

CHAPTER 87
FAMILY PLANNING PROGRAM

PREAMBLE

This chapter defines and structures the family planning program administered by the department pursuant to 2017 Iowa Acts, House File 653, section 90. The purpose of this program is to provide family planning services to individuals who are not enrolled in medical assistance under 441—Chapter 74 or 441—Chapter 75. The department is not receiving federal financial participation for expenditures under the family planning program. Therefore, this chapter shall remain in effect only as long as state funding is available.

The family planning program shall replicate the eligibility requirements and other provisions included in the Medicaid family planning network waiver, as approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services in effect on June 30, 2017, but shall provide for distribution of the family planning services program funds in accordance with this chapter.

Distribution of family planning program funds under this chapter shall be made in a manner that continues access to family planning services.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.1(217) Definitions.

“*Applicant*” means a person who applies for assistance under the family planning program described in this chapter.

“*Authorized Title X agency*” means an agency or entity with an executed memorandum of understanding (MOU) with the Iowa department of human services authorizing the agency to perform point-of-service eligibility determinations for the family planning program.

“*Creditable qualifying quarters*” means all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under the age of 18, and qualifying quarters worked by a spouse of an alien during their marriage if the alien remains married to the spouse or was married to the spouse at the spouse’s death, except for quarters beginning after December 31, 1996, if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is credited.

“*Department*” means the Iowa department of human services.

“*Family planning services*” means pregnancy prevention and related reproductive health services.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.2(217) Eligibility. Eligibility for the family planning program shall be determined according to the provisions of this rule.

87.2(1) Persons covered. Subject to funding as described in subrule 87.7(1) and to the requirements of subrules 87.2(2), 87.2(4), and 87.2(6), assistance for family planning services shall be available to the following individuals who are not enrolled in medical assistance pursuant to 441—Chapter 74 or 441—Chapter 75:

a. Women who were enrolled in medical assistance when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 60-day postpartum period ends;

b. Women who are under the age of 55, who are capable of bearing children but are not pregnant, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3);

c. Men who are under the age of 55, who are capable of fathering children, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3).

87.2(2) *Furnishing of social security number.* As a condition of eligibility, except as provided by paragraph 87.2(2)“a,” all social security numbers issued to each individual (including children) for whom family planning services are sought must be furnished to the department.

a. The requirement of furnishing a social security number does not apply to an individual who:

- (1) Is not eligible to receive a social security number;
- (2) Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104; or
- (3) Refuses to obtain a social security number because of a well-established religious objection.

For this purpose, a well-established religious objection means that the individual:

1. Is a member of a recognized religious sect or division of a sect; and
2. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

b. If a required social security number has not been issued or is not known, the individual seeking coverage under the family planning program must apply for a social security number with the Social Security Administration or request the Social Security Administration to furnish the number.

87.2(3) *Determination of household income.* The department shall determine the countable household income of an individual applying under paragraph 87.2(1)“b” or “c” as follows:

a. Household composition. The household shall include the applicant or member, any dependent children, as defined below, living in the same home as the applicant or member, and any spouse living in the same home as the applicant or member, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act.

(1) *Definition of dependent children.* A dependent child is one under the age of 18 years or aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19.

(2) Reserved.

b. Earned income. All earned income that is received by a member of the household shall be counted except for earnings of a child who is a full-time student as defined in subparagraph 87.2(3)“a”(1). The following earned income, including but not limited to, shall be counted:

- (1) Salary.
- (2) Wages.
- (3) Tips.
- (4) Bonuses.
- (5) Commissions.
- (6) Income from Job Corp.
- (7) Earnings from self-employment defined as gross income less the allowable costs of producing the income.

c. Unearned income. The following unearned income of all household members shall be counted:

- (1) Unemployment insurance benefits.
- (2) Child support.
- (3) Alimony.
- (4) Social security and railroad retirement benefits.
- (5) Workers’ compensation and disability payments.
- (6) Benefits paid by the U.S. Department of Veterans Affairs to disabled members of the armed forces or survivors of deceased veterans.

d. Deemed income. Income deeming for a sponsored alien shall be determined pursuant to subrule 87.2(5).

e. Deductions. Deductions from income shall be made for any payments made by household members for the following:

- (1) Court-ordered child support, alimony, or spousal support paid to non-household members.
- (2) Twenty percent of nonexempt earnings.

(3) Child care expenses or expenses related to care for an incapacitated adult. This deduction shall not exceed \$200 per month for each child under the age of two and \$175 per month for each adult or child aged two or older.

87.2(4) Citizenship or alienage requirements.

a. To be eligible for the family planning program, a person must be one of the following:

- (1) A citizen or national of the United States.
- (2) A qualified alien residing in the United States before August 22, 1996.
- (3) A qualified alien under the age of 21.
- (4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).
- (5) An alien who has been granted asylum under Section 208 of the INA.
- (6) An alien whose deportation is withheld under Section 243(h) or 241(b)(3) of the INA.
- (7) A qualified alien veteran who has an honorable discharge that is not due to alienage.
- (8) A qualified alien who is on active duty in the armed forces of the United States other than active duty for training.
- (9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph 87.2(4) "a"(7) or 87.2(4) "a"(8), including a surviving spouse who has not remarried.
- (10) A qualified alien who has resided in the United States for a period of at least five years.
- (11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).
- (12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).
- (13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.
- (14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e).
- (15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. As a condition of eligibility, all applicants for the family planning program shall attest to their citizenship or alien status by signing the application form.

c. Except as provided in paragraph 87.2(4) "f," applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4) "b" shall present satisfactory documentation of citizenship or nationality as defined in paragraph 87.2(4) "d," "e," or "i." A reference to a form in paragraph 87.2(4) "d" or "e" includes any successor form. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the "reasonable period" begins on the date a written request for documentation or a notice pursuant to subparagraph 87.2(4) "i"(2) is issued to an applicant or member, whichever is later, and continues for 90 days.

(2) Family planning services shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of family planning services pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period.

d. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

- (1) A United States passport.
- (2) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.
- (3) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.
- (4) A valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the INA, but only if the state issuing the license or document either:

1. Requires proof of United States citizenship before issuance of the license or document; or
2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian tribe showing membership or enrollment in or affiliation with that tribe.

(6) Another document that provides proof of United States citizenship or nationality and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v).

e. Satisfactory documentation of citizenship or nationality may also be demonstrated by the combination of:

(1) Any identity document described in Section 274A(b)(1)(D) of the INA or any other documentation of personal identity that provides a reliable means of identification, as the Secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii); and

(2) Any one of the following:

1. A certificate of birth in the United States.
2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.
3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.
4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.

5. Another document that provides proof of United States citizenship or nationality, as the Secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).

f. A person for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“*b*” is not required to present documentation of citizenship or nationality for the family planning program if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare).

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 202 or 223, based on disability (as defined in Section 223(d)).

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.

(4) The person is a child in foster care who is assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act.

(5) The person is receiving foster care maintenance or adoption assistance payments funded under Part E of Title IV of the federal Social Security Act.

(6) The person has previously presented satisfactory documentary evidence of citizenship or nationality, as specified by the Secretary of the U.S. Department of Health and Human Services.

(7) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) as the newborn of a Medicaid-eligible mother.

(8) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a state children’s health insurance program (SCHIP) pursuant to Title XXI of the Social Security Act.

g. If no other identity documentation allowed by subparagraph 87.2(4)“*e*”(1) is available, identity may be documented by affidavit as described in this paragraph. However, affidavits cannot be used to document both identity and citizenship.

(1) For children under the age of 16, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by the child’s parent, guardian, or caretaker relative under penalty of perjury.

(2) For disabled persons who live in a residential care facility, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by a residential care facility director or administrator under penalty of perjury.

h. If no other documentation that provides proof of United States citizenship or nationality allowed by subparagraph 87.2(4) “*e*”(2) is available, United States citizenship or nationality may be documented using Form 470-4373 or 470-4373(S), Affidavit of Citizenship. However, affidavits cannot be used to document both identity and citizenship.

(1) Two affidavits of citizenship are required. The person who signs the affidavit must provide proof of citizenship and identity. A person who is not related to the applicant or member must sign at least one of the affidavits.

(2) When affidavits of citizenship are used, Form 470-4374 or 470-4374(S), Affidavit Concerning Documentation of Citizenship, or an equivalent affidavit explaining why other evidence of citizenship does not exist or cannot be obtained must also be submitted and must be signed by the applicant or member or by another knowledgeable person (guardian or representative).

i. In lieu of a document listed in paragraph 87.2(4) “*d*” or “*e*,” satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

(1) Provision of an individual’s name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual’s citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual’s citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration’s records, or to provide other documentation of citizenship or nationality pursuant to paragraph 87.2(4) “*d*” or “*e*.”

87.2(5) *Deeming of alien sponsor’s income.*

a. When an alien admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income of the alien shall be deemed to include the income of the sponsor (and of the sponsor’s spouse if living with the sponsor). The amount deemed to the sponsored alien shall be the total countable income of the sponsor and the sponsor’s spouse, determined pursuant to paragraphs 87.2(3) “*b*” through “*d*.”

b. An indigent alien is exempt from the deeming of a sponsor’s income for 12 months after indigence is determined. An alien shall be considered indigent if:

- (1) The alien does not live with the sponsor; and
- (2) The alien’s gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien’s household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor’s income for 12 months.

d. Deeming of the sponsor’s income does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title II of the INA.

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 creditable qualifying quarters as defined in rule 441—87.1(217).

(3) The sponsored alien or the sponsor dies.

(4) The sponsored alien is a child under the age of 21.

87.2(6) *Residency requirements.* Residency in Iowa is a condition of eligibility for the family planning services program.

a. Definition of resident. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person’s home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis.

Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition, the child is a resident of the state in which the parent or caretaker is a resident.

b. Retention of residence. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

87.2(7) *Investigation by quality control or the department of inspections and appeals.* As a condition of eligibility, an applicant or member shall cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect family planning program eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of family planning program eligibility. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

87.2(8) *Funding contingency.* Initial and continuing eligibility for family planning services under this program is subject to the availability of funding appropriated for this purpose.

a. When appropriated funding is exhausted, ongoing eligibility shall be terminated and new applications shall be denied.

b. When appropriated funding becomes available, applications submitted thereafter will be considered on a first-come, first-served basis, based on the date of approval.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.3(217) Enrollment.

87.3(1) *Application.* An individual who requests assistance for family planning services shall file an application Form 470-5485, Family Planning Program Application. A woman eligible under paragraph 87.2(1) "a" is not required to file an application for assistance under this program. The department will automatically redetermine eligibility upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

87.3(2) *Place of filing.* An application may be filed at any department office or authorized Title X family planning agency.

87.3(3) *Information or verification needed to determine eligibility.* The department shall notify the applicant, authorized representative, or responsible person in writing of the information or verification required to establish eligibility. This notice shall be provided to the applicant, authorized representative, or responsible person personally or by mail or fax.

a. The department shall allow the applicant, authorized representative, or responsible person ten calendar days to supply the information or verification requested.

b. The department may extend the deadline for a reasonable period of time when the applicant, authorized representative, or responsible person is making reasonable efforts but is unable to secure the required information or verification.

c. If benefits are denied for failure to provide information or verification and the information or verification is provided within 14 calendar days of the effective date of the denial, the department shall complete the eligibility determination as though the information or verification were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant, authorized representative, or responsible person shall have until the next business day to provide the information.

87.3(4) *Annual review.* An individual who requests that assistance continue for family planning services shall complete Form 470-4071, Family Planning Program Review. The member must submit the completed review form before the end of the eligibility period to any location specified in subrule 87.3(2).

87.3(5) *Time limit for decision.* An application or review form shall be processed by the family planning agency with which the application was filed. A determination of eligibility shall be made within 45 days of receipt of the application or review form.

87.3(6) *Notice of decision.* The individual shall be notified in writing of the decision regarding eligibility for the family planning program.
[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.4(217) *Effective date of eligibility.* Subject to the availability of funding appropriated for this purpose, assistance for family planning services under this program shall be effective on the first day of the month of application or the first day of the month in which all eligibility requirements are met, whichever is later. Assistance shall not be available under this program for any months prior to the month of application.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.5(217) *Period of eligibility.* Eligibility for family planning services under this program shall be limited to a period of 12 months from the effective date of eligibility, or the duration of appropriated funding, whichever is less. A new application or annual redetermination of eligibility shall be required for benefits to continue beyond 12 months.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.6(217) *Reporting changes.*

87.6(1) *Required changes to report.* An individual applying for or receiving family planning services under this program shall report the following changes within ten days from the date the change is known:

- a. Change in mailing address;
- b. No longer a resident of Iowa;
- c. A woman becomes pregnant;
- d. No longer capable of bearing or fathering children;
- e. Becomes Medicaid eligible, except women meeting criteria in paragraph 87.2(1)“a”; or
- f. Turns 55 years of age.

87.6(2) *Disregard of changes.* An individual found to be eligible upon application or annual redetermination of eligibility shall remain eligible for 12 months or the duration of appropriated funding, whichever is less, regardless of any change in income or household size.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.7(217) *Funding of family planning services program.*

87.7(1) *Distribution of funds.* Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—87.11(217). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. For the purposes of this subrule, “abortion” does not include any of the following:

a. The treatment of a woman for a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.

b. The treatment of a woman for a spontaneous abortion, commonly known as a miscarriage, when not all of the products of human conception are expelled.

87.7(2) *Recovery.* The department shall recover from a member all funds incorrectly expended to or on behalf of the member for family planning program services.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.8(217) *Availability of services.* Family planning services are payable for an individual enrolled in this program only when care is received at or authorized by a participating family planning provider.

87.8(1) Sterilization is a covered service subject to the limitations in 441—paragraphs 78.1(16)“a” through “i.”

87.8(2) Covered services shall not include abortion services.
[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.9(217) Payment of covered services. Payment for family planning services covered under this chapter, including services authorized but not provided by a participating family planning provider, shall be made only to participating family planning providers on a fee schedule determined by the department. Family planning services program funds distributed in accordance with this rule shall not be used for direct or indirect costs, including but not limited to administrative costs or expenses, overhead, employee salaries, rent, and telephone and other utility costs, related to providing abortions as specified in subrule 87.7(1).

87.9(1) Fee schedule. The fee schedule shall include the amount of payment for each service and any limits on the service (e.g., a routine Pap smear is payable once annually).

87.9(2) Third-party payments. This program is the payer of last resort for services covered in this chapter. Any third-party payment received by the family planning agency or other provider of services plus any payments under this program cannot exceed the fee schedule allowance.

87.9(3) Supplementation. Payment made under this program shall be considered payment in full.
[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.10(217) Submission of claims.

87.10(1) Family planning providers that participate in the program shall submit claims to the Iowa Medicaid enterprise for services rendered no later than 45 days from the last day of the month in which services were provided.

87.10(2) Following a successful review of the claim, the Iowa Medicaid enterprise shall make payments to the family planning provider subject to the availability of funding and the allocation of available funds under subrule 87.7(1).
[ARC 3199C, IAB 7/19/17, effective 7/1/17]

441—87.11(217) Providers eligible to participate.

87.11(1) Providers must be enrolled with the Iowa Medicaid program, subject to rule 441—79.14(249A), and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1).

87.11(2) Process for enrollment. Providers wishing to enroll under the state family planning program must complete the following steps:

- a. Must complete enrollment with Iowa Medicaid enterprise.
- b. Must complete Form 470-5484, Family Planning Program Provider Attestation, regarding nonprovision of abortions, pursuant to requirements referenced above under subrule 87.7(1).
- c. Forms referenced in this subrule must be sent to Iowa Medicaid Enterprise, Provider Enrollment Unit, P.O. Box 36450, Des Moines, Iowa 50315.

[ARC 3199C, IAB 7/19/17, effective 7/1/17]

These rules are intended to implement 2017 Iowa Acts, House File 653, section 90.

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