CHAPTER 74
FAMILY PLANNING SERVICES
[Prior to 7/29/87, Health Department[470] Ch 74]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

641—74.1(135) Program explanation. The Iowa department of public health is a designated agency to operate the family planning program pursuant to an agreement with the federal government. Congress authorized grants to assist in the establishment and operation of family planning projects which offer a broad range of acceptable and effective family planning methods, including natural family planning, infertility services and services to adolescents. The majority of the funding available is from the Title X, family planning services grant, administered by the United States Department of Health and Human Services (DHHS).

The purpose of the program is to promote the health of persons of reproductive age and families by providing access to family planning and reproductive health promotion services.

The department, bureau of family health, enters into contracts with selected private and public agencies within the department family planning service area for the provision of family planning services. A description of the department family planning service area can be obtained from the Chief, Bureau of Family Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The maternal and child health (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 the 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. 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 each committee's respective issues and priorities. The chair of the family services grantee committee or the designee of the chair may serve as an ex officio member of the council.

641—74.2(135) Adoption by reference. Federal regulations found at 42 CFR Subpart A, Part 59, and the Program Guidelines for Project Grants for Family Planning Services shall be the regulations governing the Iowa family planning program and are incorporated by reference herein.

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

641—74.3(135) Rule coverage. These rules cover the agencies that have a contract with the department to provide family planning services and receive funds from the department for that purpose.

641—74.4(135) Definitions.

"Applicant" means a private nonprofit or public agency that seeks a contract with the department to provide family planning services and receives funds from the department for that purpose.

"Client" means an individual who receives family planning services through a contract agency.

"Contract agency or contractor" means a private nonprofit or public agency within the department family planning service area that has a contract with the department to provide family planning services and receives funds from the department for that purpose.

"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.

"Director" means the director of the Iowa department of public health.

"Family" means a group of two or more persons related by birth, marriage, or adoption or residing together. 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 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.

"Health education" means services provided by a health professional to include teaching about normal anatomy and physiology, contraception, risk assessment, safety and injury prevention, signs or symptoms indicating need for medical care, and other anticipatory guidance topics.

"Health professional" means an individual who is licensed to provide health care or social services within their scope of practice.

"Health services" means services provided by family planning 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 DHHS.

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

"Performance standards" means criteria or indicators of the quality of service provided or the capability of an agency to provide services in a cost-effective or efficient manner as defined in "Iowa Department of Public Health Family Planning Manual" and the federal regulations found at 42 CFR Subpart A, Part 59, and the Program Guidelines for Project Grants for Family Planning Services.

"Title X" means the federal requirements contained in 42 CFR Subpart A, Part 59, and the Program Guidelines for Project Grants for Family Planning Services.

"Title XX" means the combined federal and state dollars in the Social Services Block Grant allocated to pay for family planning services.

641—74.5(135) Grant application procedures for contract agencies. Notification of the availability of funds and grant application procedures will be provided in accordance with the department rules found in 641—Chapter 176. Eligible applicants include only private nonprofit or public agencies. Private nonprofit or public agencies seeking to provide Title X family planning center services shall file a letter of intent to make application to the department no later than April 1 of the competitive year. The request for proposals shall identify the project period and the contract period. Contract agencies are selected on the basis of the grant applications submitted to the department. In the case of competing applications, the contract will be awarded to the applicant that scores the highest number of points in the review. Copies of review criteria are available from the Chief, Bureau of Family Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. 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.

641—74.6(135) Funding levels for 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.

641—74.7(135) Agency performance. Contract agencies are required to provide services in accordance with these rules.

74.7(1) *Performance standards.* The department shall establish performance standards that contract agencies shall meet in the provision of public health services in addition to meeting all federal requirements. The performance standards for community-based agencies are published in the document "Iowa Department of Public Health Family Planning Manual." Copies of the performance standards are available from the Chief, Bureau of Family Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Contract agencies that do not meet the performance standards shall not be eligible for continued funding as a family planning agency unless the contract agency has secured an exception.

74.7(2) *Contract agency review.* The state agency shall review contract agency operations through use of reports and documents submitted, state-generated data reports, chart audits, on-site and clinic visits for evaluation and technical assistance.

74.7(3) *Exception.* An agency that does not meet a performance standard or fails to meet action plans 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 an exception are outlined in the "Iowa Department of Public Health Family Planning Manual."

641—74.8(135) Reporting. Contract agencies shall complete grant applications, a budget, expenditure reports, an annual progress report, a family planning annual report, and data forms in compliance with the terms of the contract.

641—74.9(135) Fiscal management. All contract agencies are required to meet certain fiscal management policies.

74.9(1) *Last pay.* Family planning grant funds are considered last pay. Title XIX, Title XX and other third parties are to be billed first if the client is covered by those sources.

74.9(2) *Program income.* Program income means gross income earned by the contractor from activities in which part or all of the cost is either borne as a direct cost by a grant or counted as a direct cost toward providing services. It includes but is not limited to such income in the form of Title XIX and Title XX fees for services, third-party reimbursements, client fees, and proceeds from sales of tangible personal or real property.

Program income shall be used for allowable costs of the project. Program income shall be used prior to the use of funds received from the department. Excess program income may be retained to establish 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 family planning program and does not violate state rules or federal regulations governing the program.

74.9(3) *Advances.* A contract agency may request an advance up to one-sixth of its contract at the beginning of a contract year. The amount of any advance shall be deducted prior to the end of the fiscal year.

74.9(4) *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 agency. Subcontract agencies may not subcontract these project activities with other entities.

641—74.10(135) Audits. Every two years, each contract agency shall undergo financial audit of the family planning 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—74.11(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—74.12(135) Right to appeal—contract agency. Contract agencies may appeal denial of a contract or the suspension, revocation or reduction of an existing contract.

74.12(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 Director, Division of Community Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

74.12(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.

74.12(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, Iowa Administrative Code.

74.12(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).

74.12(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.

74.12(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.

f. The proposed decision and order of the administrative law judge.

74.12(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.

74.12(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.

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[1] See IAB, Inspections and Appeals Department.