

CHAPTER 76
MATERNAL AND CHILD HEALTH PROGRAM

641—76.1(135) Program explanation. The maternal and child health (MCH) programs are operated by the Iowa department of public health as the designated state agency pursuant to an agreement with the federal government. The majority of the funding available is from the Title V, MCH services block grant, administered by the Health Resources and Services Administration within the United States Department of Health and Human Services.

The purpose of the program is to promote the health of mothers and children by ensuring or providing access to quality maternal and child health services (especially for low-income families or families with limited availability of health services); to reduce infant mortality and the incidence of preventable diseases and handicapping conditions; to increase the number of children appropriately immunized against disease; and to facilitate the development of community-based systems of health care for children and their families. The program provides and promotes family-centered, community-based coordinated care, including care/service coordination for children with special health care needs.

The department's family services bureau enters into contracts with selected private nonprofit or public agencies for the assurance of access to prenatal and postpartum care for women, preventive and primary child health services, and services to children with special health care needs. The types of services provided by these contracts are infrastructure building, population-based services, enabling services, and direct health services. The department's dental health bureau collaborates with the family services bureau to develop oral health programs to reduce barriers to oral health care and reduce dental disease through prevention. The children with special health care needs program is administered by Child Health Specialty Clinics (CHSC), University of Iowa. The department contracts with the University of Iowa department of pediatrics' Child Health Specialty Clinics to provide services to children with special health care needs. In accordance with the Maternal and Child Health Services Title V Block Grant Program administered by the U.S. Department of Health and Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau, CHSC shall ensure that public health funds will be used to cover the cost of services only after all other sources of reimbursement have been exhausted.

The MCH advisory council assists in the development of the state plan for MCH, including children with special health care needs and family planning. The advisory council assists with assessment of need, prioritization of services, establishment of objectives, and encouragement of public support for MCH and family planning programs. In addition, the advisory council advises the director regarding health and nutrition services for women and children, supports the development of special projects and conferences and advocates for health and nutrition services for women and children. The director appoints the council membership. Membership shall include parents of and service providers for children with special health care needs. The council membership shall also include the chairs, or designees, of the department's advisory committee for perinatal guidelines, and the birth defects advisory committee to ensure coordination of their respective issues and priorities. The chair of the family services bureau grantee committee or the designee of the chair may serve as an ex-officio member of the council.

641—76.2(135) Adoption by reference. Federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239), Title V, MCH services block grant shall be the rules governing the Iowa MCH program and are incorporated by reference herein.

The department finds that certain rules should be exempted from notice and public participation as being a very narrowly tailored category of rules for which notice and public participation are unnecessary as provided in Iowa Code section 17A.4(2). Such rules shall be those that are mandated by federal law governing the Iowa MCH program where the department has no option but to adopt such rules as specified and where federal funding for the MCH programs is contingent upon the adoption of the rules.

Copies of the federal legislation adopted by reference are available from Chief, Family Services Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

641—76.3(135) Rule coverage. These rules cover agencies contracting with the department to provide community-based MCH public health services and to receive funds from the department for that purpose. The contract agencies conduct essential public health services directed toward the maternal and child health populations consistent with the state's MCH services block grant state plan. The state plan is developed and administered collaboratively by the family services bureau of the department and CHSC.

641—76.4(135) Definitions.

“Applicant” means a private nonprofit or public agency that seeks a contract with the department to provide MCH services.

“Care/service coordination” means a process of linking the service system to the recipient and organizing the various elements in order to achieve a successful outcome. The terms “care coordination” and “service coordination” may be used interchangeably.

“Children with Special Health Care Needs (CSHCN)” means children with chronic physical, developmental, behavioral, or emotional conditions that require health and related services of a type or amount beyond that required by children generally.

“CHSC” means Child Health Specialty Clinics, a statewide program for children with special health care needs authorized under Title V of the Social Security Act.

“Client” means an individual who receives MCH services through a contract agency.

“CMS” means the United States Department of Health and Human Services Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration).

“Contract agency” means a private nonprofit or public agency that has a contract with the department to provide MCH services and receives funds from the department for that purpose.

“Core public health functions” means the functions of community health assessment, policy development, and assurance.

1. Assessment: regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development: development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and is in accordance with state public health policy.

3. Assurance: ensuring, by encouragement, regulation, or direct action, that programs and interventions that maintain and improve health are carried out.

“Dental home” means a usual source of dental care where dental care services are provided in a primary care setting where care is accessible, family-centered, continuous, comprehensive, coordinated, compassionate, and culturally competent. In addition, the dental care provider and parents partner to identify and access all the dental and nondental services needed to help children and their families achieve maximum oral health.

“Department” means the Iowa department of public health.

“DHHS” means the United States Department of Health and Human Services.

“DIA” means the Iowa department of inspections and appeals.

“Direct health services” means those services generally delivered one-on-one between a health professional and a client in an office or clinic.

“Director” means the director of the Iowa department of public health.

“Enabling services” means services that allow or provide for access to and the derivation of benefits from, the array of basic health care services and include activities such as outreach, case management, health education, transportation, translation, home visiting, smoking cessation, nutrition, support services, and others.

“EPSDT” means the Early and Periodic Screening, Diagnosis, and Treatment program which provides for regular preventive health care services for children aged 0 to 21 as authorized by Title XIX of the Social Security Act.

“Essential public health services” means those activities carried out by public health entities and their contractors that fulfill the core public health functions in the promotion of maternal and child health.

“Family,” for the purpose of establishing eligibility, means a group of two or more persons related by birth, marriage or adoption or residing together and functioning as one socioeconomic unit. For the purpose of these rules, a pregnant woman is considered as two individuals when calculating the number of individuals in the family. If a pregnant woman is expecting multiple births, the family size is thereby increased by the number expected in the multiple birth.

“Family planning” means the promotion of reproductive and family health by the prevention of and planning for pregnancy, and reproductive health education.

“Gap filling” means direct health services supported by Title V staff or resources that are needed by children with special health care needs but are not otherwise accessible in the community.

“HAWK-I” means healthy and well kids in Iowa and is the child health insurance program in Iowa as authorized in Title XXI of the Social Security Act.

“HCFA” means the DHHS, Health Care Finance Administration.

“Health education” means services provided by a health professional to include instruction about normal anatomy and physiology, growth and development, safety and injury prevention, signs or symptoms indicating need for medical care, and other anticipatory guidance topics.

“Health professional” means an individual who possesses specialized knowledge in a health or social science field or is licensed to provide health care.

“Health services” means services provided through MCH contract agencies.

“Informing” means the act of advising families of the services available through the EPSDT/Care for Kids program, explaining what to expect at screening, and providing information about health resources in the community.

“Infrastructure building” means activities directed at improving and maintaining the health status of all clients by providing support for the development and maintenance of comprehensive health services systems including development and maintenance of health services standards or guidelines, training, data, and planning systems.

“MCH services” means essential public health services provided by MCH contract agencies.

“Medicaid” means the Medicaid program authorized by Title XIX of the Social Security Act and funded through the Iowa department of human services from the DHHS.

“Medical home” means a usual source of health care where the physician/health care provider is available to coordinate preventive, primary and follow-up care at all times (24 hours per day, seven days per week) for the patient while maintaining the client’s health records. In addition, the physician/health care provider and parents partner to identify and access the medical and nonmedical services needed to help children and their families achieve their maximum potential.

“Nutrition screening” means nutrition education appropriate to the needs of the client, and referral to a licensed dietitian if indicated.

“OMB” means the United States Department of the Treasury, Office of Management and Budget.

“Oral health counseling” means services to assess oral health status and to provide education appropriate to the needs of the client and referral to a dentist if indicated.

“Oral health education” means information provided by a health professional about dental disease, prevention, and oral hygiene and other anticipatory guidance.

“Parenting education” means educational services for parents or expectant parents provided by health professionals to include care of infants and children, normal development, discipline, and other topics as appropriate.

“Performance measures” means a narrative statement that describes a specific maternal and child health need or requirement that, when addressed, will lead to a specific health outcome within a community and generally within a specified time frame.

“Performance standards” means criteria or indicators of the quality of service provided or the capability of a contract agency to provide public health services in a cost-effective or efficient manner as identified in the quality assurance section (501) of the MCH Administrative Manual. Copies of the performance standards are available from the Chief, Family Services Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, or on the Iowa department of public health Web site (www.idph.state.ia.us).

“Pharmacist” means a person currently licensed to practice pharmacy under Iowa Code chapter 155.

“Physician” means a person currently licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy under Iowa Code chapters 148 and 150A.

“Population-based services” means preventive interventions and personal health services, developed for and available to the entire MCH population of the state rather than for individuals in a one-on-one situation. Disease prevention, health promotion, and statewide outreach are major components.

“Prenatal and postpartum care” means those types of services as recognized by the American College of Obstetricians and Gynecologists.

“Program income” means gross income earned by the contract agency from activities in which part or all of the cost is either borne as a direct cost by the funds received from the department or counted as a direct cost toward meeting cost-sharing or matching requirements of the contract agency. “Program income” includes but is not limited to such income in the form of fees for services, third-party reimbursements, and proceeds from sales of tangible, personal or real property.

“Psychosocial services” means screening activities that include social assessment and assisting with a family’s additional needs for support and referral.

“Title V” means Title V of the Social Security Act and the federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239) which address the Maternal and Child Health and Children with Special Health Care Needs programs.

“Title X” means the program authorized in the federal regulations found in 42 CFR Subpart A, Part 59, published in the Federal Register on June 3, 1980, and the Program Guidelines for Project Grants for Family Planning Services.

“Title XIX” means the Medicaid program authorized in the Social Security Act and funded through the Iowa department of human services from the DHHS.

“Title XXI” means the child health insurance program authorized in the Social Security Act and implemented in Iowa as the HAWK-I program as administered by the Iowa department of human services.

“Well-child health care” means those types of services as recognized by the latest edition of the American Academy of Pediatrics, Guidelines for Health Supervision.

“WIC” means the Special Supplemental Nutrition Program for Women, Infants and Children, funded through the department from the United States Department of Agriculture.

641—76.5(135) MCH services. The following public health services shall be provided by contract agencies:

76.5(1) Infrastructure building services.

a. Community assessment activities to identify population-based health conditions, risks, and assets in the community.

b. Analysis of health data to determine community population-based health status, health system utilization and community resources.

c. Methodological support for data collection, analysis and dissemination.

d. Community planning activities to promote family and community health initiatives based on scientific, economic, and political factors.

e. Promotion of regulations, standards, and contracts that protect the public’s health and safety.

f. Monitoring and evaluating the effectiveness, accessibility and quality of personal health and population-based services in the community.

g. Supporting innovative initiatives to gain new insights and solutions to family and community health-related needs.

h. Development of state plan and annual report in conjunction with the family services bureau.

i. Development of systems for transitioning adolescents with special health care needs to adult services.

76.5(2) Population-based services.

a. Immunization.

- b. Injury prevention.
- c. Outreach and health education.
- d. Counseling for families who have lost a child to sudden infant death syndrome.
- e. Childhood lead poisoning screening.
- f. Support screening and follow-up for sickle cell disease and other hemoglobin disorders.

76.5(3) Enabling services.

- a. Care/service coordination.
- b. Informing.
- c. Outreach to families and children who do not access a regular and continuous source of health care (medical and dental home).
- d. Coordination of local systems of care for improving access to health services.
- e. Access to translation services.
- f. Access to transportation.
- g. Parent-to-parent support for families who have children with special health care needs.
- h. Information and outreach to families applying for the Supplemental Security Income program (Title XVI).
- i. Rescinded IAB 2/6/02, effective 3/13/02.

76.5(4) Direct health services. Direct health services may be provided to meet identified community needs. The following preventive direct health services may be supported by MCH program funds to the extent the comprehensive community assessment documents that the services are not otherwise available from health professionals within the community. Payment shall be based upon Title XIX rates to the extent that current Title XIX rate information is available to the department. Contract agencies may enter into agreements that reimburse less than the Title XIX rate. Agencies shall not reimburse a provider under sanction by CMS.

a. *Child health.*

- (1) Informing.
- (2) Care/service coordination.
- (3) Nutrition counseling.
- (4) Psychosocial services.
- (5) Parenting education.
- (6) Health education.
- (7) Well-child health services include routine, ambulatory well-child care.
- (8) Assistance in establishing a medical and dental home or usual source of care.
- (9) Referral.

b. *Prenatal and postpartum services.*

- (1) Care/service coordination.
- (2) Risk assessment.
- (3) Psychosocial screening assessment and counseling.
- (4) Nutrition assessment and counseling.
- (5) Health education.
- (6) Routine, ambulatory prenatal medical care, postpartum exams, and family planning services.

c. *Dental health—maternal and child.*

- (1) Oral screening.
- (2) Dental treatment services through referral.
- (3) Oral health education.
- (4) Fluoride varnish application.

d. *Children with special health care needs.* Community-based pediatric subspecialty clinic services that are “gap filling.”

641—76.6(135) Client eligibility criteria. The certification process to determine eligibility for direct health care under the program shall include the following requirements:

76.6(1) Age.

- a. Prenatal program—no age restrictions.
- b. Child health care services—birth through 21 years of age.
- c. CHSC—birth through 21 years of age.

76.6(2) Income.

a. Income guidelines will be the same as those established for the state's Title XXI program. Guidelines are published annually by DHHS. Department income guidelines will be adjusted following any change in DHHS guidelines.

b. Income information will be provided by the individual, who will attest in writing to the accuracy of the information contained in the application.

c. Proof of Title XIX or Title XXI (HAWK-I) eligibility will automatically serve in lieu of an application.

d. All income of family members as defined by DHHS poverty guidelines will be used in calculating the individual's gross income for purposes of determining initial and continued eligibility.

e. Income will be calculated as follows:

(1) Annual income will be estimated based on the individual's income for the past three months unless the individual's income will be changing or has changed, or

(2) In the case of self-employed families the past year's income tax return (adjusted gross income) will be used in estimating annual income unless a change has occurred.

(3) Terminated income will not be considered.

f. Individuals will be screened for eligibility for Title XIX and Title XXI (HAWK-I). If an individual's income falls within the eligibility guidelines for Title XIX and Title XXI (HAWK-I), the individual should be referred to the Iowa department of human services or other enrollment source to apply for coverage. Pregnant women shall be considered for Title XIX presumptive eligibility. Children shall be considered for Title XIX eligibility to the extent these activities are approved by the Iowa department of human services.

g. An individual whose income is above the poverty level established by Title XXI and below 300 percent of the federal poverty guidelines will qualify for services on a sliding fee scale, as determined by the local agency's cost for the service. The department provides annual guidelines. An individual whose income is at or above 300 percent will qualify for services at full fee.

h. Eligibility determinations must be performed at least once annually. Should the individual's circumstances change in a manner which affects third-party coverage or Title XIX/Title XXI eligibility, eligibility determinations shall be completed more frequently.

76.6(3) Residency. Individuals must be currently residing in Iowa.

76.6(4) Pregnancy. An individual applying for the prenatal program shall have verification of pregnancy by an independent health provider, by the maternal health contract agency, or by a family planning (Title X) agency.

76.6(5) Children with special health care needs. An individual applying for CHSC services shall be determined to have a special health care need as defined by the federal MCH bureau. Children aged 0 to 21 residing in Iowa with or at risk of having a special health care need are eligible for CHSC services. Care/service coordination or other nonclinic services are provided at no charge to the family. Clinic services are provided without charge to families with adjusted gross incomes below 185 percent of the federal poverty guideline. Families above this threshold are responsible for payment according to a sliding fee scale based on tax exemptions, adjusted gross income, and extenuating circumstances.

641—76.7(135) Client application procedures for MCH services.

76.7(1) A person or the parent or guardian of a minor desiring direct health services other than those provided to children with special health care needs shall apply to a contract agency using a Health Services Application, Form 470-2927, 470-2927(SP), or the alternate form authorized by the HAWK-I board.

76.7(2) The contract agency shall verify the following information to apply for MCH services under this program:

- a. The information requested on the application form under “Household Information.”
- b. Income information for all family members or proof of eligibility for Title XIX (Medicaid) or Title XXI (HAWK-I).
- c. Information about health insurance coverage.
- d. The signature of the individual or responsible adult, dated and witnessed.
- e. For pregnant women, denial of benefits under Title XIX (Medicaid) due to economic or categorical ineligibility.

76.7(3) If an individual has completed a Health Services Application, Form 470-2927, within the last year and the form accurately documents the current financial and family status, the MCH contract agency shall accept a copy of that application and determine eligibility without requiring completion of any other application form.

76.7(4) If an individual indicates on the Health Services Application, Form 470-2927, that the individual also wishes to apply for WIC or Medicaid or HAWK-I, the contract agency shall forward the appropriate copy to the indicated agency within two working days.

76.7(5) The contract agency shall determine the eligibility of the family and the percent of the cost of care that is the family’s responsibility. The individual shall be informed in writing of eligibility status prior to incurring costs for care.

76.7(6) Once an individual has been determined to be eligible, the individual shall report any changes in income, family composition, or residency to the contract agency within 30 days from the date the change occurred.

76.7(7) A family seeking direct health care or care/service coordination services for a child with special health care needs shall follow CHSC policies and procedures. Insurance status and eligibility for the sliding fee scale are determined during the patient registration process.

641—76.8(135) Right to appeal—client.

76.8(1) *Right of appeal.* Individuals applying for MCH services and clients receiving MCH services shall have the right to appeal whenever a decision or action of the department or contract agency results in the denial of participation, suspension, or termination from the approved MCH program. Notification of the denial of participation, suspension or termination shall be made in writing and shall state the basis for the action. All hearings shall be conducted in accordance with these rules.

76.8(2) *Notification of appeal rights and right to hearing.* Individuals applying for MCH services shall be notified of the right to appeal and the procedures for requesting a hearing at the time of application for MCH services. Information about the appeal and hearing process shall be provided in writing and shall be immediately available at maternal and child health centers. A health professional shall be available to explain the method by which an appeal or hearing is requested and the manner in which the appeal and hearing will be conducted.

76.8(3) *Request for hearing.* A request for a hearing is a written expression by an individual or the individual’s parent, guardian, or other representative that an opportunity to present the individual’s case is desired. The request shall be filed with the contract agency within 60 days from the date the individual receives notice of the decision or action which is the subject of appeal.

76.8(4) *Receipt of benefits during appeal.* Individual applicants, who are denied program benefits due to a finding of ineligibility, shall not receive benefits during the administrative appeal period. Clients who are involuntarily suspended or terminated from the MCH program shall continue to receive program benefits during the administrative appeal period.

76.8(5) *Hearing officer.* The hearing officer shall be impartial, shall not have been directly involved in the initial determination of the action being contested, and shall not have a personal stake in the decision. Hearing officers may be contract agency directors, health professionals, community leaders, or any impartial citizen. If prior to the hearing, the appealing party objects to a contract agency director serving as the hearing officer in a case involving the director’s own agency, another hearing officer shall be selected and, if necessary, the hearing shall be rescheduled as expeditiously as possible. Contract agencies may seek the assistance of the Chief, Family Services Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, in the appointment of a hearing officer.

76.8(6) Notice of hearing. The hearing officer shall schedule the time, place and date of the hearing as expeditiously as possible. Parties shall receive notice of the hearing at least ten days in advance of the scheduled hearing. The hearing shall be accessible to the party requesting the hearing. The hearing shall be scheduled within three weeks from the date the contract agency received the request for a hearing or as soon as possible thereafter, unless a later date is agreed upon by the parties.

76.8(7) Conduct of hearing. The party requesting the hearing or the party's representative shall have the opportunity to:

- a. Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;
- b. Be represented by an attorney or other person at the party's own expense;
- c. Bring witnesses;
- d. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses;
- e. Submit evidence to establish all pertinent facts and circumstances in the case; and
- f. Advance arguments without undue interference.

76.8(8) Decision. Decisions of the hearing officer shall be in writing and shall be based on evidence presented at the hearing. The decision shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and pertinent regulations or policy. The decision shall be issued within 90 days of the receipt of the request for the hearing, unless a longer period is agreed upon by the parties.

76.8(9) Appeal of decision to the department. A party receiving an unfavorable decision may file an appeal with the department. Such appeals must be filed within 15 days of the mailing date of the hearing decision. Appeals shall be sent to the Division Director, Family and Community Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

76.8(10) Contested case. Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the DIA pursuant to the rules adopted by the DIA regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information, which may be provided by the aggrieved party, shall also be provided to the DIA.

76.8(11) Hearing. Parties shall receive notice of the hearing in advance. The administrative law judge shall schedule the time, place and date of the hearing so that the hearing is held as expeditiously as possible. The hearing shall be conducted according to the procedural rules of the DIA found in 481—Chapter 10, Iowa Administrative Code.

76.8(12) Decision of administrative law judge. The administrative law judge's decision shall be issued within 60 days from the date of request for hearing. When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final decision without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 76.8(13).

76.8(13) Appeal to the director. Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

76.8(14) Record of hearing. Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

76.8(15) *Decision of director.* An appeal to the director shall be based on the record of the hearing before the administrative law judge. The decision and order of the director becomes the department's final decision upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

76.8(16) *Exhausting administrative remedies.* It is not necessary to file an application for the rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final decision of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

76.8(17) *Petition for judicial review.* Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the director by certified mail, return receipt requested, or by personal service. The address is Director, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

76.8(18) *Benefits after decision.* If a final decision is in favor of the person requesting a hearing and benefits were denied or discontinued, benefits shall begin immediately and continue pending further review should an appeal to district court be filed. If a final decision is in favor of the contract agency, benefits shall be terminated, if still being received, as soon as administratively possible after the issuance of the decision. Benefits denied during an administrative appeal period may not be awarded retroactively following a final decision in favor of a person applying for MCH services.

641—76.9(135) *Grant application procedures for community-based contract agencies.* Private nonprofit or public agencies seeking to provide community-based Title V-MCH public health services shall file a letter of intent to make application to the department no later than April 1 of the competitive year. Applications shall be to administer MCH services for a specified project period, as defined in the request for proposal, with an annual continuation application. The contract period shall be from October 1 to September 30 annually. All materials submitted as part of the grant application are considered public records in accordance with Iowa Code chapter 22, after a notice of award is made by the department. Notification of the availability of funds and grant application procedures will be provided in accordance with the department rules found in 641—Chapter 176.

Contract agencies are selected on the basis of the grant applications submitted to the department. The department will consider only applications from private nonprofit or public agencies. In the case of competing applications, the contract will be awarded to the applicant that scores the highest number of points in the review.

641—76.10(135) *Funding levels for community-based contract agencies.* The amount of funds available to each contract agency on an annual basis shall be determined by the department using a methodology based upon dollars available, number of clients enrolled, and selected needs criteria. A contract agency will receive four dollars of the available funds from the department for each one dollar of matching funds up to but not to exceed the total available funds for that contract agency.

641—76.11(135) *Contract agency performance.* Contract agencies are required to provide services in accordance with these rules.

76.11(1) *Performance standards.* The department shall establish performance standards that contract agencies shall meet in the provision of public health services. The performance standards for community-based agencies are published in the quality assurance section (501) of the MCH Administrative Manual. Copies of the performance standards are available from the Chief, Family Services Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, or on the Iowa department of public health Web site (www.idph.state.ia.us). Contract agencies that do not meet the performance standards shall not be eligible for continued funding as an MCH contract agency unless the contract agency has secured an exception.

76.11(2) Contract agency review. The department shall review contract agency operations through the use of reports and documents submitted, state-generated data reports, chart audits, on-site and clinic visits for direct care services as applicable for evaluation and technical assistance.

76.11(3) Exception. A contract agency that does not meet a performance standard or fails to meet an action plan as approved by the department may be granted an exception for up to one year in order to improve performance. Such an exception must be requested in writing. If granted, the approval for the exception will include the conditions necessary for the successful completion of the standard, a time frame, and additional reporting requirements. The procedures for applying for and approving of an exception are outlined in the "Performance Standards, Maternal and Child Health Contractors, Family Services Bureau."

641—76.12(135) Reporting. Completion of grant applications, budgets, expenditure reports, annual progress reports, and data forms shall be performed by contract agencies in compliance with the contract with the department.

641—76.13(135) Fiscal management. All contract agencies are required to meet fiscal management policies.

76.13(1) Last pay. MCH grant funds are considered last pay. Title XIX and other third-party payers are to be billed first if other resources cover the service.

76.13(2) Program income. Program income shall be used for allowable costs of the MCH program. Program income shall be used before using the funds received from the department. Excess program income may be retained to build a three-month operating capital. Program income shall be used during the current fiscal year or the following fiscal year. Five percent of unobligated program income may be used by the contract agency for special purposes or projects provided such use furthers the mission of the MCH program and does not violate state or federal rules governing the program.

76.13(3) Advances. A contract agency may request an advance of up to one-sixth of its contract at the beginning of a contract year. The amount of any advance will be deducted prior to the end of the fiscal year.

76.13(4) Local share. Community-based contract agencies are required to match the MCH funds received from the department at a minimum rate of one dollar of local match for every four dollars received from the department. Sources that may be used for match are reimbursement for service from third parties such as insurance and Title XIX, client fees, local funds from nonfederal sources, or in-kind contributions. In-kind contributions must be documented in accordance with generally accepted accounting principles.

76.13(5) Subcontracts. Contract agencies may subcontract a portion of the project activity to another entity provided such subcontract is approved by the department. Subcontract agencies must follow the same rules, procedures, and policies as required of the contract agency by these rules and contract with the department. The contract agency is responsible for ensuring the compliance of the subcontract. Subcontract agencies may not subcontract these project activities with other entities.

641—76.14(135) Audits. Every two years, each contract agency shall undergo financial audit of the MCH program. The audit shall be conducted in compliance with OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations. Each audit shall cover all unaudited periods through the end of the previous grant year. The department's audit guide should be followed to ensure an audit which meets federal and state requirements.

641—76.15(135) Diagnosis and therapeutic services for children. Rescinded IAB 2/6/02, effective 3/13/02.

641—76.16(135) Denial, suspension, revocation or reduction of contracts with contract agencies. The department may deny, suspend, revoke or reduce contracts with contract agencies in accord with applicable federal regulations or contractual relationships. Notice of such action shall be in writing.

641—76.17(135) Right to appeal—contract agency. Community-based contract agencies may appeal the denial of a contract or the suspension, revocation or reduction of an existing contract.

76.17(1) Appeal. The appeal shall be made in writing to the department within ten days of receipt of notification of the adverse action. Notice is to be addressed to the Division Director, Family and Community Health Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

76.17(2) Contested case. Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the DIA pursuant to the rules adopted by the DIA regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information, which may be provided by the aggrieved party, shall also be provided to the DIA.

76.17(3) Hearing. Parties shall receive notice of the hearing in advance. The administrative law judge shall schedule the time, place and date of the hearing so that the hearing is held as expeditiously as possible. The hearing shall be conducted according to the procedural rules of the DIA found in 481—Chapter 10.

76.17(4) Decision of administrative law judge. The administrative law judge's decision shall be issued within 60 days from the date of request for hearing. When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final decision without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 76.17(5).

76.17(5) Appeal to the director. Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

76.17(6) Record of hearing. Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions and rules;
- b. All evidence received or considered and all other submissions by recording or transcript;
- c. A statement of all matters officially noticed;
- d. All questions and offers of proof, objections and rulings thereon;
- e. All proposed findings and exceptions; and
- f. The proposed decision and order of the administrative law judge.

76.17(7) Decision of director. An appeal to the director shall be based on the record made at the hearing. The decision and order of the director becomes the department's final decision upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

76.17(8) Exhausting administrative remedies. It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final decision of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petition for judicial review must be filed within 30 days after decision becomes final.

These rules are intended to implement Iowa Code section 135.11.

[Filed 9/30/88, Notice 8/10/88—published 10/19/88, effective 11/23/88]

[Filed emergency 7/21/89—published 8/9/89, effective 7/21/89]

[Filed 11/9/89, Notice 8/9/89—published 11/29/89, effective 1/3/90]

[Filed 9/28/90, Notice 6/13/90—published 10/17/90, effective 11/21/90]

[Filed 5/10/91, Notice 1/9/91—published 5/29/91, effective 7/3/91]

[Filed 9/13/91, Notice 7/10/91—published 10/2/91, effective 11/6/91]

[Filed 3/13/92, Notice 2/5/92—published 4/1/92, effective 5/6/92]

[Filed 1/11/96, Notice 11/8/95—published 1/31/96, effective 3/6/96]

[Filed emergency 3/10/99 after Notice 1/13/99—published 4/7/99, effective 3/10/99]

[Filed 1/10/02, Notice 11/28/01—published 2/6/02, effective 3/13/02]