Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 61
"Refugee Services Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217.6

State or federal law(s) implemented by the rulemaking: Iowa Code sections 217.6 and 217.41; 8 U.S.C. §1522.42; 45 CFR §400.2; Immigration and Nationality Act, Title I, Section 101, and Title II, Chapter 1, Section 208; Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1988, as contained in Section 101(e) of Public Law 100-202 and amended by the ninth proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-461); Section 107(b) of the Trafficking Victims Protection Act of 2000, as contained in Public Law 106-386, Division A, 114 Stat. 1464 (2000)

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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Purpose and Summary

This proposed chapter is intended to define and structure the Department's refugee services program, including eligibility criteria, application procedures, reasons for adverse actions, and appeal procedures for clients and sponsors.

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 identified.

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

Iowans who are eligible for refugee services 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:

Refugee, immigrant and migrant services (RIMS) served 1,577 individuals in federal fiscal year 2023.

- Qualitative description of impact:

These rules will benefit the refugee population by helping them understand program eligibility criteria, application procedures, available services and reasons for adverse action.

3. Costs to the State:

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

No additional costs are anticipated beyond those already appropriated.

- Anticipated effect on state revenues:

This proposed rulemaking will have no effect on state revenues.

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

Eliminating the rules entirely could lead to confusion or lack of available information critical to this population.

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

No less costly or less intrusive methods were identified.

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

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

These rules outline and organize refugee resettlement activities in a manner that promotes the welfare and self-sufficiency of refugees who live in Iowa. Alternatives, such as a sole reliance on a state plan, would be subject to constant revision. This would cause inconsistencies and lack of clear authority and direction for the program.

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?

None identified.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
REFUGEE SERVICES PROGRAM

441—61.1(217) Definitions.

"Cash assistance" means the same as defined in 45 CFR §400 (June 7, 2022).

"Client" means refugees or others determined eligible for services funded under the refugee program.

"Family self-sufficiency plan" means a plan that addresses the employment-related service needs of the employable members in a family for the purpose of enabling the family to become self-supporting through the employment of one or more family members.

"Individual employability plan" means a written plan outlining an individual's vocational goal and the services to be provided to reach the goal.

"Iowa state refugee program plan" means the report that describes the state of Iowa's refugee program plan to meet the standards, goals, and priorities required under the Immigration and Nationality Act and developed by the department on the basis of a consultative process for the successful resettlement of refugees.

"Office of refugee resettlement" means the same as established in 8 U.S.C.A. §1521 (April 30, 1994).

"Refugee" means the same as defined in 8 U.S.C. §1101(a) INA 101 (a)(42) (January 5, 2023).

"Refugee unit" means either an individual refugee or two or more refugees representing an identifiable group, as determined by the department.

"Resettlement agency" means any business, organization or group of related persons having a current contract with the United States Department of State's Bureau of Population, Refugees, and Migration for the resettlement of refugees within the United States of America.

"Unaccompanied refugee minor" means the same as defined in 6 U.S.C.A. §279 (December 23, 2008).

441—61.2(217) Authority. The department has been given authority to administer the refugee program by Executive Order Number 21, signed by the governor December 24, 1985. United States Department of State and United States Department of Health and Human Services rules govern various program operations.

441—61.3(217) Eligibility.

61.3(1) *Eligible immigration status.* Refugees eligible for services are those who have a status listed under 45 CFR §400.43 (June 7, 2022) or one of the following statuses:

a. Iraqi and Afghan Special Immigrants pursuant to Section 1244(g) of Div. A of PL 110-181 as amended (8 U.S.C. §1157 note) and Section 602(b)(8) of Div. F of PL 111-8 as amended (8 U.S.C. §1101 note).

b. Victims of a severe form of trafficking in persons per the Victims of Trafficking and Violence Protection Act of 2000, PL 106-386, as amended, and 22 U.S.C. §7105(b) (1) (A) and (C).

61.3(2) *Unaccompanied minors.* In addition to the unaccompanied minors in the categories listed under subrule 61.3(1), the following are eligible for the Office of Refugee Resettlement (ORR) Unaccompanied Refugee Minors Program:

a. Unaccompanied minor with special immigrant juvenile status under 8 U.S.C. §1101(a)(27)(J) who was in the custody of the secretary of health and human services at the time the dependency order was granted for such child or was receiving services pursuant to Section 501(a) of the Refugee Education Assistance act of 1980 (8 U.S.C. §1522 note) at the time such dependency order was granted.

b. Unaccompanied minor who has been granted U status pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. §1101(a)(15)(U)).

441—61.4(217) Planning and coordinating the placement of refugees. Planning and coordination the placement of refugees will be established in the bureau of refugee services state plan as required

by the United States Department of State and United States Department of Health and Human Services.

441—61.5(217) Services of the department available for refugees. All services provided to the refugee and family have self-sufficiency as the goal. Direct and contracted services may include:

61.5(1) *Job development.* These services involve working with employers in job development, placement, training, retention, and upgrading.

61.5(2) *Social adjustment.* These services include assessment and short-term counseling to persons or families in a perceived crisis, referral to appropriate resources, the making of arrangements for necessary services, home management services, transportation, translation and interpretation services, and case management services.

61.5(3) *Health-related services.* These services include information, referral to appropriate resources, assistance in scheduling appointments and obtaining services, and counseling to individuals or families to help them understand and identify their physical and mental health needs and maintain or improve their physical and mental health.

61.5(4) *Resettlement services.* These services involve securing and training sponsors, arranging for refugees to resettle in Iowa and providing case management, employment services, and social adjustment services.

As required under the resettlement contract with the United States Department of State, the department provides case management, employment services, and social adjustment services to the refugees it resettles during their first 90 days in Iowa.

61.5(5) *Any additional service.* These services, upon submission to and approval of the director of the office of refugee resettlement, include any additional service aimed at strengthening and supporting the ability of a refugee individual, family, or refugee community to achieve and maintain economic self-sufficiency, family stability, or community integration which has been demonstrated as effective and is not available from any other funding source.

61.5(6) *Translation and interpretation services.* These services provide interpreter service from English into the refugee languages or vice versa and assistance in translating written materials.

61.5(7) *Immigration services.* These services provide information and assistance to refugees in securing permanent resident alien status and family reunification.

61.5(8) *Adjustment of status.* These services provide guidance in obtaining permanent alien status and citizenship.

61.5(9) *Employability services.* A family self-sufficiency plan will be developed for anyone who receives employment-related services from the department. These services are specifically designed to assist refugees to obtain employment and to improve the employability of work skills of the individual and include job referral to, and job placement with, private employers. Specific employability services include:

a. Employment services which include such activities as the development of a family self-sufficiency plan, individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and follow-up.

b. Employability assessment services which include such activities as aptitude and skills testing.

c. English language instruction which includes referrals to programs which offer a curriculum which places an emphasis on English as it relates to obtaining and retaining a job and to programs which are provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

d. On-the-job training which includes referrals to training that is provided at the employment site and is expected to result in full-time, permanent, unsubsidized employment with the employer who is providing the training.

e. Vocational training which includes referrals to driver education and training when provided as part of an individual employability plan.

f. Skills recertification which includes referrals to training that meets the criteria for appropriate training. If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice the individual's profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training:

(1) Is approved as part of the individual's employability plan by the state agency, or its designee;

(2) Does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance);

(3) Is specifically intended to assist the professional in becoming relicensed in the professional's profession; and

(4) If completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed.

g. Child care which includes referrals to child care necessary for participation in an employability service or for the acceptance or retention of employment.

h. Transportation when necessary for participation in an employability service or for the acceptance or retention of employment.

i. Translation and interpretation services when necessary in connection with employment or participation in an employability service.

j. Case management services for refugees who are considered employable and for recipients of public assistance who are considered employable, provided that the services are directed toward a refugee's attainment of employment as soon as possible after arrival in the United States.

k. Assistance in obtaining employment authorization documentations.

l. Referral to Iowa workforce development for provision of any or all of the above services.

61.5(10) *Outreach services.* These services include activities designed to familiarize refugees with available services, to explain the purpose of these services, and to facilitate access to these services.

61.5(11) *Referral.* These services enable referral of refugee clients to mainstream service systems.

441—61.6(217) Provision of services.

61.6(1) *Priority of services.* Services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

a. Refugees who are receiving cash assistance.

b. Unemployed refugees who are not receiving cash assistance.

c. Employed refugees in need of services to retain employment or to attain economic independence.

d. All newly arriving refugees in the United States who apply for services during the five-year period from their date of arrival.

61.6(2) *Limitations on eligibility.* Services as described in rule 441—61.5(217) may be provided in the first 60 months of resettlement unless the Office of Refugee Resettlement grants an exception to the 60-month limit. Referral, interpretation, citizenship, and naturalization services may be provided to the extent feasible past 60 months of resettlement for refugees, except that refugees who are receiving employability services, as defined in subrule 61.5(11), as part of an employability plan, as of September 30, 1995, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the United States, pursuant to 45 CFR 400 (June 7, 2022). In any case, services will first be provided for those refugees who are in the first two years of resettlement and who are in need of assistance in securing self-sufficiency.

61.6(3) *Service requirements.*

a. Services provided will be refugee-specific services which are designed specifically to meet refugee needs, except that vocational or job skills training, on-the-job training, or English language training need not be refugee specific.

b. Services will be provided, to the maximum extent feasible, in a manner that is culturally and linguistically compatible with a refugee's language and cultural background.

c. Services will be provided, to the maximum extent feasible, in a manner that includes the use of bilingual or bicultural women on service agency staffs to ensure adequate service access by refugee women.

d. The department will use its social service grants primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible.

e. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job.

f. Social service grant funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

g. In planning and providing services, the department will take into account those services which a resettlement agency is required to provide for a refugee whom it sponsors in order to ensure the provision of coordinated services to refugees that are not duplicative.

h. To avoid interference with refugee employment, English language instruction and vocational training must be provided to the fullest extent feasible outside normal working hours.

i. English language instruction must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

441—61.7(217) Application for services. Any person will have an opportunity to apply for services by contacting the department or any of its affiliated offices either in person, by telephone, by fax, in writing, or by contacting any department staff members. The department will determine the eligibility of each person for services. Applicants for refugee cash assistance will automatically be considered as applicants for services. The department will ensure that refugee women have the same opportunities as refugee men to participate in all services, including job placement services.

441—61.8(217) Adverse service actions.

61.8(1) *Denial.* Services will be denied when the department determines any of the following apply:

a. The client is not in need of the service.

b. The client is not legally eligible.

c. The service is not covered in the state refugee program plan.

d. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.

e. The service for which the client is eligible is currently not available.

f. Funding is not available to provide the service.

g. The client refuses to allow documentation of eligibility.

h. The services requested are those for which other resettlement agencies are contractually responsible.

i. The person requesting service has been in the United States more than 60 months and the services requested do not include referral, interpretation, citizenship, or naturalization services.

61.8(2) *Termination.* A service may be terminated when the department determines any of the following apply:

a. The need to attain the goals to which the service was directed has been achieved.

b. After repeated assessment, it is evident that the family or individual is unable to achieve or maintain goals set forth in the family self-sufficiency or individual employability plan.

c. After repeated efforts, it is evident that the client is unwilling to accept further service.

d. The service is no longer available in the Iowa state refugee program plan.

e. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.

f. Funding is not available to provide the service.

g. The person receiving service has been in the United States more than 60 months and the services the person is receiving do not include referral or interpretation services.

61.8(3) *Reduction.* A service may be reduced when the department determines any of the following apply:

a. Continued provision of service at its current level is not necessary. The department will determine the level to which the service may be reduced without jeopardizing the client's continued progress toward achieving or maintaining the goal.

b. Another community resource is available to provide the same or similar service to the client, at no financial cost to the client, that will meet the client's need.

c. Funding is not available to continue the service at the current level. The client will be reassessed to determine the level of service to be provided.

61.8(4) *Notice of adverse action.* In case of an action to terminate, reduce, or deny services, the department will give timely or adequate notice to the person or persons affected pursuant to 441—Chapter 16.

441—61.9(217) Client appeals. Decisions made by the department or its designee adversely affecting its clients may be appealed according to 441—Chapter 7.

441—61.10(217) Refugee resettlement moneys. Money that is made available to the refugee sponsor for financial assistance in resettling the refugee unit must be spent in accordance with financial requirements and approved expenditures of the department, United States Department of State, and the state of Iowa comptroller and must go toward the benefit of the refugee unit.

441—61.11(217) Unaccompanied refugee minors program. The department administers the unaccompanied refugee minors program under 441—Chapters 156, 112 through 116, and 202 and by federal guidelines provided by the United States Department of Health and Human Services. In consultation with other resettlement agencies, the director of the ORR determines the number of unaccompanied minors to be resettled in Iowa pursuant to 45 CFR 400 (June 7, 2022). Resettlement agencies will not bring unaccompanied minors into Iowa without the authorization of the director.

441—61.12(217) Targeted assistance grants. "Targeted assistance grants" means United States Department of Health and Human Services formula allocation funding granted to the department for assistance to counties where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

61.12(1) *Administration of targeted assistance grants.* The department will make 95 percent of the total award available to the designated county except when the designated county has agreed to let the department administer the targeted assistance grant in its stead.

61.12(2) *Eligibility for services under targeted assistance grants.* Services funded by targeted assistance grants are limited to refugees who reside in the designated county.

61.12(3) *Services and limitations for services funded by targeted assistance grants.* Rules of 441—Chapter 61 are applicable to services funded by targeted assistance grants, except for subrules 61.5(5) and 61.6(1).

61.12(4) *Priority of services.* Services funded by targeted assistance grants will be provided in the following order of priority, except in certain individual extreme circumstances:

(1) Cash assistance recipients, particularly long-term recipients.

(2) Unemployed refugees who are not receiving cash assistance.

(3) Employed refugees in need of services to retain employment or to attain economic independence.

These rules are intended to implement Iowa Code sections 217.6 and 217.41 and chapter 622A.