Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 45
"Payment"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 239B.4(6)

State or federal law(s) implemented by the rulemaking: Iowa Code sections 239B.2, 239B.3, and 239B.7

Public Hearing

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

November 6, 2024 2 to 3 p.m.	Microsoft Teams Meeting ID: 238 807 808 374 Passcode: sCAuM5

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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Des Moines, Iowa 50319
Phone: 515.829.6021
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Purpose and Summary

This proposed chapter defines how Family Investment Program (FIP) payments are issued, how to handle underpayments, the limit on payments, and rounding of the standard of need and payment amount.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

No costs were identified.

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

Persons receiving payments under FIP will benefit.

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:

For state fiscal year 2023, there were approximately 11,011 clients on average per month enrolled in FIP.

- Qualitative description of impact:

These rules play an important role in providing precise procedure and a legal basis for decisions made by the Department.

3. Costs to the State:

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

The Department incurs personnel costs to implement the program.

- Anticipated effect on state revenues:

There are no additional costs beyond those already appropriated.

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

If this chapter did not exist, there would be a lack of clear guidance and legal authority for FIP payment decisions.

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

A less costly method has not been identified to achieve the purpose of this chapter.

6. Alternative methods considered by the agency:

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

None.

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

Some of the benefit can be achieved through employee manuals. However, additional structure is needed to provide precise procedure and a legal basis for decisions made by the Department.

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?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 45 and adopt the following **new** chapter in lieu thereof:

CHAPTER 45
PAYMENT

441—45.1(239B) Issuing payment. The department may issue assistance payments pursuant to Iowa Code section 239B.3(3).

45.1(1) *Electronic access card.* The department will make payments available through an electronic access card issued to the payee except when:

a. The recipient requests direct deposit; or

b. The department determines it is not practicable to issue the payment by electronic access card.

45.1(2) *Direct deposit.* The department will issue payments by direct deposit to the recipient's own account in a financial institution if the recipient completes a form prescribed by the department to request direct deposit.

45.1(3) *Warrant.* The department will issue payments by warrant when the recipient has not requested direct deposit and the department determines it is not practicable to issue payment by electronic access card. These circumstances include but are not limited to the following:

a. A one-time payment is issued.

b. The payee is a representative payee, conservator, or guardian who is not part of the FIP assistance unit.

c. The payee is unable to provide a social security number or an individual taxpayer identification number.

441—45.2(239B) Return. Assistance warrants cannot be forwarded. When warrants cannot be delivered by the post office, they shall be returned to the department.

441—45.3(239B) Held warrants. A warrant may be held by the department only in the following instances:

45.3(1) The recipient's whereabouts is unknown.

45.3(2) The recipient is not in the home due to an emergency and it is not known who will be serving as emergency payee.

441—45.4(239B) Underpayment. A corrective payment will be made when the recipient receives a payment in an amount less than that for which the recipient was eligible due to an administrative or client error or the recipient reports the completion of the federal tax return requiring repayment to Internal Revenue Service of excess advance earned income credit payments received in the prior calendar year.

45.4(1) Attribution of underpayments.

a. An underpayment may be attributed to the department as a result of one of the following circumstances:

(1) Misfiling or loss of forms or documents.

(2) Errors in typing or copying.

(3) Computer input errors.

(4) Mathematical errors.

(5) Failure to certify assistance in the correct amount when all essential information was available to the department.

(6) Failure to make prompt revisions in grants following changes in policies requiring the changes as of a specific date.

b. An underpayment may be attributed to the client as a result of one of the following circumstances:

(1) Information reported in error, oral or written, regarding the client's income, resources, or other circumstances that may affect eligibility or the amount of assistance received.

(2) Failure to timely report changes in income, resources, or other circumstances that may affect eligibility or the amount of assistance received.

45.4(2) Conditions under which a retroactive corrective payment may be made.

a. Retroactive corrective payments will be made for all underpayments.

b. Any retroactive corrective payment for which the recipient is eligible will first be applied to any unpaid overpayment before the balance, if any, is paid to the recipient.

c. Retroactive corrective payments will be made for underpayments discovered on and after October 1, 1981, regardless of when the underpayment occurred. Recipients and former applicants and recipients are responsible for supplying any information needed to determine the amount of an underpayment.

45.4(3) The amount of the corrective payment to the recipient for repayment to Internal Revenue Service of excess advance earned income credit payments will be computed on the basis of the earnings considered in determining the family investment program grant for the prior year.

45.4(4) A retroactive corrective payment is:

a. Exempt from consideration as income.

b. Exempt from consideration as a resource in the month received and the following month.

441—45.5(239B) Deceased payees. A retroactive corrective payment will be made for deceased payees only when the payment was approved by the department before the recipient's death. Payment for a special need will be made only when the payment is entered on the automated benefit calculation system before the effective date of cancellation.

441—45.6(239B) Limitation on payment. A payment will be made to an eligible recipient only when the amount of the assistance is $10 or more.

441—45.7(239B) Rounding of need standard and payment amount. The need standard and monthly payment amount will be rounded down to the next whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar.

These rules are intended to implement Iowa Code sections 239B.2, 239B.3, and 239B.7.