Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 78 and 85
"Amount, Duration, and Scope of Medical and Remedial Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 514B.1
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 2402

Public Hearing

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

November 19, 2024 2 p.m.	Microsoft Teams Meeting ID: 222 143 545 89 Passcode: Ythqof

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by 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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321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2402, which allows a physician assistant or advanced registered nurse practitioner to serve as a member of the plan of care team for children admitted to a psychiatric medical institution for children (PMIC) as a member who is experienced in child psychiatry or child psychology. House File 2402 also allows a physician assistant or advanced registered nurse practitioner to be a member of the team to complete the certification of need for services for a PMIC placement.

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 the rulemaking. The costs of the underlying legislation will be borne by the state and federal governments.

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

Providers of behavioral health services for children as well as the children being served 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 a detailed breakdown of the impact of the legislation, see the Legislative Services Agency's Fiscal Note: Legislative Services Agency (iowa.gov).

- **Qualitative description of impact:**

This rulemaking will support the expansion of behavioral health services available to Iowa children.

3. Costs to the State:

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

There are no costs associated with this rulemaking. The costs associated with the legislation can be found in the Legislative Services Agency's Fiscal Note: Legislative Services Agency (iowa.gov).

- **Anticipated effect on state revenues:**

The rulemaking will not have an impact on state revenues. The legislation's impact on state revenues can be found in the Legislative Services Agency's Fiscal Note: Legislative Services Agency (iowa.gov).

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

Rulemaking is required by section 4 of the legislation.

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?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subparagraph **78.12(2)"a"(3)** as follows:

(3) Behavioral health intervention is not covered for members who are in an acute care or psychiatric hospital, or a long-term care facility~~, or a psychiatric medical institution for children~~.

ITEM 2. Amend subrule 78.29(2) as follows:

78.29(2) *Exclusions.* Payment will not be approved for the following services:

~~*a.* Services provided in a medical institution.~~

~~*b.*~~ *a.* Services performed without relationship to a specific condition, risk factor, symptom, or complaint.

~~c.~~ b. Services provided for nonspecific conditions of distress such as job dissatisfaction or general unhappiness.

~~d.~~ c. Sensitivity training, marriage enrichment, assertiveness training, and growth groups or marathons.

ITEM 3. Amend paragraph **85.3(3)"a"** as follows:

a. For persons eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department of health and human services. A physician's assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient's admission.

ITEM 4. Adopt the following **new** subparagraph **85.6(3)"c"(4)**:

(4) The team may also include a physician's assistant or an advanced registered nurse practitioner.

ITEM 5. Amend paragraph **85.22(3)"a"** as follows:

a. For persons determined eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department ~~of human services~~. A physician's assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient's admission.

ITEM 6. Adopt the following **new** subparagraph **85.24(3)"c"(4)**:

(4) The team may also include a physician's assistant or an advanced registered nurse practitioner.