

CHAPTER 28
POLICIES FOR MENTAL HEALTH
INSTITUTES AND RESOURCE CENTERS

[Prior to 7/1/83, Social Services [770] Ch 28]

[Prior to 2/11/87, Human Services [498]]

441—28.1(218) Definitions. The definitions in this rule apply to 441—Chapters 28, 29, and 30.

“*Admission*” means the acceptance of an individual for receipt of services at a state mental health institute or resource center on either a voluntary or involuntary basis.

“*Adult*” means an individual who is 18 years of age or older.

“*Board of supervisors*” means the elected governing body of a county as defined in Iowa Code section 331.101.

“*Catchment area*” means the group of counties, designated by the division administrator, that each mental health institute or state resource center is assigned to serve.

“*Central point of coordination process*” means the process defined in Iowa Code section 331.440(1)“a.”

“*County of residence*” means the same as defined in Iowa Code section 331.394.

“*Division administrator*” means the administrator of the division of mental health and disability services.

“*Facility*” means a mental health institute or state resource center referenced in Iowa Code section 218.1.

“*Family contact,*” for an adult individual, means:

1. The family member the individual has designated in writing to receive information concerning the individual’s services; or

2. A person, often referred to as a substitute decision maker, who has been legally authorized to make care decisions for the individual if the individual loses decision-making capacity.

“*Grievance*” means a written or oral complaint by or on behalf of an individual involving:

1. A rights violation or unfairness to the individual, or

2. Any aspect of the individual’s life with which the individual does not agree.

“*Guardian*” means the person other than a parent of a minor who has been appointed by the court to have custody of the person of the individual as provided under Iowa Code section 232.2(21) or 633.3(20).

“*Individual*” means any person seeking or receiving services from a state mental health institute or a state resource center.

“*Informed consent*” means an agreement by an individual or by the individual’s parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.

2. A description of the attendant discomforts and risks.

3. A description of the benefits to be expected.

4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.

5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“*Legal representative*” means a person, including an attorney, who is authorized by law to act on behalf of an individual.

“*Minor*” means an individual under the age of 18.

“*Non-Medicaid payment-eligible*” means that an individual is not eligible for Medicaid funding for the services provided by a mental health institute or state resource center.

“*Official designated agent*” means a person or agency designated, by a record vote of the county board of supervisors, to act on behalf of the county board of supervisors.

“*Parent*” means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

“*Regional administrator*” means the same as defined in Iowa Code section 331.388.

“*Rights*” means the human, civil, and constitutional liberties an individual possesses through federal and state constitutions and laws.

“*State case*” means the determination made under Iowa Code section 331.394 that an individual does not have a county of residence in an Iowa county and places funding responsibility with the state.

“*Superintendent*” means the superintendent of any of the four mental health institutes and the two state resource centers.

This rule is intended to implement Iowa Code section 218.4.

[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.2(218,222) Selection of facility.

28.2(1) Application for voluntary admission to a state mental health institute or resource center shall be made to the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual for whom admission is sought has a county of residence.

28.2(2) Court commitment of an individual shall be made:

a. To the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual who is being committed has a county of residence; or

b. As designated by the division administrator.

28.2(3) The division administrator shall consider granting exceptions to the established catchment areas when requested by the individual seeking a voluntary admission or by the committing court. The division administrator’s decision shall be made within 48 hours of receipt of the request. The decision shall be based on:

a. The clinical needs of the individual;

b. The availability of appropriate program services;

c. Available bed space within the program at the requested facility; and

d. The consent of the superintendents of both facilities involved.

This rule is intended to implement Iowa Code sections 218.19, 218.20, and 222.6.

[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.3(222,230) Evidence of legal settlement. Rescinded ARC 1145C, IAB 10/30/13, effective 1/1/14.

441—28.4(225C,229) Grievances. Any individual who believes the individual’s rights have been violated by a mental health institute or resource center or who has any complaint concerning the individual’s treatment at a mental health institute or resource center may file a grievance. A grievance shall be filed using Form 470-4498, Individual Grievance. The individual’s parent, family, guardian, or legal representative may file a grievance on behalf of the individual.

This rule is intended to implement Iowa Code sections 225C.27 and 229.23.

[ARC 8094B, IAB 9/9/09, effective 11/1/09]

441—28.5(217,218) Photographing and recording of individuals and use of cameras.

28.5(1) Use of still or video cameras or voice recorders by anyone other than an authorized employee, individual, parent, guardian, or legal representative to photograph or record an individual shall be allowed only with the prior authorization of the superintendent or the superintendent’s designee. Permission to photograph and record shall be granted for one specific use, and the authorization shall not extend to any other use.

28.5(2) Photographs, videos, and recordings of an adult individual shall be taken for publication only with a signed informed consent from the individual or the individual’s guardian or legal representative.

28.5(3) Photographs, videos, and recordings of a minor individual shall be taken for publication only with a signed informed consent from the parent, guardian, or legal representative.

28.5(4) Every effort shall be made to preserve the inherent dignity of the individual and to preclude exploitation or embarrassment of the individual or the family of the individual.

28.5(5) Photographs, videos, and recordings of individuals are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of individuals with mental illness or an intellectual disability.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.
[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.6(217,218) Interviews and statements.

28.6(1) Releases to the news media shall be the responsibility of the superintendent. Authority for dissemination and release of information may be designated to other employees at the discretion of the superintendent.

28.6(2) Interviews of individuals by the news media or other outside persons or groups shall be permitted only with the consent of the individual or the individual's parent, guardian, or legal representative.

a. When a request without known prior consent is received, the superintendent or designee shall not acknowledge the presence or nonpresence of an individual at the facility.

b. If the individual is in the facility, the superintendent or designee shall make the individual or the individual's parent, guardian, or legal representative aware of the request. Notice to the individual or the individual's parent, guardian, or legal representative shall be documented in the individual's record. The individual or the individual's parent, guardian, or legal representative shall be free to decide whether an interview is granted.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.
[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.7(218) Use of grounds, facilities, or equipment.

28.7(1) The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or facility grounds to an organization or group of citizens when the space or grounds are available and are not needed for regular scheduled departmental services.

28.7(2) Members of outside organizations permitted to use a facility's space or grounds shall observe the same rules as visitors to the facility.

[ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.8(218) Tours of facility. Groups or persons shall be permitted to tour the facility only with approval of the superintendent or designee.

This rule is intended to implement Iowa Code section 218.4.
[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.9(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts shall be made directly to the superintendent or designee. The superintendent or designee shall evaluate the donation in terms of the nature of the contribution to the facility's program. The superintendent or designee shall be responsible for accepting the donation and reporting the gift to the division administrator. All monetary gifts shall be acknowledged in writing to the donor.

This rule is intended to implement Iowa Code chapter 218.
[ARC 8094B, IAB 9/9/09, effective 11/1/09; ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.10(218) Residents' rights for the mentally retarded. Rescinded IAB 9/9/09, effective 11/1/09.

441—28.11(218) Catchment areas. Rescinded IAB 9/9/09, effective 11/1/09.

441—28.12(217) Release of confidential information. Information defined by statute as confidential concerning individuals who currently receive or formerly received services from the mental health institutes or resource centers shall not be released to a person, agency or organization that is not authorized by law to have access to the information unless the individual, parent, guardian, or

legal representative authorizes the release. Authorization shall be given by using Form 470-3951, Authorization to Obtain or Release Health Care Information.

This rule is intended to implement Iowa Code section 217.30.
[ARC 1145C, IAB 10/30/13, effective 1/1/14]

441—28.13(218) Applying county institutional credit balances.

28.13(1) Definition of credit balance. A county institutional credit balance occurs when a county has paid a debt from a state institution or an institutional program and it is later determined that all or part of the debt was not the county's responsibility. Only when an institutional debit balance has been paid by a county and all or part of the paid debit has been determined not to be the responsibility of the county can the resulting county credit be used to reduce existing or future institutional debit balances.

28.13(2) Order of application. County institutional credits shall be applied in the following order until all credits are exhausted or refunded:

a. A credit shall first be applied to the patient's or resident's account at the same institution that generated the credit.

b. If any credit remains after application to the patient's or resident's account, the remaining credit shall be applied to any outstanding charges at the same institution that generated the credit.

c. Any remaining credit, after application to the patient's or resident's account and to the same institution that generated the credit, shall be applied to an outstanding balance at another state institution.

(1) If a credit generated by an institution or institutional program under net budgeting is to be applied to an institution or institutional program not under net budgeting, then a transfer of funds shall be made from the applicable institutional fund or institutional program under net budgeting to the state general fund.

(2) If a credit generated by an institution that is not under net budgeting is to be applied to an institution or institutional program under net budgeting, the county may seek a refund by filing a claim to the state appeal board pursuant to 543—Chapter 3, or the county may allow the credit to remain outstanding until the county has an additional debt at a state institution or institutional program that is not under net budgeting.

(3) If a credit generated by an institution or institutional program under net budgeting is to be applied to another institution or institutional program under net budgeting, then the transfer of funds between the applicable net budgeting funds or programs shall be made through an accounting journal entry.

d. If any credit remains after applying credits as stated in paragraphs "a" to "c," the county with the remaining credit may seek a refund by filing a claim to the state appeal board pursuant to 543—Chapter 3, or the county may allow the credit to remain outstanding until such time as the county has an additional state institution or an institutional program debt.

This rule is intended to implement Iowa Code section 218.78.

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