

CHAPTER 76  
MATERNAL AND CHILD HEALTH PROGRAM

**641—76.1(135) Program overview.** 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 block grant, administered by the Health Resources and Services Administration (HRSA) within the United States Department of Health and Human Services (DHHS).

**76.1(1) Purpose.** The purpose of the program is to promote the health of mothers, children, and youth by ensuring or providing access to quality maternal and child health care services (especially for low-income families or families with limited availability of health care 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, youth and their families. The program provides and promotes family-centered, community-based coordinated care, including care/service coordination for children and youth with special health care needs.

**76.1(2) Services.**

*a.* The department's bureau of family health (BFH) 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 care services, and services to children and youth with special health care needs. The types of services provided by these contracts are infrastructure building, population-based services, enabling services, and direct health care services.

*b.* The department's bureau of oral and health delivery systems (OHDS) collaborates with BFH to develop oral health programs to reduce barriers to oral health care and reduce dental disease through prevention.

*c.* The children and youth with special health care needs program is administered by the Child Health Specialty Clinics (CHSC) at the University of Iowa. The department contracts with the University of Iowa department of pediatrics' CHSC to provide services for children and youth with special health care needs, including infrastructure building, direct clinical care, care coordination and family support. In accordance with the MCH Title V Block Grant Program administered by DHHS, HRSA, and MCHB, the 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.

**76.1(3) MCH advisory council.** The MCH advisory council assists in developing the state plan for MCH, assessing need, prioritizing services, establishing objectives, and encouraging public support for MCH and family planning programs. In addition, the 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.2(135) Adoption by reference.** Federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239), Title V MCH block grant shall be the rules governing the Iowa MCH program and are incorporated by reference herein. Copies of the federal legislation adopted by reference are available from Chief, Bureau of Family Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

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

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**641—76.4(135) Definitions.**

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

“*BFH*” means the bureau of family health.

“*Care/service coordination*” or “*care coordination*” means a comprehensive, family-centered approach that proactively engages and links clients and families to needed health care services, including medical, dental, emotional, behavioral, and health education services. Care coordination encompasses a specific set of activities that promote a client’s potential for optimal health and facilitate quality outcomes. By working with the client, family, and other involved disciplines, a care coordinator can promote seamless access and a holistic approach to service provision. Care coordination incorporates the following:

1. Meaningful assessment of needs and concerns.
2. Shared development of care plans.
3. Mobilization of agency and community resources.
4. Continued monitoring and follow-up.
5. Clear and transparent communication.
6. Complete documentation.

“*Chairperson*” means the chairperson of the MCH advisory council, who has been elected by the majority of the council’s members.

“*Children and youth with special health care needs*” or “*CYSHCN*” means children and youth with chronic physical, developmental, behavioral, or emotional conditions that require health and related services of a type or amount beyond that required by children and youth generally.

“*CHSC*” means Child Health Specialty Clinics, a statewide program for children and youth 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 DHHS Centers for Medicare and Medicaid Services .

“*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.

“*Council*” or “*MCH advisory council*” means the maternal and child health advisory council.

“*Dental home*” means a network of individualized care based on risk assessment, which includes oral health education, dental screenings, preventive services, diagnostic services, treatment services, and emergency services.

“*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 are designed to help families gain access to health care. Enabling services include but are not limited to outreach, informing/reinforming, and care coordination services to link women, children, and families to needed health care services.

“*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 care services supported by Title V staff or resources that 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.

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

“*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.

“*HRSA*” means the Health Resources and Services Administration with the United States Department of Health and Human Services.

“*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 that support developing and maintaining comprehensive health care service systems. These activities include but are not limited to needs assessment, data collection, strategic planning, working with community partners, developing protocols, quality assurance, and training.

“*I-Smile™ program*” means the department program implemented through public and private nonprofit agencies and private health care providers to increase access to dental care for children and to ensure a dental home.

“*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 team approach to providing health care that originates in a primary care setting; fosters a partnership among the client, the personal provider, and other health care professionals, and where appropriate, the client’s family; utilizes the partnership to access all medical and nonmedical health-related services needed by the client and the client’s family to achieve maximum health potential; maintains a centralized, comprehensive record of all health-related services to promote continuity of care; and has all of the characteristics specified in Iowa Code section 135.158.

“*MIECHV*” means the Maternal, Infant and Early Childhood Home Visiting program.

“*Nutrition counseling*” means therapeutic nutrition services appropriate to the needs of the client, provided by a licensed dietitian.

“*OHDS*” means the bureau of oral and health delivery systems.

“*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 for additional care 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 National Performance Measures (NPM) and State Performance Measures (SPM) required through the HRSA, Maternal and Child Health Bureau (MCHB), Title V MCH Block Grant.

*“Physician”* means a person currently licensed to practice under Iowa Code chapter 148.

*“Population-based services”* means services that include preventive personal health care services for groups of individuals (rather than one-on-one). Payer status of the individuals is not assessed, and services are not billed. Population-based services may be provided to an entire community, county, or region. Examples include but are not limited to mass immunizations, classroom oral health education, and the use of media for health promotion and education.

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

*“Presumptive eligibility determination”* means temporary Medicaid eligibility that pays for medical services while a formal Medicaid decision is being made by the Iowa department of human services. For pregnant women, presumptive eligibility determination is based only on a woman’s statement regarding her family income. A qualified provider can presume that the pregnant women who are Iowa residents will be eligible for Medicaid. Qualified providers can grant Medicaid coverage to these women to pay for the cost of ambulatory prenatal care. Presumptive Medicaid eligibility begins with the date the qualified provider determines the woman is eligible and continues through the last day of the next month.

*“Program income”* means gross income earned by the MCH contract agency resulting from activities related to fulfilling the terms of the contract. “Program income” includes but is not limited to such income as 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 MCH and CYSHCN 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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 BFH, OHDS, and CHSC.
- i. Development of systems for transitioning adolescents with special health care needs to adult services.
- j. Building relationships with community partners including health care providers and human service leaders to improve the health care system for women and children.

**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. Testing for childhood lead poisoning.
- f. Support screening and follow-up for congenital and inherited disorders.
- g. Oral health survey.

**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. Family-to-family support for families who have children and youth with special health care needs.
- h. Information and outreach to families applying for the Supplemental Security Income program (Title XVI).
- i. Referral.
- j. Assistance in establishing a medical and dental home.
- k. Presumptive eligibility.

**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) Immunizations.
- (2) Blood lead testing and analysis.
- (3) Nutrition counseling.
- (4) Psychosocial services.
- (5) Related anticipatory guidance and parenting education.
- (6) Developmental testing.
- (7) Well-child health care services include routine, ambulatory well-child care.
- (8) Home visit provided by nurse or social worker.
- (9) Interpretation services.

- (10) Transportation services.
- b. Maternal health—prenatal and postpartum services.*
  - (1) Risk assessment.
  - (2) Psychosocial screening assessment and counseling.
  - (3) Nutrition assessment and counseling.
  - (4) Health education.
  - (5) Routine, ambulatory prenatal medical care, postpartum exams, and family planning services.
  - (6) Home visit provided by a nurse or social worker.
  - (7) Interpretation services.
  - (8) Transportation services.
- c. Dental health—maternal and child.*
  - (1) Oral screening.
  - (2) Dental treatment services through referral.
  - (3) Oral health education and counseling for the prevention of dental disease.
  - (4) Fluoride varnish application.
  - (5) Dental sealant application.
  - (6) Prophylaxis.
  - (7) Radiographs.
- d. Children and youth with special health care needs.* Community-based pediatric subspecialty clinic services that are gap filling.  
[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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.* Maternal health program—no age restrictions.
  - b.* Child health program—birth through 21 years of age.
  - c.* CYSHCN program—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.
  - c.* Proof of Title XIX, Title XXI (HAWK-I), or WIC 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, Title XXI (HAWK-I), and WIC. If an individual’s income falls within the eligibility guidelines for Title XIX, Title XXI (HAWK-I), or WIC, the individual may be referred to the Iowa department of human services or other enrollment source to apply for coverage. Children, youth and pregnant women shall be considered for Title XIX presumptive eligibility.
  - 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 based on poverty

levels established annually by DHHS. 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, the maternal health contract agency, a family planning (Title X) agency, or a positive home pregnancy test.

**76.6(5) Children and youth 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 MCHB. Care/service coordination, family support or other non-clinic 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 guidelines. Families above this threshold are responsible for payment according to a sliding fee scale based on tax exemptions, adjusted gross income, and extenuating circumstances.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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 and youth with special health care needs may apply to a contract agency using a Health Services Application, Form 470-2927, 470-2927(S), Presumptive Eligibility Health Care Coverage for Children Application, Form 470-4855, 470-4855(S), or the alternate form authorized by the HAWK-I board.

**76.7(2)** The contract agency shall verify the following information to receive services under the Title V MCH 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), Title XXI (HAWK-I), or WIC.

*c.* Information about health insurance coverage.

*d.* The signature of the individual or responsible adult, dated and witnessed.

**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, or family support for a child or youth with special health care needs shall follow CHSC policies and procedures. Insurance status and eligibility for the sliding fee scale are determined during the client registration process.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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 MCH 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, Bureau of Family Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, 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 in writing within ten working days of the mailing date of the hearing decision. Appeals shall be sent to the Contract Administrator, Division of Administration and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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 during 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 event that competitive proposals receive an equal number of points, two department division directors and the respective bureau chief administering the program may conduct a second review utilizing the same scoring process.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.10(135) Funding levels for community-based contract agencies.** The amount of Title V MCH 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

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

**76.11(1) Performance measures.** Contract agencies must report on activities and progress toward meeting NPM, SPM, and other performance measures identified by the department.

**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.** Rescinded IAB 10/3/12, effective 11/7/12.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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.** Title V MCH 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 may be used for allowable costs of the MCH contract agency. A spending plan must be approved by the department for use of program income in excess of 5 percent above the amount approved in the program budget. Program income must be used before the funds received from the department are used. Excess program income may be retained to build a three-month operating capital.

**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 Title V 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.  
[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**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 Contract Administrator, Division of Administration and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.18 to 76.20** Reserved.

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

**641—76.21(135) Purpose.** The MCH advisory council assists in the development of the state plan for MCH, including children and youth with special health care needs and family planning. The 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 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.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.22(135) Mission.** The mission of the MCH advisory council is to assist the department in improving coordination of and promoting an integrated health system serving children and families in Iowa. Areas of emphasis include Title V MCH and any other programs in the department that address the well-being of children and families.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.23(135) Membership.** Membership of the MCH advisory council shall include representatives of professional groups, agency representatives, legislators, and individuals with an interest in promoting health services for women and children.

**76.23(1)** Appointments to the council shall be made by the director.

a. Each appointment shall be for a term of three years, commencing on July 1.

b. No member shall serve more than two full consecutive terms (this provision may be waived by the director in exceptional cases).

c. In order to ensure that one third of the council rotates each year, staggered terms shall be initiated in June. For terms expiring during the calendar year, appointments and reappointments shall be staggered, resulting in a council with approximately one third of the terms of membership expiring in each year.

d. The goal is to attempt to implement a gender-balanced council membership.

e. The number of members shall not be fewer than 15 or more than 25.

**76.23(2)** The council shall be composed of the following categories:

a. Required members.

(1) The chair (or designee) of the department's perinatal advisory committee.

(2) The chair (or designee) of the congenital and inherited disorders advisory committee.

(3) With approval of the director:

1. A representative chosen by the Iowa State Association of Counties.

2. A representative chosen by the Iowa Dental Association.

3. A representative chosen by the Iowa Dietetic Association.

4. A representative chosen by the American Academy of Family Physicians, Iowa chapter.

5. A representative chosen by the American Academy of Pediatrics, Iowa chapter.

6. A representative chosen by the American College of Obstetricians and Gynecologists, Iowa chapter.

7. A representative chosen by the state board of health.

(4) Three family representatives, appointed by the director, may represent parents with children and youth with special health care needs, parents with children participating in Medicaid or HAWK-I, or parents with children participating in child care or early childhood education.

*b.* Discretionary members. A maximum of 13 additional members from among the following may be appointed by the director:

(1) Adolescent health.

(2) Women's health.

(3) Insurance (private sector).

(4) Child care.

(5) Legal services.

(6) Child advocate.

(7) Social service.

(8) Infant mortality prevention.

(9) University extension services.

(10) Voluntary agency.

(11) Children's mental health.

(12) Youth.

(13) Child health.

(14) Adult mental health.

(15) Substance abuse.

(16) Domestic violence or sexual violence services, or both.

(17) Juvenile justice.

(18) Oral health.

*c.* Ex officio members. The following may serve as ex officio, nonvoting members of the council:

(1) One state senator and one state representative.

(2) The chair (or designee) of the bureau of family health grantee committee, Iowa department of public health.

(3) A representative of the department of education, division of learning and results.

(4) A representative of the department of human services, Iowa Medicaid enterprise.

(5) A representative of the department of human services, division of adult, children and family services, bureau of child care and community services.

(6) Director (or designee) of Child Health Specialty Clinics.

(7) The chair (or designee) of the early childhood Iowa board.

**76.23(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term. The nominations committee will make recommendations to the director for appointments.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

#### **641—76.24(135) Officers.**

**76.24(1)** Officers of the council shall be a chairperson and a vice chairperson who shall be elected by the members at the last scheduled meeting of each fiscal year.

*a.* The term of elected office shall be one year.

*b.* A member shall not serve as chairperson for more than three full consecutive years.

*c.* Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.

*d.* Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

**76.24(2)** Duties of officers.

*a.* The chairperson shall:

(1) Preside at all meetings of the council,

- (2) Represent the council at appropriate or designated meetings,
- (3) Appoint such committees as deemed necessary, and
- (4) Designate the chairperson of ad hoc committees.

*b.* The vice chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

(3) Represent the council at designated meetings at the request of the chairperson.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.25(135) Duties of the council.** The council shall perform the following duties:

**76.25(1)** Review the state's maternal, child, and adolescent health needs and the adequacy of health care services, programs, and providers to meet those needs.

**76.25(2)** Review local health statistics and program data to assess improvement in the overall health status of women and children.

**76.25(3)** Represent the concerns of consumers and local service providers in their relationship with the department programs and initiatives and other state agency initiatives.

**76.25(4)** Provide input and feedback in the development of the MCH state plan, the I-Smile™ program, family planning grant application and programming objectives, MIECHV state plan, and the WIC state plan, including the assessment of need, the prioritization of services and the establishment of objectives.

**76.25(5)** Identify potential collaborative partners to help achieve the mission and goals of the MCH advisory council and the department.

**76.25(6)** Disseminate information and report back to representative consumer groups and local providers regarding department programs, initiatives, services, and state plans.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.26(135) Meetings.**

**76.26(1)** Meetings of the council will be held as necessary and at the call of the director or the chairperson. There shall be a minimum of four meetings per year.

*a.* At the last scheduled meeting of the fiscal year, the regular meetings for the following year will be scheduled.

*b.* Notice of meetings will be sent at least two weeks prior to the meeting date.

*c.* Materials for the meeting will be sent at least one week prior to the meeting date.

**76.26(2)** All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**76.26(3)** A majority of the required and discretionary membership shall constitute a quorum.

**76.26(4)** At all meetings of the council, the act of the majority of the members present at the meeting shall be the act of the council.

**76.26(5)** Meeting attendance.

*a.* Attendance shall be expected at all meetings unless circumstances prohibit attendance.

*b.* Participation by telephone or other means is permissible so long as arrangements can be made by the department for such participation.

*c.* Three unexcused absences per fiscal year shall result in termination of membership as determined by the director or the director's designee.

**76.26(6)** The council shall maintain information sufficient to indicate the results of each vote. If necessary, members may be polled telephonically or electronically.

**76.26(7)** Subcommittees shall meet as necessary.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.27(135) Executive committee.**

**76.27(1)** The executive committee shall be composed of the chairperson and vice chairperson, assisted by two members appointed by the chairperson at the beginning of the fiscal year.

**76.27(2)** The executive committee will meet as necessary to act on behalf of the full council to develop a recommendation when the council is not in session.

**76.27(3)** The executive committee may request staff support and assistance from department management.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

**641—76.28(135) Committees.** The council may designate one or more committees to perform such duties as may be deemed necessary.

**76.28(1)** The chairperson appoints the nominations committee, which will submit a slate of potential members and officers.

**76.28(2)** Additional committees or ad hoc committees may be formed as needed.

**76.28(3)** Committees should be utilized whenever possible to review particular substantive areas by previewing recommendations, framing issues for the larger group and presenting on issues that need to be addressed by the council.

[ARC 0364C, IAB 10/3/12, effective 11/7/12]

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