phrase: “A history of violence or current aggression that is secondary to mental illness.” UnityPoint Health disagreed with removing the phrase and stated that a history of and known propensity for violence should not be excluded as a factor that demonstrates complexity of care.

**Department response:** This comment was discussed with the state workgroup with parties both for and against removing the language. The Department has determined it will not remove the language since such a history could impact clinical decision making for maintaining safety for the member, other patients, staff, and the facility.

**Comment 4:** A change was proposed to modify language to read, “A highly disorganized psychotic state or manic thought process that impairs the ability to function, or the safety of the patient or others; or.” UnityPoint Health disagreed with the inclusion of the subjective limiting adverb “highly.” “Highly disorganized psychotic state” is not defined in the Iowa Code, and it is unclear what difference in documentation is required to prove disorganized psychotic state versus highly disorganized psychotic state. UnityPoint Health supported the suggested addition to the list of indicators that demonstrate complexity of need. This proposed revision adds “manic thought process” and also expands the manifestation for both conditions to include impaired function.

**Department response:** These modifications were discussed with the state workgroup. The term “highly” is being removed from the rule since it is subjective. The phrase “or manic thought process that impairs the ability to function or risks the safety of the patient or others” was added to provide additional clarity for providers.

**Comment 5:** A change was proposed to modify language to read, “Actively suicidal or homicidal; or.” UnityPoint Health disagreed with the inclusion of the subjective limiting adverb “actively.” “Actively suicidal” is not defined in the Iowa Code, and it is unclear what difference in documentation is required to provide suicidal versus actively suicidal. UnityPoint Health similarly disagreed with the inclusion of this subjective limiting adverb to modify “homicidal.” In the alternative, UnityPoint Health supported removing this subpart in its entirety. It does appear that this subpart is redundant with subparagraph 78.3(8)“b”(2), which reads “have a current, severe, imminent risk of serious harm to self or others.”

**Department response:** These modifications were discussed with the state workgroup. The phrase “actively suicidal or homicidal” will not be added to the rule. The phrase “or a highly suicidal state” has been removed. The Department concurs that the language is redundant of subparagraph 78.3(8)“b”(2).

**Comment 6:** A change was proposed to modify language to read, “Behavior that causes significant disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or.” UnityPoint Health disagreed with this inclusion of the subjective limiting adjective “significant.”



## HUMAN SERVICES DEPARTMENT[441](cont'd)

“Significant disruption” is not defined in the Iowa Code, and it is unclear what difference in documentation is required to prove disruption versus significant disruption.

**Department response:** This modification was discussed with the state workgroup. The Department concurs and did not add “significant” since it is a subjective term that cannot easily be measured.

**Comment 7:** A change was proposed to modify language to read, “Any other atypical reason that the admitting psychiatrist treating mental health provider feels that additional resources are needed to keep the patient and other[s] around the patient safe.” UnityPoint Health supported this revision. UnityPoint Health agreed that providers should not be limited to a psychiatrist if other providers within the scope of practice and with appropriate privileges are able to treat such patients. In Iowa, this would allow advanced registered nurse practitioners to continue to be considered a treating mental health provider.

**Department response:** This modification was discussed with the state workgroup. The Department concurs that “admitting psychiatrist” should be modified to “treating mental health provider” and made this change. This modification will help avoid unintended limitations related to mental health providers in the inpatient setting.

**Comment 8:** The following language was proposed for paragraph 78.3(8)“c”:

“c. The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:

- “1. Fall risk, precaution protocol in place,
- “2. Restraints or seclusion room required,
- “3. Requires assistance with activities of daily living,
- “4. Requirements for complex nursing care, nursing care requirements,
- “5. Evaluation of patient status (alertness/orientation), acutely impaired cognitive functioning from baseline,
- “6. Interventions to address the complexity of mental illness and comorbidities, documentation of interventions to address acute complex mental illness and comorbidities,
- “7. Safety protocols in place to address the physical risk posed to staff, other patients, and infrastructure,
- “8. Elopement risk precaution protocol in place.”

UnityPoint Health commented, “As described by state officials, the intent for these revisions is to identify a level of risk that requires documentation and to assure that services provided are mitigating the risk that is identified. These rules are not intended to require that all facilities have the same protocols but rather that all facilities are using protocols to identify risk. For example, each hospital should have protocols in place which determine if a patient is at risk for falls. UnityPoint Health support[s] evidence-based [care] and protocols and is reassured to understand that these rules are not intended to require additional or different protocols than are in place today.”

**Department response:** These modifications were discussed with the state workgroup. The modifications are intended to create clarity for both providers and utilization management review teams. The modifications maintain the intent of the original language while creating measurable documentation standards. The Department concurs with UnityPoint Health’s statements on the intent of these revisions.

The workgroup discussed the HHS draft clinical criteria for Acute Psychiatric Intensive Care Services (LOC-008), although the criteria were not included in the Notice. The goal of these specialized services is acute stabilization and treatment of the member’s presenting condition, including dangerous behavior, so that the member can transition to a general inpatient psychiatric unit or another less-intensive level of care.

**Comment 9:** UnityPoint Health appreciated the time and effort of HHS in developing these clinical criteria and has provided additional considerations below as they relate to exclusion criteria #6.

“Exclusion Criteria #6: Behavioral dyscontrol in the context of traumatic brain injury, intellectual disability, pervasive developmental disorder, dementia, or other medical condition without indication of acute crisis related to a diagnosis listed in the [most] current version of the Diagnostic and Statistical Manual of Mental Disorders.”

UnityPoint Health commented, “While the clinical criteria specify psychiatric intensive care unit (PICU) services are directed towards assisting individuals with acute mental illness as opposed to other

HUMAN SERVICES DEPARTMENT[441](cont'd)

mental conditions, it should be noted that further appropriation of resources is needed for patients with other mental conditions as identified in exclusion criteria six. Often individuals with these conditions are boarded in hospital emergency departments or admitted to inpatient psychiatric units due to severe lack of treatment options, e.g., access centers, long term care facilities, and Intensive Residential Service Homes. With limited treatment options available, individuals listed in exclusion criteria six, will lack adequate access to PICU level care or be placed in care settings inappropriate or unequipped to manage severe and emergency behavioral health care.”

**Department response:** The exclusion criteria identified in UnityPoint Health’s comment are consistent with the intent and scope of the rule. The establishment of a psychiatric intensive care rate will help support acute care inpatient intensive psychiatric services, but the implementation of rate does not resolve the overall lack of treatment options identified in UnityPoint Health’s comment. Iowa Medicaid is a willing partner in working to address larger challenges to Iowa’s mental health system.

**Iowa Hospital Association**

**Comment 10:** As HHS prepared to create the rule making to effectively implement 2022 Iowa Acts, House File 2546 and House File 2578, Iowa Hospital Association (IHA) is appreciative of the opportunity to include a broad audience of experts in hospital settings which includes behavioral health directors and providers as well as government relations and finance professionals. It was brought to IHA’s attention that Iowa is the first in the nation to implement such a reimbursement methodology, and IHA’s members are proud to be part of the opportunity in leading the nation alongside the Department to increase behavioral health resources.

**Department response:** The Department appreciates the IHA’s support and engagement. The workgroup consisted of subject matter experts within Iowa Medicaid, representatives from multiple hospitals, clinical providers, IHA representatives, representatives from the Tertiary Care workgroup, Iowa’s MCOs claims teams, utilization management teams, and medical directors (representatives from Amerigroup, Iowa Total Care, and Molina). This workgroup collaborated to develop the rate, rules, state plan amendments, claims processing and utilization management standards, and training materials to implement House Files 2546 and 2578.

Based on the comments received, the Department made changes from the Notice to numbered paragraphs 78.3(8)“b”(3)“5” and “8” and subparagraphs 78.3(8)“c”(1) and (4) through (8).

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 1, 2023, because 2022 Iowa Acts, House File 2578, sections 31 and 32, authorize emergency rule making. The rule making also confers a benefit to members and providers by allowing the service to be available as of January 1, 2023.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

*Fiscal Impact*

It is anticipated there will be a \$1.5 million state cost in state fiscal year 2023 and a \$3 million state cost in state fiscal year 2024 with the assumption that the implemented rate will be developed to align with the funding appropriated. The Legislature has not yet appropriated the full annualized cost.

*Jobs Impact*

The additional funding may be utilized for increased staffing ratios, but it is unlikely a significant number of jobs will be created.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 78.3(8):

**78.3(8)** Payment will be made for medically necessary inpatient acute psychiatric intensive care services that meet the criteria in this subrule, pursuant to 441—paragraph 79.1(5) “i.” This inpatient rate is only applicable to individuals 18 to 64 years of age. All inpatient acute psychiatric intensive care services shall require prior authorization.

*a.* “Acute psychiatric intensive care” is defined as care provided for a condition with rapid onset that is accompanied by severe symptoms and is generally of brief duration, requiring emergency treatment and critical care.

*b.* To meet the need for acute psychiatric intensive care, the patient must:

- (1) Have a serious mental illness as defined in 441—subrule 77.47(1);
- (2) Have a current, severe, imminent risk of serious harm to self or others; and
- (3) Display additional complexity of need related to:
  1. Complex comorbidities, including intellectual or developmental disability, autism spectrum disorder, substance use disorders, or traumatic brain injuries; or
  2. A history of violence or current aggression that is secondary to mental illness; or
  3. A request for patient transfer that has been rejected by inpatient level of care by one or more hospitals due to severity of symptoms; or
  4. Lack of responsiveness to typical interventions or a condition that is treatment refractory; or
  5. Disorganized psychotic state or manic thought process that impairs the ability to function or risks the safety of the patient or others; or
  6. Behavior that causes disruption to the general milieu of the unit (i.e., instigating other patients in negative ways); or
  7. High elopement risk; or
  8. Any other atypical reason that the treating mental health provider feels that additional resources are needed to keep the patient and others around the patient safe.

*c.* The individual must have a documented need for acute intensive care requiring increased or specialized staffing, equipment, or facilities, based on two or more of the following:

- (1) Fall precaution protocol in place;
- (2) Restraints or seclusion room requirements;
- (3) Requiring assistance with activities of daily living;
- (4) Requirements for complex nursing care;
- (5) Acutely impaired cognitive functioning from baseline;
- (6) Documentation of interventions to address acute complex mental illness and comorbidities;

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(7) Safety protocols in place to address the physical risk posed to staff, other patients, and infrastructure;

(8) Elopement risk precaution protocol in place.

ITEM 2. Amend paragraph 79.1(5)“i” as follows:

*i. Payment for certified physical rehabilitation hospitals and units, ~~and~~ psychiatric units, and acute psychiatric intensive care services.* Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5)“r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” is prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital’s base-year cost report pursuant to paragraph 79.1(5)“a.” No recognition will be given to the professional component of the hospital-based physicians except as noted under paragraph 79.1(5)“j.”

~~(2) Reserved.~~

~~(3)~~ (2) Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.

(4) (3) Per diem recalculation. Hospital prospective reimbursement rates shall be established as of October 1, 1987, for the remainder of the applicable hospital fiscal year. Beginning July 1, 1988, all updated rates shall be established based on the state’s fiscal year.

(4) Acute psychiatric intensive care services. Services that meet the criteria at 441—subrule 78.3(8) shall be reimbursed as follows:

1. Services provided in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” will be paid based on the hospital-specific per diem rate as calculated pursuant to subparagraph 79.1(5)“i”(1) plus a percentage increase as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

2. Services not provided in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” will be paid based on the hospital-specific DRG payment rate as calculated pursuant to paragraph 79.1(5)“b” plus an add-on per diem rate as determined by the department for covered days billed with the appropriate psychiatric intensive care revenue code.

(5) Per diem billing. The current method for submitting billing and cost reports shall be maintained. All cost reports will be subject to desk review audit and, if necessary, a field audit.

[Filed Emergency After Notice 12/8/22, effective 1/1/23]

[Published 12/28/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

ARC 6773C

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to state supplementary assistance**

The Human Services Department hereby amends Chapter 50, “Application for Assistance,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 249.4 and 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 249.4 and 249A.4.

*Purpose and Summary*

Chapter 50 was reviewed as part of the Department’s five-year rules review. Chapter 50 sets out the application process for the State Supplementary Assistance program. This rules review resulted in the following technical amendments. Definitions are added to provide clarity to the program. Form numbers are added and form names are removed to provide consistency across programs. Outdated references are removed.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6590C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Effective Date*

This rule making will become effective on February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—50.1(249) as follows:

**441—50.1(249) Definitions.**

*“Aged”* shall mean a person 65 years of age or older.

*“Applicant”* means a person who is requesting state supplementary assistance on the person’s own behalf or a person for whom state supplementary assistance is requested.

*“Blind”* shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

*“Client”* means a person who has been determined eligible and is a current or former recipient of state supplementary assistance.

*“Disabled”* shall mean that a person is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death. Exception: For the supplement for Medicare and Medicaid eligibles, being engaged in substantial gainful activity shall not preclude a determination of disability. A child under the age of 18 is disabled if the child suffers from any medically determinable physical or mental impairment of comparable severity. For purposes of state-administered payments, the department shall determine disability according to ~~rule~~ 441—75.20(249A) 441—Chapter 75.

*“Payment for a dependent relative”* shall mean payment to a recipient on behalf of a dependent relative as defined in Iowa Code section 249.3(3). The payment shall be made in accordance with standards established by the department in rule 441—52.1(249).

*“Payment for a protective living arrangement”* shall mean payment to a recipient living in a family life home. The payment shall be made in accordance with standards established by the department ~~by rule in 441—Chapter 52 in rule~~ 441—52.1(249).

*“Payment for residential care”* shall mean payment to a recipient living in a residential care facility who is determined to be in need of care and payment is made on a per diem basis. The payment shall be made in accordance with standards established by the department in rule 441—52.1(249).

This rule is intended to implement Iowa Code section 249.3 as amended by 2004 Iowa Acts, House File 2134, section 4.

ITEM 2. Amend rule 441—50.2(249) as follows:

**441—50.2(249) Application procedures.**

**50.2(1) and 50.2(2)** No change.

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

The application shall be made on ~~the Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or 470-0462(S) Form 470-5170 or 470-5170(S).~~ The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person’s behalf.

a. Each ~~individual~~ person wishing to do so shall have the opportunity to apply for assistance without delay.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~b.~~ An applicant may be assisted by other individuals in the application process; the client may be accompanied by the individuals in contact with the department, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process an authorized representative, as defined in rule 441—76.1(249). If the applicant is unable to act on the applicant's own behalf, a responsible person may act on the applicant's behalf pursuant to rule 441—76.9(249A).

~~e.~~ The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the department shall send the necessary forms in the next outgoing mail.

~~d. c.~~ The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or refusal to authorize the department to secure the information from other sources shall serve as a basis for denial of assistance.

**50.2(4)** An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) shall be considered as an application for the supplement for Medicare and Medicaid eligibles.

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 3. Amend rule 441—50.3(249) as follows:

**441—50.3(249) Approval of application and effective date of eligibility.**

**50.3(1) to 50.3(3)** No change.

**50.3(4)** Payment for the supplement for Medicare and Medicaid eligibles shall be effective retroactive to October 1, 2003, or to the first month when all eligibility requirements are met, whichever is later.

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 4. Amend rule 441—50.4(249) as follows:

**441—50.4(249) Reviews.**

**50.4(1)** Any eligibility factor shall be reviewed whenever a change in circumstances occurs.

**50.4(2)** All eligibility factors shall be reviewed at least annually.

**50.4(3)** For purposes of an annual review to be performed by the department, ~~Form 470-3118 or 470-3118(S), Medicaid Review, shall be completed~~ the client shall complete and return Form 470-5482, 470-5482(S), 470-5482(M), or 470-5482(MS).

**50.4(4)** ~~Rescinded IAB 10/31/01, effective 1/1/02.~~

This rule is intended to implement Iowa Code section 249.4.

ITEM 5. Amend rule 441—50.5(249) as follows:

**441—50.5(249) Application under conditional benefits.** When the applicant or client is seeking state supplementary assistance (SSA) under the conditional benefit policy of the supplemental security income (SSI) program in accordance with 20 CFR 416.1242 as amended to March 15, 2022, the applicant or client shall be required to do the following:

**50.5(1)** Sign Complete and return Form 470-2909, Agreement to Sell Excess Property, in order to be eligible.

**50.5(2)** ~~Describe the efforts that are made to sell the property on~~ Complete and return Form 470-2908, Description of Efforts to Sell Property, as requested by the department. The department shall request that the form be completed no more often than specified. as follows:

*a.* For personal property, ~~being sold~~ Form 470-2908 shall be completed no more often than every 30 days during the conditional benefits period.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~b.~~ For real property, ~~being sold Form 470-2908 shall be completed beginning~~ 35 days after conditional benefits are granted and ~~no more often than~~ every 60 days thereafter for nine months. If eligibility continues and the real property is not sold, the applicant or client shall complete the form ~~shall be completed no more often than~~ every 90 days.

**50.5(3)** Sign an agreement to repay the state supplementary assistance granted during the conditional period using Form 470-2835, ~~State Supplementary Assistance Agreement to Repay Conditional Benefits~~. The amount of repayment is limited to the lesser of:

a. The amount by which the revised value of resources (resources counted at the beginning of the conditional period plus the net value of resources sold) minus both the resource limit and the amount that SSI recovers for conditional benefits.

b. The amount of state supplementary assistance actually paid in the conditional period, minus the amount that SSI recovers for conditional benefits.

This rule is intended to implement Iowa Code sections 249.3, 249.4 and 249A.4.

[Filed 12/3/22, effective 2/1/23]

[Published 12/28/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6774C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

### **Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 51, "Eligibility," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249.2.

#### *Purpose and Summary*

Chapter 51 was reviewed as part of the Department's five-year rules review. Chapter 51 sets out requirements for eligibility to receive State Supplementary Assistance. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6586C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

#### *Fiscal Impact*

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



HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—51.3(249) as follows:

**441—51.3(249) Eligibility for residential care.**

**51.3(1) Licensed facility.** Payment for residential care shall be made only when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections and appeals pursuant to laws governing health care facilities.

**51.3(2) Physician's statement.** Payment for residential care shall be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification shall be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

**51.3(3) Income eligibility.** The resident shall be income eligible when the income according to 441—paragraph 52.1(3) "a" is less than 31 times the maximum per diem rate of the facility. Partners in a marriage who both enter the same room of the residential care facility in the same month shall be income eligible for the initial month when their combined income according to 441—paragraph 52.1(3) "a" is less than twice the amount of allowed income for one person (31 times the maximum per diem rate of the facility).

~~**51.3(4) Diversion of income.** Rescinded IAB 5/1/91, effective 7/1/91.~~

~~**51.3(5) Resources.** Rescinded IAB 5/1/91, effective 7/1/91.~~

This rule is intended to implement Iowa Code section 249.3.

ITEM 2. Amend rule 441—51.6(249), implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.3 as amended by 2005 Iowa Acts, House File 825, section 108.

ITEM 3. Amend subrule 51.9(1) as follows:

**51.9(1) Definitions.**

"Administrative overpayment" means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

"Agency error" means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

“*Client*” means a person who has been determined eligible and is a current or former applicant or recipient of state supplementary assistance.

“*Client error*” means assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as ~~defined~~ changes as described in rule 441—76.10(249A) 441—Chapter 76.

“*Department*” means the department of human services.

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6775C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

### **Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 52, “Payment,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249.2.

#### *Purpose and Summary*

Chapter 52 was reviewed as part of the Department’s five-year rules review. Chapter 52 sets out the guidelines for payment by the Department to recipients under the State Supplementary Assistance program. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Outdated references are removed.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6587C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

#### *Fiscal Impact*

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—52.1(249), introductory paragraph, as follows:

**441—52.1(249) Assistance standards.** Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted. Current assistance standards shall be published on the department's website. Assistance standards shall be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §§416.2095 and 416.2096 as amended to March 15, 2022. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

ITEM 2. Amend subrule 52.1(3) as follows:

**52.1(3) Residential care.** For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate or on a cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in rule 441—52.1(249). ~~The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).~~

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a ~~privately operated~~ licensed residential care facility shall be based on the maximum per diem rate. ~~Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate or be based on the cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in rule 441—52.1(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. to f.* No change.

~~*g.*—The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.~~

~~(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~(2) To compute the facilitywide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.~~

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6776C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

### **Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 82, "Intermediate Care Facilities for Persons with an Intellectual Disability," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

#### *Purpose and Summary*

Chapter 82 was reviewed as part of the Department's five-year rules review. Chapter 82 sets out requirements for intermediate care facilities for persons with an intellectual disability, including licensing and certification, staffing and treatment, individual program plans, Medicaid participation, financial and statistical reports, eligibility for services, billing procedures and audits. This rules review resulted in technical changes. References to federal regulations are updated to provide accurate listings. Names of forms and outdated references are removed. The word "enterprise" is removed from the Iowa Medicaid name. Outdated language is removed from cost reporting rules.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6589C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

#### *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.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—82.1(249A)**, definition of “Intermediate care facility for persons with an intellectual disability level of care,” as follows:

“*Intermediate care facility for persons with an intellectual disability level of care*” means that the individual has a diagnosis of intellectual disability made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or has a related condition as defined in 42 CFR 435.1009 as amended to March 29, 2022; and needs assistance in at least three of the following major life areas: mobility, musculoskeletal skills, activities of daily living, domestic skills, toileting, eating skills, vision, hearing or speech or both, gross/fine motor skills, sensory-taste, smell, tactile, academic skills, vocational skills, social/community skills, behavior, and health care.

ITEM 2. Amend subparagraph **82.2(3)“b”(5)** as follows:

(5) Professional program staff shall be licensed, certified, or registered, as applicable, to provide professional services by the state in which the staff practices. Those professional program staff who do not fall under the jurisdiction of state licensure, certification, or registration requirements shall meet the following qualifications:

1. to 8. No change.

9. To be designated as a professional dietitian, an individual shall be eligible for registration by the ~~American Dietetics Association~~ Academy of Nutrition and Dietetics.

10. To be designated as a human services professional, an individual shall have at least a bachelor's degree in a human services field (including, but not limited to, sociology, special education, rehabilitation counseling ~~and~~ or psychology).

ITEM 3. Amend subparagraph **82.2(4)“b”(4)** as follows:

(4) If a client is to be either transferred or discharged, the facility shall have documentation in the client's record that the client was transferred or discharged for good cause, and shall provide a reasonable time to prepare the client and the client's parents or guardian for the transfer or discharge (except in emergencies).

ITEM 4. Amend subparagraph **82.2(4)“c”(3)** as follows:

(3) Within 30 days after admission, the interdisciplinary team shall perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission. The comprehensive functional assessment shall take into consideration the client's age (for example, child, young adult, elderly person) and the implications for active treatment at each stage, as applicable, and shall:

1. to 4. No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

5. Include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development, ~~and~~ auditory functioning, cognitive development, social development, adaptive behaviors or independent living skills necessary for the client to be able to function in the community, and, ~~as applicable,~~ vocational skills as applicable.

ITEM 5. Amend subparagraph **82.2(5)“a”(1)** as follows:

(1) The facility shall develop and implement written policies and procedures for the management of conduct between staff and clients. These policies and procedures shall:

1. Promote the growth, development, and independence of the client.
2. to 4. No change.

ITEM 6. Amend subparagraph **82.2(6)“f”(1)** as follows:

(1) A complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the client's oral condition, not later than one month after admission to the facility unless the examination was completed within 12 months before prior to admission.

ITEM 7. Amend paragraph **82.2(6)“n”** as follows:

*n. Laboratory services.*

(1) No change.

(2) If a facility chooses to provide laboratory services, the laboratory shall meet the management requirements specified in 42 CFR 493.1407 as amended to March 29, 2022, and provide personnel to direct and conduct the laboratory services.

The laboratory director shall be technically qualified to supervise the laboratory personnel and test performance and shall meet licensing or other qualification standards established by the state with respect to directors of clinical laboratories.

The laboratory director shall provide adequate technical supervision of the laboratory services and ensure that tests, examinations and procedures are properly performed, recorded and reported.

The laboratory director shall ensure that the staff has appropriate education, experience, and training to perform and report laboratory tests promptly and proficiently; is sufficient in number for the scope and complexity of the services provided; and receives in-service training appropriate to the type of complexity of the laboratory services offered.

The laboratory technologists shall be technically competent to perform test procedures and report test results promptly and proficiently.

(3) The laboratory shall meet the proficiency testing requirements specified in 42 CFR 493.801 as amended to March 29, 2022.

~~(4) The laboratory shall meet the quality control requirements specified in 42 CFR 493.1501.~~

~~(5)~~ (4) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory shall be an approved Medicare laboratory.

ITEM 8. Amend paragraph **82.3(1)“b”** as follows:

*b.* The facility shall request an application, Form 470-0254, ~~Iowa Medicaid Provider Enrollment Application,~~ from the Iowa Medicaid ~~enterprise~~ provider services unit.

ITEM 9. Amend subrule 82.5(3) as follows:

**82.5(3) Submission of reports.** The facility's cost report shall be received by the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit no later than September 30 each year except as described in subrule 82.5(14).

*a.* The submission shall include a working trial balance that corresponds to all financial data contained on the cost report. The working trial balance must provide sufficient detail to enable the Iowa Medicaid ~~enterprise~~ provider cost audit and rate setting unit to reconcile accounts reported on the general ledger to those on the financial and statistical report. For reporting costs that are not directly assigned to the facility in the working trial balance, an allocation method must be identified for each line, including the statistics used in the calculation. Reports submitted without a working trial balance shall be considered incomplete, and the facility shall be subject to the rate reductions set forth in paragraph 82.5(3)“c.”

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- b.* No change.
- c.* Failure to timely submit the complete report shall reduce payment to 75 percent of the current rate.
  - (1) The reduced rate shall be effective October 1 and shall remain in effect until the first day of the month after the delinquent report is received by the Iowa Medicaid enterprise provider cost audit and rate setting unit.
  - (2) The reduced rate shall be paid for no longer than three months, after which time no further payments will be made until the first day of the month after the delinquent report is received by the Iowa Medicaid enterprise provider cost audit and rate setting unit.
- d.* No change.
- e.* When an intermediate care facility for persons with an intellectual disability continues to include in the total costs an item or items which had in a prior period been removed through an adjustment made by the department or its contractor, the contractor shall recommend to the department that the per diem be reduced to 75 percent of the current payment rate for the entire quarter beginning the first day of the fourth month after the facility's fiscal year end. If the adjustment has been contested and is still in the appeals process, the facility may include the cost, but must include sufficient detail so the Iowa Medicaid enterprise provider cost audit and rate setting unit can determine if a similar adjustment is needed in the current period. The department may, after considering the seriousness of the offense, make the reduction.
- f.* Nothing in this subrule relieves a facility of its obligation to immediately inform the department that the facility has retained Medicaid funds to which the facility is not entitled as a result of any cost report process. A facility shall notify the Iowa Medicaid enterprise when the facility determines that funds have been incorrectly paid or when an overpayment has been detected.

ITEM 10. Amend paragraph **82.5(11)“e”** as follows:

- e.* A reasonable allowance of compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function. For this purpose, the following persons are considered immediate relatives: husband and wife; natural parent, child and sibling; adopted child and adoptive parent; stepparent, stepchild, stepbrother and stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law; grandparent and grandchild. Adequate time records shall be maintained. Adjustments may be necessary to provide compensation as an expense for nonsalaried working proprietors and partners. Members of religious orders serving under an agreement with their administrative office are allowed salaries paid persons performing comparable services. When maintenance is provided these persons by the facility, consideration shall be given to the value of these benefits and this amount shall be deducted from the amount otherwise allowed for a person not receiving maintenance.
  - (1) Compensation means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including, but not limited to, salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include, but are not limited to, costs of leave, employee insurance, pensions and unemployment plans. If the facility's fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to the Iowa Medicaid enterprise provider cost audit and rate setting unit. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. All compensation paid to related parties, including payroll taxes, shall be required to be reported to the Iowa Medicaid enterprise provider cost audit and rate setting unit with the submission of the financial and statistical report. If it is determined that there have been undisclosed related-party salaries, the cost report shall be determined to have been submitted incomplete and the facility shall be subject to the penalties set forth in paragraph 82.5(3)“c.”

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Reasonableness—requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable institutions, and depends upon the facts and circumstances of each case.

(3) No change.

(4) The base maximum allowed compensation for an administrator who is involved in ownership of the facility or who is an immediate relative of an owner of the facility is \$1,926 per month plus \$20.53 per month per licensed bed capacity for each bed over 60, not to exceed \$2,852 per month. An administrator is considered to be involved in ownership of a facility when the administrator has ownership interest of 5 percent or more.

On a ~~semiannual~~ annual basis, the maximum allowed compensation amounts for these administrators shall be increased or decreased by the inflation factor applied to facility rates.

(5) to (7) No change.

ITEM 11. Amend subparagraph **82.5(12)“a”(4)** as follows:

(4) When a participating facility is leased, a transfer of ownership is considered to have taken place. When the entire facility is leased, the total agreement with the lessor terminates. When only part of the facility is leased, the agreement remains in effect with respect to the unleased portion, but terminates with respect to the leased portion.

ITEM 12. Amend paragraph **82.5(14)“b,”** introductory paragraph, as follows:

*b.* Initial cost report. Following six months of operation as a Medicaid-certified ICF/ID, the facility shall submit a report of actual costs. The rate computed from this cost report shall be adjusted to 100 percent occupancy plus the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. city average (hereafter referred to as the Consumer Price Index). ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used to adjust costs for inflation, instead of the annual percentage increase of the Consumer Price Index.~~ Business start-up and organization costs shall be accounted for in the manner prescribed by the Medicare and Medicaid standards. Any costs that are properly identifiable as start-up costs, organization costs or capitalizable as construction costs must be appropriately classified as such.

ITEM 13. Amend subparagraph **82.5(14)“d”(1)** as follows:

(1) A new maximum allowable base cost will be calculated each year by increasing the prior year's maximum allowable base by the annual percentage increase of the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the prior year's maximum allowable base cost shall be increased by 3 percent, instead of the annual percentage increase of the Consumer Price Index.~~

ITEM 14. Amend paragraph **82.5(14)“e”** as follows:

*e.* Maximum rate. Facilities shall be subject to a maximum rate set at the eightieth percentile of the total per diem cost of all participating community-based ICFs/~~MR~~ ICFs/ID with established base rates. The eightieth percentile maximum rate shall be adjusted July 1 of each year using cost reports on file December 31 of the previous year.

ITEM 15. Amend paragraph **82.5(14)“f,”** introductory paragraph, as follows:

*f.* Incentive factor. New facilities which complete the second annual period of operation that have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index, as described in 82.5(14)“*d*,” shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference multiplied by the actual per diem cost for the annual period just completed is the incentive factor. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the incentive factor shall be calculated using 3 percent in place of the percentage increase of the Consumer Price Index.~~

ITEM 16. Amend subparagraph **82.5(14)“g”(1)** as follows:

(1) The projected reimbursement for each period thereafter (until rebasing) will be calculated by multiplying the lower of the prior year's actual or the projected reimbursement per diem by the Consumer Price Index ~~plus one.~~ ~~For the period beginning July 1, 2009, and ending June 30, 2010, the projected reimbursement will be determined using a multiplier of 3 percent instead of the Consumer Price Index.~~



## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 17. Amend subrule 82.5(16) as follows:

**82.5(16) Payment to existing facilities.** The following reimbursement limits shall apply to all non-state-owned ~~ICFs/MR~~ ICFs/ID:

*a. to c.* No change.

*d.* Facilities which have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index ~~or of less than 3 percent for rates effective July 1, 2009, through June 30, 2010,~~ shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference multiplied by the actual per diem costs for the annual period just completed is the incentive factor.

(1) No change.

(2) Facilities whose annual per unit cost decreased from the prior year shall receive their actual per unit cost plus one and one-half the percentage increase in the Consumer Price Index as an incentive for cost containment. ~~For the period beginning July 1, 2009, and ending June 30, 2010, 3 percent shall be used in lieu of the percentage increase in the Consumer Price Index.~~

*e.* Administrative costs shall not exceed 18 percent of total facility costs. Administrative costs are comprised of those costs incurred in the general management and administrative functions of the facility. Administrative costs include, but are not necessarily limited to, the administrative portion of the following:

~~(1) Administrator's salary.~~

~~(2) Assistant administrator's salary.~~

~~(3) Bookkeeper's salary.~~

~~(4) Other accounting and bookkeeping costs.~~

~~(5) Other clerical salaries and clerical costs.~~

~~(6) Administrative payroll taxes.~~

~~(7) Administrative unemployment taxes.~~

~~(8) Administrative group insurance.~~

~~(9) Administrative general liability and worker's compensation insurance.~~

~~(10) Directors' and officers' insurance or salaries.~~

~~(11) Management fees.~~

~~(12) Indirect business expenses and other costs related to the management of the facility including home office and other organizational costs.~~

~~(13) Legal and professional fees.~~

~~(14) Dues, conferences and publications.~~

~~(15) Postage and telephone.~~

~~(16) Administrative office supplies and equipment, including depreciation, rent, repairs, and maintenance as documented by a supplemental schedule which identifies the portion of repairs and maintenance, depreciation, and rent which applies to office supplies and equipment.~~

~~(17) Data processing and bank charges.~~

~~(18) Advertising.~~

~~(19) Travel, entertainment and vehicle expenses not directly involving residents.~~

(1) Administrator wages.

(2) Business office wages.

(3) Advertising and marketing wages.

(4) Employer's taxes (administrative).

(5) Group/life and retirement benefits (administrative staff).

(6) Workers' compensation insurance (administrative staff).

(7) Employment advertising and recruitment (administrative staff).

(8) Criminal record checks (administrative staff).

(9) Education and training (administrative staff).

(10) Office supplies (administrative staff).

(11) Telephone.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- (12) Equipment rental.
- (13) Home office costs.
- (14) Management fees.
- (15) Accounting fees.
- (16) Professional organization dues.
- (17) Licensing fees.
- (18) Information technology expenses.
- (19) Legal fees—direct patient-care-related.
- (20) Legal fees—other.
- (21) Working capital interest.
- (22) General liability insurance.
- (23) Travel, entertainment and auto expenses.
- (24) Advertising and public relations.
- (25) Other.

f. No change.

g. Total patient days for purposes of the computation shall be inpatient days as determined in subrule 82.5(7) or 80 percent of the licensed capacity of the facility, whichever is greater. The reimbursement rate shall be determined by dividing total reported patient expenses by total patient days during the reporting period. This cost per day will be limited by an inflation increase which shall not exceed the percentage change in the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, the inflation increase shall be 3 percent, notwithstanding the percentage change in the Consumer Price Index.~~

h. State-owned ~~ICFs/MR~~ ICFs/ID shall submit semiannual cost reports and shall receive semiannual rate adjustments based on actual costs of operation inflated by the percentage change in the Consumer Price Index. ~~For the period beginning July 1, 2009, and ending June 30, 2010, costs of operation shall be inflated by 3 percent instead of the percentage change in the Consumer Price Index.~~

i. The projected reimbursement for the first annual period will be determined by multiplying the per diem rate calculated for the base period by the Consumer Price Index ~~plus one.~~

(1) The projected reimbursement for each period thereafter (until rebasing) will be calculated by multiplying the lower of the prior year's actual or the projected reimbursement per diem by the Consumer Price Index ~~plus one.~~ ~~For the period beginning July 1, 2009, and ending June 30, 2010, the projected reimbursement will be determined using a multiplier of 3 percent instead of the Consumer Price Index.~~

(2) No change.

ITEM 18. Amend subrule 82.7(3) as follows:

**82.7(3) *Approval of level of care.*** Medicaid payment shall be made for ICF/ID care upon certification of need for this level of care by a licensed physician of medicine or osteopathy and approval by the Iowa Medicaid ~~enterprise (IME) medical services~~ quality improvement organization (QIO) unit.

ITEM 19. Amend rule ~~441—82.7(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.12 ~~as amended by 2012 Iowa Acts, Senate File 2336, section 58.~~

ITEM 20. Amend rule ~~441—82.8(249A)~~ as follows:

**~~441—82.8(249A) Determination of need for continued stay.~~** For clients not enrolled with a managed care organization, certification of need for continued stay shall be made according to procedures established by the Iowa Medicaid ~~enterprise (IME) medical services~~ QIO unit. For all clients enrolled with a managed care organization, the managed care organization shall review the Medicaid client's need for continued care in an ICF/ID at least annually. The managed care organization must submit documentation to the ~~IME medical services~~ Iowa Medicaid QIO unit for all reviews that indicate a change in the client's level of care. The ~~IME medical services~~ Iowa Medicaid QIO unit shall make a final determination for any reviews that indicate a change in the level of care.

This rule is intended to implement Iowa Code section 249A.12.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 21. Amend subrule 82.13(1), introductory paragraph, as follows:

**82.13(1) Content.** The facility shall as at a minimum maintain the following records:

ITEM 22. Amend rule ~~441—82.14(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.12 ~~as amended by 2012 Iowa Acts, Senate File 2336, section 58.~~

ITEM 23. Amend subrule 82.15(1) as follows:

**82.15(1) Claims.** Claims for service for clients not enrolled with a managed care organization must be sent to the Iowa Medicaid ~~enterprise~~ after the month of service and within 365 days of the date of service. Such claims must be submitted electronically through ~~IME's~~ Iowa Medicaid's electronic clearinghouse.

a. No change.

b. Adjustments to claims may be made electronically as provided for by the Iowa Medicaid ~~enterprise~~.

ITEM 24. Amend paragraphs **82.17(2)“a”** and **“b”** as follows:

a. ~~The Iowa Medicaid enterprise~~, the department's contracted managed care organizations, field auditors of the department of inspections and appeals and representatives of the U.S. Department of Health and Human Services, upon proper identification, shall have the right to audit billings to the department and receipts of client participation, to ensure that the facility is not receiving payment in excess of the contractual agreement and that all other aspects of the contractual agreement are being followed, as deemed necessary.

b. ~~The Iowa Medicaid enterprise~~, the department's contracted managed care organizations, field auditors of the department of inspections and appeals and representatives of the U.S. Department of Health and Human Services, upon proper identification, shall have the right to audit records of the facility to determine proper handling of patient funds in compliance with subrule 82.9(3).

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6777C**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

#### Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 84, “Early and Periodic Screening, Diagnosis, and Treatment,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

#### *Purpose and Summary*

Chapter 84 was reviewed as part of the Department's five-year rules review. Chapter 84 defines the early and periodic screening, diagnosis, and treatment (EPSDT) services provided under the Medicaid program to eligible children under the age of 21. This rules review resulted in technical changes.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

References to federal regulations are updated to provide accurate listings. Outdated references are removed.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6588C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 84**, preamble, as follows:

**PREAMBLE**

This chapter defines and structures the early and periodic screening, diagnosis and treatment services provided under the Medicaid program to eligible children under the age of 21. As further described in these rules, services include physical and mental health screenings (including hearing and vision), laboratory tests, immunizations, and health education. Services are provided in compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to ~~November 16, 1984~~ March 29, 2022.

ITEM 2. Amend subrule 84.3(4) as follows:

**84.3(4)** Health education including anticipatory guidance. ~~See 441—subparagraph 78.18(6) “b”(1) for a description of the information services.~~ Services are provided in compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to March 29, 2022.

ITEM 3. Amend subrule 84.4(1) as follows:

**84.4(1)** The availability of early and periodic screening shall be discussed with the payee for any Medicaid-eligible child under the age of 21 at the time of application and periodically thereafter in

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compliance with federal regulations at Title 42, Part 441, Subpart B, as amended to ~~November 16, 1984~~  
March 29, 2022.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6778C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to collections**

The Human Services Department hereby amends Chapter 95, "Collections," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 252B.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 252B.3.

*Purpose and Summary*

Chapter 95 was reviewed as part of the Department's five-year rules review. These rules outline the eligibility for child support recovery services under federal and state laws and the rules for children and families referred to the Child Support Recovery Unit who have applied for or are receiving public assistance.

The rules review resulted in technical changes. Amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are updated to provide accurate listings, and outdated references are removed. Mailing addresses are also updated.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6621C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—95.1(252B)**, definition of “Current support,” as follows:

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. ~~In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).~~

ITEM 2. Amend subrule 95.2(4) as follows:

**95.2(4)** *Application for services.*

A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2) “a,” “b,” and “c,” shall complete and ~~return~~ submit to the child support recovery unit Form 470-0188, Application for Nonassistance Support Services, or an electronic version of such application, for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of the child's parents.

~~a.—The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.~~

~~b.—The person requesting services has the option to seek support from one or both of the child's parents.~~

ITEM 3. Amend paragraph **95.3(1)“a”** as follows:

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, ~~“Income Withholding Return Document,”~~ to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

ITEM 4. Adopt the following new implementation sentence in rule **441—95.4(252B)**:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 5. Amend subrule 95.5(1) as follows:

**95.5(1)** Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to ~~August 4, 1989~~ September 1, 2022. The

## HUMAN SERVICES DEPARTMENT[441](cont'd)

bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

ITEM 6. Amend paragraph **95.13(1)“a”** as follows:

a. An obligee may contact a customer service representative ~~in person at the department's collection services center~~, by telephone ~~through the specialized customer services unit~~, or by writing to the Collection Services Center, ~~727 East 2nd Street~~ P.O. Box 9243, Des Moines, Iowa 50306.

ITEM 7. Amend paragraph **95.14(1)“a”** as follows:

a. The child support recovery unit may terminate services when the case meets at least one of the following case closure criteria and the child support recovery unit maintains supporting documentation for the case closure decision in the record:

(1) to (4) No change.

(5) The noncustodial parent's location is unknown and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to September 1, 2022, all of which have been unsuccessful, within the applicable time frame:

1. and 2. No change.

(6) to (13) No change.

(14) The child support recovery unit documents failure by the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that its intergovernmental services are no longer needed.

(17) and (18) No change.

ITEM 8. Amend subparagraph **95.14(1)“c”(2)** as follows:

(2) The child support recovery unit receives instructions for case closure from an initiating agency, as defined under 45 CFR 301.1 as amended to September 1, 2022. Within ten working days, the child support recovery unit must stop the income withholding order or notice and close the intergovernmental IV-D case.

ITEM 9. Amend subrule 95.14(2) as follows:

**95.14(2) Case closure notifications.** In cases meeting one of the criteria of subrule 95.14(1), except subparagraph 95.14(1)“a”(9), (10), or (11), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. to d. No change.

ITEM 10. Amend paragraph **95.15(2)“b”** as follows:

b. The child support recovery unit ~~attorney~~ shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

ITEM 11. Amend rule **441—95.15(252B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and ~~598.21~~ 598.21C.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 12. Rescind and reserve rule **441—95.16(252B)**.

ITEM 13. Adopt the following **new** implementation sentence in rule **441—95.17(252B)**:  
This rule is intended to implement Iowa Code section 252B.14.

ITEM 14. Amend rule 441—95.18(252B) as follows:

**441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients.** Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—~~subrule 41.22(8)~~ 441—Chapter 41 or 441—~~subrule 75.14(3)~~ 441—Chapter 75, as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

**95.18(1) Notice of services.** When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, ~~Notice of Continued Support Services~~, to the family's last-known address within five working days of the notification of ineligibility, to inform the family of the following:

*a. and b.* No change.

**95.18(2) Termination of services.** A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, ~~Notice of Continued Support Services~~, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

**95.18(3)** No change.

This rule is intended to implement Iowa Code section 252B.4.

ITEM 15. Amend rule 441—95.19(252B) as follows:

**441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support.** If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

**95.19(1) Cooperation defined.** The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—~~subrule 41.22(8)~~ 441—Chapter 41 or ~~75.14(8)~~ 441—Chapter 75 for refusal to cooperate, is established.

*a. and b.* No change.

*c.* The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, ~~Child Support Information~~, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

**95.19(2) Failure to cooperate.** The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, ~~Notice of Noncooperation~~, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

**95.19(3) Good cause or other exception.**



## HUMAN SERVICES DEPARTMENT[441](cont'd)

*a.* A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrules 41.22(8) through 41.22(12)~~ 441—Chapter 41.

*b.* A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrule 75.14(3)~~ 441—Chapter 75.

This rule is intended to implement Iowa Code section 252B.3.

ITEM 16. Amend rule ~~441—95.20(252B)~~, introductory paragraph, as follows:

**441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support.** If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in ~~441—subrule 41.22(6)~~ 441—Chapter 41 and ~~rule 441—75.14(249A)~~ 441—Chapter 75 shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

ITEM 17. Amend subrule 95.21(2) as follows:

**95.21(2) Failure to cooperate.** The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under ~~95.14(1)“b”(1)~~ subparagraph 95.14(1)“a”(10).

ITEM 18. Amend subrule 95.25(1) as follows:

**95.25(1) Verification process.** CSRU shall send Form 470-2562, ~~Emancipation Verification~~, to the obligor and obligee on a case if CSRU has an address.

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6779C**

## HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

### Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 96, “Information and Records,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 252B.9.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 252B.9.

#### *Purpose and Summary*

Chapter 96 was reviewed as part of the Department’s five-year rules review. Title IV-D of the Social Security Act provides that state child support agencies providing services under the Act shall have access to information and records from third parties to assist in providing services. These rules provide

HUMAN SERVICES DEPARTMENT[441](cont'd)

the framework for a child support agency to request or administratively subpoena information from employers and other sources.

Technical changes are being made as a result of the five-year rules review. A reference to an obsolete form is being replaced with current information. A mailing address is also amended.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6620C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

*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*

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **96.1(3)“a”** as follows:

a. Form ~~470-3232, Employer Verification Request, Form 470-0177~~ 470-0177M, Employment and Health Insurance Questionnaire, or other forms as specified in appropriate rules from the child support recovery unit which request information described at subrule 96.1(1).

ITEM 2. Amend paragraph **96.3(2)“b”** as follows:

b. If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with the child support recovery unit or with the child support agency of the other state. The person or entity shall request a conference with the child support recovery unit by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to the Iowa Department of Human Services, Bureau of Collections, Central Registry, P.O. Box ~~9248~~ 9136, Des Moines, Iowa ~~50306-9248~~ 50306-9136. The person or entity shall

HUMAN SERVICES DEPARTMENT[441](cont'd)

request a conference with the child support agency of the other state by following the requirements of that state's laws and regulations.

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6780C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

#### **Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 97, "Collection Services Center," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 252B.16.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 252B.16.

#### *Purpose and Summary*

Chapter 97 was reviewed as part of the Department's five-year rules review. The collection services center is the public agency designated by the State as the unit with responsibility for the receipt, recording and disbursement of specified support payments within the state of Iowa. The administrative guidelines within this chapter describe the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor and distribute support payments.

Technical changes are being made as a result of the five-year rules review. References to obsolete language are being replaced with current information.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6622C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 8, 2022.

#### *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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—97.2(252B), introductory paragraph, as follows:

**441—97.2(252B) Transfer of records and payments.** For non-IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. “Core case information” means information listed in paragraphs 97.2(1) “a” and “b” and subrule 97.2(2). For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, ~~obligees~~, and ~~payors of income~~ obligees based upon case type.

ITEM 2. Amend subrule 97.5(3), introductory paragraph, as follows:

**97.5(3) Implementing electronic funds transmission.** A payor of income implementing electronic funds transmission shall complete all the following ~~before the implementation date specified in subrule 97.5(5)~~ in advance of transmitting payments electronically:

ITEM 3. Rescind and reserve subrule **97.5(5)**.

ITEM 4. Amend subrule 97.6(3) as follows:

**97.6(3) Electronic transfer.** Obligees who want electronic transfer of support payments to a designated account shall complete Form 470-2612, ~~Authorization for Automatic Deposit~~, and submit it to the collection services center. Unless subrule 97.6(5) applies, any obligee not using automatic deposit to a designated account shall be issued an electronic access card for receipt of support payments.

ITEM 5. Amend paragraph **97.6(5)“c,”** introductory paragraph, as follows:

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on Form 470-3972, ~~Electronic Support Payments~~, that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return Form 470-3972 to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. The exemptions available under this paragraph are:

[Filed 12/8/22, effective 2/1/23]

[Published 12/28/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6764C****LABOR SERVICES DIVISION[875]****Adopted and Filed****Rule making related to the exception for the operation of pizza dough rollers**

The Labor Commissioner hereby amends Chapter 32, “Child Labor,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 92.21.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 92.8(10) as amended by 2022 Iowa Acts, Senate File 2190.

*Purpose and Summary*

This rule making implements a required rule revision because of 2022 Iowa Acts, Senate File 2190, which exempts certain pizza dough rollers from being defined as “power-driven bakery machines.”

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6600C**. No public comments were received. The last sentence of the rule making had an error. The word “optional” has been corrected as “operational.” No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commissioner on November 29, 2022.

*Fiscal Impact*

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

*Jobs Impact*

The statute and rule may increase the availability of jobs for employees under the age of 18.

*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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

*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 February 1, 2023.

## LABOR SERVICES DIVISION[875](cont'd)

The following rule-making action is adopted:

Amend subrule 32.8(10) as follows:

**32.8(10)** “*Occupations involved in the operation of certain power-driven bakery machines*” means the occupations of operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and the occupations of setting up or adjusting a cookie or cracker machine. However, this definition does not apply to the operation of pizza dough rollers that are a type of dough sheeter that have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers, that have gears that are completely enclosed, and that have microswitches that disengage the machinery if the backs or sides of the rollers are removed, only when all the safeguards detailed in Iowa Code section 92.8(10) are present on the machinery, are operational, and have not been overridden.

This subrule is intended to implement Iowa Code section 92.8(10).

[Filed 11/30/22, effective 2/1/23]

[Published 12/28/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6760C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

**Rule making related to physician assistants**

The Labor Commissioner hereby amends Chapter 155, “Asbestos Removal and Encapsulation,” Chapter 169, “General Requirements for Athletic Events,” Chapter 173, “Professional Boxing,” Chapter 174, “Elimination Tournaments,” Chapter 176, “Professional Kickboxing,” and Chapter 177, “Mixed Martial Arts,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 88B.3 and 90A.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 144.7.

*Purpose and Summary*

2022 Iowa Acts, House File 803, allows physician assistants to perform various duties that are within their scope of practice but which statute or rule previously only allowed physicians to accomplish. House File 803 also directs agencies to amend their rules to reflect the statutory changes allowing physician assistants to perform certain tasks that previously were only accomplished by physicians. The purpose of this rule making is to modify the Division of Labor Services’ rules to be consistent with these statutory changes.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6599C**. No public hearing was held, and no public comments were received. No changes from the Notice have been made.

LABOR SERVICES DIVISION[875](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Commissioner on November 29, 2022.

*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*

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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 155.6(1) as follows:

**155.6(1) Application form.** Except as noted in this subrule, the applicant must complete and submit the entire form provided by the division with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the respiratory protection and physician's or physician assistant's certification forms. Photocopies of the forms shall not be accepted.

ITEM 2. Amend subparagraph **155.6(11)“a”(2)** as follows:

(2) A copy of a physician's or physician assistant's statement indicating that, consistent with 29 CFR 1910.134, a licensed physician or physician assistant has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

ITEM 3. Amend subparagraph **169.4(1)“b”(5)** as follows:

(5) A copy of the medical license of the ringside physician or physician assistant;

ITEM 4. Amend subparagraph **169.4(1)“b”(10)** as follows:

(10) The date, time, and location of the ringside physician's or physician assistant's examination of the contestants;

ITEM 5. Amend subrule 169.5(16) as follows:

**169.5(16)** Submit to the ringside physician or physician assistant no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within the one-year period prior to the event. The contestant shall not participate and the physician or physician assistant shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

a. to e. No change.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 6. Amend rule 875—173.4(90A) as follows:

**875—173.4(90A) Injury.** If a contestant claims to be injured during the bout, the referee shall stop the bout and request the attending physician or physician assistant to make an examination. If the physician or physician assistant decides that the contestant has been injured as the result of a foul, the physician or physician assistant shall advise the referee of the injury. If the physician or physician assistant is of the opinion that the injured contestant may be able to continue, the physician or physician assistant shall order a five-minute intermission, after which the physician or physician assistant shall make another examination and again advise the referee of the injured contestant's condition. It shall be the duty of the promoter to have an approved physician or physician assistant in attendance during the entire duration of all bouts.

ITEM 7. Amend rule 875—173.8(90A) as follows:

**875—173.8(90A) Persons allowed in the ring.** No person other than the contestants and the referee shall enter the ring during the bout, excepting the seconds between the rounds or the attending physician or physician assistant if asked by the referee to examine an injury to a contestant.

ITEM 8. Amend rule 875—173.19(90A) as follows:

**875—173.19(90A) Weighing of contestants.** Contestants shall be weighed and examined on the day of the scheduled match by the attending ring physician or physician assistant, at a time and place to be determined by the commissioner. Preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weigh-ins will be conducted with the boxer stripped. Accurate scales shall be furnished by the promoter.

ITEM 9. Amend rule 875—173.45(90A) as follows:

**875—173.45(90A) Attending ring physician or physician assistant.** When a boxer has been injured seriously, knocked out or technically knocked out, the referee shall immediately summon the attending ring physician or physician assistant to aid the stricken boxer. Managers, handlers and seconds shall not attend to the stricken boxer, except at the request of the physician or physician assistant.

ITEM 10. Amend rule 875—173.47(90A) as follows:

**875—173.47(90A) Timekeeper.** The timekeeper shall provide a stopwatch and shall maintain an accurate time of all bouts. The timekeeper shall keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician or physician assistant, replacing a glove or adjusting any equipment during a round. The timekeeper shall provide a whistle and shall sound the whistle ten seconds before the start of each round of boxing bouts. The timekeeper shall be impartial and shall not signal interested parties at any time during a bout.

ITEM 11. Amend rule 875—174.6(90A) as follows:

**875—174.6(90A) Suspension.** A contestant who suffers a knockout or where the referee stops a fight on a technical knockout (TKO) shall not be permitted to box in the state for a period of 30 days. Before being permitted to fight again, the contestant shall be examined by a physician or physician assistant approved by the commissioner.

ITEM 12. Amend subrule 176.4(1) as follows:

**176.4(1) Officials.** The designation of officials, referees, physicians, physician assistants, timekeepers, judges, kick counters, scorekeepers, contestants, seconds, and managers is subject to the approval of the commissioner or designee.

ITEM 13. Amend subrule 177.4(1) as follows:

**177.4(1) Officials.** Officials shall consist of three judges, two referees, the physician or physician assistant, and the timekeeper.



LABOR SERVICES DIVISION[875](cont'd)

ITEM 14. Amend subrule 177.4(3) as follows:

**177.4(3) *Timekeeper.*** The timekeeper shall keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician or physician assistant, replacing a glove or adjusting any equipment during a round. The timekeeper shall notify contestants at the beginning and end of each round. The timekeeper shall be impartial and shall not signal interested parties at any time during a match.

ITEM 15. Amend subrule 177.4(8) as follows:

**177.4(8) *Persons allowed in the cage.*** No person other than the two contestants and the referee shall enter the cage during the match. However, the physician or physician assistant may enter the cage to examine a contestant upon the request of the referee.

ITEM 16. Amend paragraph **177.4(10)“d”** as follows:

*d.* A contestant is exempt from ~~177.4(10)(a)(1)~~ subparagraphs 177.4(10)“a”(1) and (2) while interacting with the contestant’s opponent during a round. However, if the round is stopped by the physician or physician assistant or referee for a time out, ~~177.4(10)(a)(1)~~ subparagraphs 177.4(10)“a”(1) and (2) shall apply to a contestant.

ITEM 17. Amend subrule 177.5(13) as follows:

**177.5(13) *Examination of contestants.*** On the day of the event, at a time and place to be approved by the commissioner, the ringside physician or physician assistant shall conduct a rigorous physical examination to determine the contestant’s fitness to participate in an MMA match. A contestant deemed not fit by the physician or physician assistant shall not participate in the event.

ITEM 18. Amend subrule 177.6(7) as follows:

**177.6(7) *Injury.*** If a contestant claims to be injured or when a contestant has been injured seriously or knocked out, the referee shall immediately stop the fight and summon the attending ring physician or physician assistant to make an examination of the stricken fighter. If the physician or physician assistant decides that the contestant has been injured, the physician or physician assistant shall advise the referee of the severity of the injury. If the physician or physician assistant is of the opinion the injured contestant may be able to continue, the physician or physician assistant shall order a five-minute intermission, after which the physician or physician assistant shall make another examination and again advise the referee of the injured contestant’s condition. Managers, handlers and seconds shall not attend to the stricken fighter, except at the request of the physician or physician assistant.

[Filed 11/29/22, effective 2/1/23]

[Published 12/28/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6761C**

## **UTILITIES DIVISION[199]**

**Adopted and Filed**

**Rule making related to review of rules**

The Utilities Board hereby amends Chapter 31, “Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 476.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.72 and 476.74.

UTILITIES DIVISION[199](cont'd)

### *Purpose and Summary*

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules.

The Board issued an order on November 21, 2022, adopting the amendments. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under RMU-2021-0031.

### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6339C**. A public hearing was held on June 23, 2022, at 10 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Representatives from the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); and Iowa-American Water Company (Iowa-American) attended the public hearing. Oral comments primarily concerned the proposed change in subrule 31.3(2) to increase the reporting threshold from \$50,000 to \$250,000. OCA recommended the threshold remain at \$50,000; Iowa-American recommended the threshold be increased to \$5 million; and MidAmerican and IPL supported the proposed increase to \$250,000.

During the written comment period, the Board received written comments from OCA, IPL, MidAmerican, and Iowa-American. OCA requested changes to subrules 31.3(1), 31.2(2), and 31.5(2), most of which the Board accepted. MidAmerican supported all the proposed amendments contained in the Notice and requested an additional change to subrule 31.3(4). IPL supported all the proposed changes in the Notice. Iowa-American requested the reporting threshold in subrule 31.3(2) be increased to \$5 million and took no position on all other proposed changes in the Notice.

Three substantive changes have been made from the Notice. First, in paragraph 31.3(1)“a,” the Board has stricken the modifier “new or revised” at OCA’s request and removed the requirement that a document number be included in an executive summary. Second, in subrule 31.3(2), the Board is retaining the “5 percent of the capital equity of the utility” language to address, in part, OCA’s filing threshold concerns. Third, at MidAmerican’s request, the Board is adding language in subrule 31.3(4) to exempt affiliates that do not conduct business with the public utility.

### *Adoption of Rule Making*

This rule making was adopted by the Board on November 21, 2022.

### *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*

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 31.

### *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

## UTILITIES DIVISION[199](cont'd)

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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—31.1(476) as follows:

**199—31.1(476) Applicability and definition of terms.** This chapter applies to all rate-regulated gas, or electric, water, sanitary sewage, or storm water drainage service public utilities. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Fully distributed cost” is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“Net book value” means the original purchase price minus depreciation.

ITEM 2. Amend rule 199—31.3(476) as follows:

**199—31.3(476) Annual filing.**

**31.3(1)** On or before June 30 of each year, all public utilities shall file with the board the following information:

*a.* An executive summary of each ~~new or revised~~ contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include: ~~the document number~~, the start and end date of the contract, the providing affiliate, the receiving affiliate, the total estimated dollar value, the dollar amount reported for the calendar year, and a description of the service or goods covered.

*b.* Verified copies of contracts, arrangements, or other similar transactions between the public utility and an affiliate shall be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code ~~subsections~~ sections 476.74(1) to 476.74(4).

**31.3(2)** Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of ~~\$50,000~~ \$250,000 or 5 percent of the capital equity of the utility, whichever is smaller, are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each contract, arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate shall be identified separately.

**31.3(3)** After an initial filing under rule 199—31.3(476), a public utility shall file only new contracts or arrangements or other similar transactions and modifications or amendments to existing contracts or arrangements, or other similar transactions on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility shall file a statement to that effect.

**31.3(4)** If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility and an affiliate, the public utility shall notify the board in writing within ~~30~~ 60 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board or the affiliate does not conduct business with the public utility.

ITEM 3. Amend subrule 31.5(2) as follows:

**31.5(2) Confidential treatment.** When a public utility files contracts, arrangements, or other similar transactions with the board, all such contracts or arrangements for which confidential treatment is sought shall be clearly marked and are subject to 199—subparagraph 1.9(5)“c”(18). ~~In addition to~~

UTILITIES DIVISION[199](cont'd)

~~the requirements set out in 199—1.9(22), the public utility shall provide, at the time of filing with the board, a list designating the contracts, arrangements, and other similar transactions, if any, for which confidential treatment is sought. The public utility shall designate where and to whom contracts, arrangements, and other similar transactions determined by the board to be confidential shall be returned.~~

[Filed 11/29/22, effective 2/1/23]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.

**ARC 6762C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

#### **Rule making related to recordkeeping and cost allocations in nonutility activities**

The Utilities Board hereby amends Chapter 33, “Nonutility Activities—Record Keeping and Cost Allocations,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.72 and 476.78 to 476.80.

#### *Purpose and Summary*

199—Chapter 33 applies to all rate-regulated public utilities and contains regulations regarding public utilities’ nonutility services, including provisions that govern the Board’s access to a public utility’s nonutility service records, the costing methodologies between a public utility’s utility and nonutility operations, and the standards for service and asset transfers between a public utility’s utility and nonutility operations. As part of a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2), the Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules.

The Board issued an order adopting these amendments on November 21, 2022. The order is available on the Board’s electronic filing system under Docket No. RMU-2021-0033.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6340C**. A public hearing was held on June 23, 2022, at 1:30 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Representatives from the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); Black Hills/Iowa Gas Utility Company, LLC, doing business as Black Hills Energy (Black Hills); and Iowa-American Water Company (Iowa-American) attended the public hearing. OCA supported all the proposed amendments and requested that the Board include a reference in rule 199—33.2(476) to the National Association of Regulatory Utility Commissioners’ Uniform System of Accounts for water utilities. All other commenting parties either supported or took no position on the proposed amendments.

The Board also received written comments from OCA, Black Hills, IPL, MidAmerican, and Iowa-American. Written comments from OCA supported all the proposed amendments and included the

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same request regarding rule 199—33.2(476) made by OCA during the hearing. All other commenting parties either supported or took no position on the proposed amendments contained in the Notice.

The Board has made one change from the Notice. In the Notice, the Board proposed to replace the “approval” of manuals with the “acceptance” of manuals in subrule 33.5(2). However, one reference to the “approval” of manuals in subrule 33.5(2) was missed. Because no commenting party opposed replacing “approval” with “acceptance,” the Board made this additional change.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on November 21, 2022.

#### *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*

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 33.

#### *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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 33**, title, as follows:

~~NONUTILITY ACTIVITIES SERVICES—RECORD KEEPING~~ RECORDKEEPING  
AND COST ALLOCATIONS

ITEM 2. Amend rule 199—33.1(476) as follows:

**199—33.1(476) Applicability.** This chapter applies to all rate-regulated ~~gas or electric~~ public utilities.

ITEM 3. Amend rule **199—33.2(476)**, definition of “Filing threshold,” as follows:

“*Filing threshold*” means that the summation of a an electric or gas utility’s revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility’s operating revenues recorded in FERC account 400, or the summation of a water utility’s revenues from nonutility service equals 3 percent of the utility’s operating revenues. The revenues in these accounts will be as recorded in the annual FERC Form 1 for electric and combination utilities and FERC Form 2 for gas utilities.

ITEM 4. Amend subrule 33.3(1) as follows:

**33.3(1) Separate records.** A rate-regulated ~~gas or electric~~ public utility receiving revenues for providing nonutility service shall keep and render to the board separate records on the nonutility service.

UTILITIES DIVISION[199](cont'd)

ITEM 5. Amend rule 199—33.5(476) as follows:

**199—33.5(476) Cost allocation manuals.** Every rate-regulated ~~gas or electric~~ public utility equaling or exceeding the filing threshold in any calendar year shall file with the board a cost allocation manual on or before September 1 of the following year. If the utility has not changed its cost allocation manual since the last filing on September 1, the utility shall file a letter with the board to that effect. In the event the utility has made only minor changes to its manual to reflect new accounts or new affiliates or has modified language, the utility may file only the pages affected together with a cover letter explaining the pages being filed. A utility excused from filing a cost allocation manual for any of the foregoing reasons shall comply with the other requirements of this rule.

**33.5(1) Contents of manuals.** Each cost allocation manual must contain the following information:

*a. Nonutility activities services.* A list, the location, and description of all nonutility ~~activities as defined in Iowa Code section 476.72(3)~~ services.

*b. and c.* No change.

*d. Allocation methodology.* A description of the cost allocation methodology, including an overview, explanation, and justification of the details provided in response to paragraphs ~~“e”~~ 33.5(1) “e” through “h” below.

*e.* No change.

*f. Accounts and records.* A description of each account and record used by the utility for financial ~~record keeping~~ recordkeeping for nonutility services, including all subaccounts.

*g. Allocation factors.* A paragraph containing, for each allocation factor identified in compliance with paragraph ~~“e,”~~ 33.5(1) “e,” an explanation of how the allocation factor is calculated, a description of each study and analysis used in developing the allocation factor, and the frequency with which each allocation factor is recalculated.

*h. to j.* No change.

**33.5(2) Annual filing and ~~approval~~ acceptance of manuals.** The following procedure shall be used for the annual filing and ~~approval~~ acceptance of manuals.

*a.* No change.

*b. Notice.* At the time of the initial filing and whenever a manual is updated, each utility shall mail or deliver a written notice to consumer advocate, local trade associations, and customers who have notified the utility in writing of their interest in the cost allocation manual. Notice to customers may be provided by means agreed to between the public utility and the customer, such as a customer electing to receive electronic notice. The notice shall state that an objection may be filed with the board within 60 days of the filing of the manual with the board. The utility shall promptly provide copies of the manual upon request.

*c. to e.* No change.

**33.5(3) and 33.5(4)** No change.

ITEM 6. Adopt the following new implementation sentence in **199—Chapter 33**:  
These rules are intended to implement Iowa Code sections 476.72 through 476.83.

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**ARC 6763C**

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

**Adopted and Filed**

**Rule making related to veterans license fee fund**

The Iowa Department of Veterans Affairs hereby amends Chapter 17, “Veterans License Fee Fund,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 35A.5(12).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 35A.

*Purpose and Summary*

This rule making updates language in Chapter 17.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6580C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 29, 2022.

*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*

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 Department for a waiver of the discretionary provisions, if any.

*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 February 1, 2023.

The following rule-making action is adopted:

## VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Amend rules 801—17.1(35A) to 801—17.3(35A) as follows:

**801—17.1(35A) Purpose.** These rules establish authorized expenditures from the veterans license fee fund. Authorized expenditures will meet the department's mission to educate, inspire, support, and remember, as follows.

**17.1(1) Educate.** Provide marketing materials, resources, books, and updated manuals to keep the veterans community updated on benefits.

**17.1(2) Inspire.** Ensure community and nonprofit organizations receive funds to promote public initiatives that honor military service and inspire esprit de corps amongst service branches.

**17.1(3) Support.** Provide funding support to nationally accredited veteran service organizations within the state of Iowa that aid and assist service members within communities.

**17.1(4) Remember.** Fund community and nonprofit programs that remember and honor Iowa's fallen heroes to keep the memory of their sacrifices and service alive for generations.

**801—17.2(35A) Moneys.** Moneys in this fund may be used for the administrative expenses related to the business of the Iowa commission of veterans affairs, to include mileage, per diem, conference call capabilities, printing costs for quarterly meetings, ~~and~~ expenses incurred for hearings at the Iowa Veterans Home, and nationally accredited veterans service organizations.

**801—17.3(35A) Expenditures.** Moneys in this fund may be used for expenditures that have the intent to benefit all Iowa veterans. (Examples include benefit books, educational materials, and ~~research~~ outreach programs.)

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