Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 91
"Medicare Drug Subsidy"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217.6 and 249A.4

State or federal law(s) implemented by the rulemaking: Section 1935(a) of the Social Security Act (42 U.S.C. Section 1396u-5)

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 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:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

The purpose of this proposed chapter is to identify and implement procedures for the Department to accept applications and determine eligibility for the Medicare drug subsidy.

Analysis of Impact

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

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

None have been identified.

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

Persons seeking the Medicare drug subsidy 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:**

Currently, there have been no applications for the Medicare drug subsidy adjudicated by the Department.

- **Qualitative description of impact:**

These rules will benefit clients applying for the Medicare drug subsidy by helping them understand program eligibility determinations and procedures.

3. **Costs to the State:**

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

No additional costs beyond those already appropriated will be borne by the Department.

- **Anticipated effect on state revenues:**

There will be no impact.

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 for clients.

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

None have been identified.

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

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

None have been seriously considered.

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

These rules provide information that supplements employee manuals and federal regulations, which adds transparency and accessibility to the program. Sole reliance on employee manuals may cause confusion and lack of clarity.

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 91 and adopt the following **new** chapter in lieu thereof:

CHAPTER 91
MEDICARE DRUG SUBSIDY

441—91.1(249A) Definitions.

"Applicant" means a person applying for a Medicare drug subsidy through the department and includes a responsible person or authorized representative acting for an applicant, except for the purposes of subrule 91.2(2).

"Application" or *"Medicare drug subsidy application"* means the federal Social Security Administration's Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs.

"Authorized representative" means a person representing an applicant or recipient as described in 441—subrule 76.9(2).

"Recipient" means a person receiving a Medicare drug subsidy based on an application filed with the department and includes a responsible person or authorized representative acting for a recipient, except for the purposes of subrule 91.2(2).

"Responsible person" means a person acting on an applicant's or recipient's behalf as described in 441—subrule 76.9(1).

441—91.2(249A) Application.

91.2(1) *Application filing.* Any person may apply for the Medicare drug subsidy through the department in accordance with 441—Chapter 76.

91.2(2) *Identifiable application and signature.*

a. An identifiable application is an application that contains:

(1) The legible name and address of the applicant; and

(2) The signature of the applicant, a responsible person, or an authorized representative on Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs.

b. If an authorized representative signed the application forms on behalf of an applicant, the applicant or a responsible person must also sign the application forms before the application can be approved.

441—91.3(249A) Eligibility determination. The department will determine eligibility for the Medicare drug subsidy pursuant to Section 1860D-14 of the Social Security Act and implement federal regulations at 20 CFR Section 418 as amended to August 1, 2024.

91.3(1) *Cooperation.* An applicant must cooperate with the department in the application process. Cooperation may include providing additional information or verification of information, participating in an interview, or signing documents. Failure to cooperate in the application process shall be a basis for denial of an application.

91.3(2) Reserved.

441—91.4(249A) Effective date. The effective date of eligibility will be determined pursuant to 42 CFR Part 423 as amended to August 1, 2024.

441—91.5(249A) Changes in circumstances.

91.5(1) *Responsibility to report changes.* A Medicare drug subsidy applicant or recipient shall report to the department in a timely manner any changes in the following circumstances:

a. Care of dependents.

b. Household composition.

c. Household income.

d. Household resources.

e. Marital status.

f. Medicare eligibility or enrollment.

g. Place of residence.

91.5(2) *Effective date of change.* Changes in eligibility or level of subsidy will be effective the month following the month in which the change is reported.

441—91.6(249A) Reinvestigation. The department will reinvestigate eligibility as often as the recipient's circumstances indicate, but in no instance will the period between reinvestigations exceed 12 months.

91.6(1) *Application requested.* When requested to do so by the department, the recipient shall complete the Medicare drug subsidy application as part of the reinvestigation process. The application shall be completed within ten working days from the date a written request is issued. Failure to complete the application shall be a basis for cancellation or reduction of the subsidy.

91.6(2) *Additional information requested.* The recipient shall supply additional information needed to establish eligibility or level of subsidy pursuant to 441—Chapter 76.

441—91.7(249A) Appeals. An applicant or recipient shall have the right to appeal any adverse action by the department pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code sections 217.6 and 249A.4 and Section 1935(a) of the Social Security Act (42 U.S.C. Section 1396u-5).