Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 230
"Long-Term Care Ombudsman"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 231

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 231 and section 712 of the federal Supporting Older Americans Act as amended to October 1, 2025

Public Hearing

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

June 3, 2025 11 a.m.	Microsoft Teams Meeting ID: 244 623 271 706 Passcode: Fe7Jj6DN

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking moves and revises 17—Chapter 8 from agency [17] to agency [441], and 17—Chapter 8 is being rescinded in a separate rulemaking. This proposed chapter establishes procedures for notice and appeal of penalties imposed for interference with the official duties of a long-term care ombudsman, which are established in Iowa Code sections 231.42 and 231.45 and in accordance with Section 712 of the Supporting Older Americans Act. This proposed chapter also establishes criteria for serving under the certified volunteer long-term care ombudsman program. The long-term care ombudsman investigates complaints related to the actions or inactions of long-term care providers that may adversely affect the health, safety, welfare, or rights of residents and tenants who reside in long-term care facilities, assisted living programs, and elder group homes. In addition, this proposed chapter establishes the process for representatives of the office of the state long-term care ombudsman performing managed care ombudsman services to provide assistance and advocacy related to long-term services and supports under the Medicaid program.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans who are aged 60 and older who reside in long-term care facilities, assisted living programs, and elder group homes will benefit from this rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are approximately 900 facilities in Iowa covered by the office and approximately 50,000 people on Medicaid long-term care services and supports that could potentially reach out to the office for assistance.

- **Qualitative description of impact:**

This proposed rulemaking updates language and centralizes Department rules.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs in the implementation and enforcement of this proposed chapter.

- **Anticipated effect on state revenues:**

This proposed rulemaking has no impact on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 441—Chapter 230:

CHAPTER 230
LONG-TERM CARE OMBUDSMAN

441—230.1(231) Definitions.

"Certified volunteer" means a certified volunteer long-term care ombudsman as authorized under Iowa Code section 231.45. A certified volunteer is considered a representative of the office.

"Federal Act" means the federal Supporting Older Americans Act, 42 U.S.C. §3001 et seq., as amended to October 1, 2025, and all references herein are as amended to October 1, 2025.

"Office" means the office of the state long-term care ombudsman established pursuant to the federal Act and Iowa Code section 231.42.

"Ombudsman" means the state long-term care ombudsman appointed by the director.

"Representative of the office" means the same as defined in 45 CFR §1324.1 as amended to October 1, 2025.

441—230.2(231) Interference. A representative of the office who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home or to medical and social records while in the course of conducting official duties pursuant to Iowa Code section 231.42 or whose work is interfered with during the course of an investigation shall report such denial or interference to the office, which will report the interference to the director.

441—230.3(231) Monetary civil penalties—basis. The director, in consultation with the ombudsman, may impose a monetary civil penalty of not more than $1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state, ombudsman or representative of the office pursuant to Iowa Code section 231.42(8).

441—230.4(231) Monetary civil penalties—notice of penalty. The office will notify the officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home in writing by certified mail of the intent to impose a civil penalty pursuant to 441—Chapter 16. The notice will include, at a minimum, the following information:

1. The nature of the interference and the date the action occurred.
2. The statutory basis for the penalty.
3. The amount of the penalty.
4. The date the penalty is due.
5. Instructions for responding to the notice, including information on the individual's right to appeal.

441—230.5(231) Monetary civil penalties—appeals. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who is assessed a monetary civil penalty for interference with the official duties of a long-term care ombudsman may appeal the penalty as set forth in 441—Chapter 7.

441—230.6(231) Certified volunteer long-term care ombudsman program.

230.6(1) Application. Any individual may apply to the office to become a certified volunteer.

a. Application forms. Application forms may be accessed on the department's website.

b. Submission of forms. Each applicant shall complete an application and submit it to the office at the address listed on the form.

230.6(2) Applicants shall not be accepted into the program if:

a. It is determined that the applicant has a conflict of interest as defined in the federal Act; or

b. The applicant has unfavorable references, which will include a criminal background check and abuse check.

230.6(3) Training. Prior to certification, applicants must successfully complete the required training as approved by the office. Successful completion means completion of all assignments and tasks during training, demonstration of proper techniques and skills, and an understanding of the role of the certified volunteer in the long-term care setting.

230.6(4) Approval for certification. Final approval for certification as a certified volunteer will be made by the office and will be subject to the applicant's successful completion of the required training. The office has the right to require that the applicant receive additional personal training prior to certification and has the right to deny certification to applicants not meeting the training criteria.

230.6(5) Certification.

a. Notification. A certified volunteer will be notified in writing within 14 days following the conclusion of the training program if certification has been continued or revoked.

b. Certification will initially be for one year, with recertification available following the certified volunteer's completion of a minimum of 18 hours of approved continuing education in the first year and completion of a progress review by the office.

230.6(6) Continuing education.

a. All certified volunteers shall complete a minimum of 18 hours of approved continuing education annually.

b. Certified volunteers are responsible for reporting continuing education hours to the office or designee within 30 days following the completion of the continuing education event.

230.6(7) Decertification.

a. Reasons for decertification. A certified volunteer may be decertified by the office for any of the following reasons:

(1) Falsification of information on the application;
(2) Breach of confidentiality;
(3) Acting as a certified volunteer without proper certification;
(4) Attending less than the required continuing education training;
(5) Voluntary termination;
(6) Unprofessional conduct;
(7) Failure to carry out the duties as assigned; or
(8) Actions that are found by the office to violate the rules or intent of the program.

b. Notice of decertification. The office will notify the certified volunteer and the facility in writing of a decertification pursuant to 441—Chapter 16.

c. Request for reconsideration. A request for reconsideration or reinstatement of certification may be made in writing to the office. The request must be filed within 14 days after receipt of the notice of revocation.

d. Response time. The office will investigate and consider the request and notify the requesting party and the facility of the decision within 30 days of receipt of the written request.

230.6(8) Duties. The certified volunteer shall assist the office or designee in carrying out the duties described in the federal Act.

441—230.7(231) Managed care ombudsman services.

230.7(1) The office may provide advocacy and assistance to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program who are receiving services in a long-term care facility or under one of the home- and community-based services waivers.

230.7(2) Representatives of the office providing an individual with assistance and advocacy services authorized under Iowa Code section 231.44 shall be provided access to the individual and to the individual's medical, social and administrative records related to the provision of the long-term services and supports to the individual, as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified by Iowa Code section 231.44.

230.7(3) The office and representatives of the office, when providing assistance and advocacy services under Iowa Code section 231.44, will be considered a health oversight agency as defined in 45 CFR §164.501 as amended to October 1, 2025, for the purposes of health oversight activities described in 45 CFR §164.512(d) as amended to October 1, 2025. Recipient information available to the office and representatives of the office under this subrule shall be limited to the recipient's

protected health information as defined in 45 CFR §160.103 as amended to October 1, 2025, for the purpose of recipient case resolution.

These rules are intended to implement Iowa Code sections 231.41, 231.42, 231.44, and 231.45.