

**441—152.2 (234) Conditions of participation.**

**152.2(1) Provider licensure.** The department shall enter into a contract with a provider for foster group care services only when the provider's facility has achieved full licensure as follows:

- a. A facility providing community-level group care shall be licensed:
  - (1) As a community residential facility pursuant to 441—Chapter 114;
  - (2) As a comprehensive residential facility pursuant to 441—Chapter 115; or
  - (3) Under comparable standards by the state in which the facility is located.
- b. A facility providing comprehensive-level group care shall be licensed:
  - (1) As a comprehensive residential facility pursuant to 441—Chapter 115; or
  - (2) Under comparable standards by the state in which the facility is located.
- c. A facility providing enhanced comprehensive-level group care shall be licensed:
  - (1) As a comprehensive residential facility pursuant to 441—Chapter 115; or
  - (2) Under comparable standards by the state in which the facility is located.

**152.2(2) Provider staffing.** At a minimum, all providers shall meet the requirements for staff qualifications, training, and number of staff pursuant to 441—Chapter 114 or as identified in appendices to Form 470-3052, Foster Group Care Services Contract.

a. All foster group care programs shall provide an appropriate number of hours of prime programming time sufficient to meet the child welfare service needs of the children served in the program.

b. Staffing during prime programming time, nonprime programming time, and sleeping time shall be sufficient to meet the group care maintenance needs of the children served in the program.

**152.2(3) Services provided.** The provider shall comply with the requirements for services to be provided, as described on Form 470-3051, Foster Group Care Services Contract Face Sheet, and appendices to Form 470-3052, Foster Group Care Services Contract. These services shall at a minimum meet the requirements found in 441—Chapter 156 and in 441—Chapter 114 or 441—Chapters 114 and 115, as applicable, or the contract may be terminated.

**152.2(4) Provider charges.** A provider shall not charge departmental clients more than it receives for the same foster group care services provided to nondepartmental clients. The provider shall agree not to require any fee from departmental clients unless a fee is required by the department and is consistent with federal regulation and state policy.

**152.2(5) Compliance with the law.** The provider and its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing services under the contract.

a. *Drug-free workplace.* The provider shall operate a drug-free workplace.

b. *Use of funds.* The provider shall:

(1) Agree that federally appropriated funds shall not be paid on behalf of the department or provider to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with:

1. The awarding of any federal contract,
2. The making of any federal grant,
3. The making of any federal loan,
4. The entering into of any cooperative agreement, or
5. The extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

(2) Ensure that no funds received or expended will be used in any way to promote or oppose unionization.

**152.2(6) Maintenance of service records.** A provider shall maintain complete and legible records as required in this subrule. A provider's client service records and case files for foster group care services shall comply with the requirements of this subrule and with the record-keeping requirements related to licensure pursuant to 441—Chapter 114.

*a.* The provider shall establish and maintain confidential, individual service records for each client receiving foster group care services. The service records must adequately support the provision of child welfare services and group care maintenance as defined in rule 441—156.1(234). The service record shall include, at a minimum, those items identified in rule 441—114.11(237) and the following:

- (1) Additional reports, if requested by the referral worker;
- (2) Form 470-3055, Referral and Authorization for Child Welfare Services;
- (3) Daily documentation of billed per diem services as defined in paragraph “*b*”; and
- (4) Notes indicating the child’s general progress in regard to the child’s care plan, entered no less than every seven calendar days.

*b.* Daily documentation of billed per diem services shall include:

- (1) The child’s first and last name;
- (2) The month, day, and year service was provided;
- (3) The first and last names of the persons who provided the service;
- (4) A clear description of the specific service rendered, including interventions, actions, and activities performed which support the provision of child welfare services; and
- (5) Any problem areas or unusual behavior for the child.

*c.* If individual case files include service records for services other than foster group care services, the provider has the responsibility to maintain the client records in compliance with all applicable rules.

*d.* The provider shall retain service records for clients receiving foster group care services for a period of not less than five years following the date of final payment or completion of any required audit or review, whichever is later. If any litigation, claim, negotiation, audit, review, or other action involving the records has been started before the expiration of the five-year period, the records must be retained until the later of:

- (1) The completion of the action and resolution of all issues which arise from it, or
- (2) The end of the regular five-year period.

*e.* Failure to maintain records or failure to make records available to the department or to its authorized representatives upon request may result in a notice of violation and recoupment of payments, pursuant to rules 441—152.9(234) and 441—152.10(234).

**152.2(7) Maintenance of financial and statistical records.** The provider shall maintain sufficient financial and statistical records, including program and census data, to document the validity of the reports submitted to the department. The records shall be available for review at any time during normal business hours by department personnel, the department's fiscal consultant, and state or federal audit personnel.

*a.* At a minimum, financial and statistical records shall include all revenue and expenses supported by a provider’s general ledger and documentation on file in the provider’s office. These records include, but are not limited to:

- (1) Payroll information.
- (2) Capital asset schedules.
- (3) All canceled checks, deposit slips, and invoices (paid and unpaid).
- (4) Audit reports (if any).
- (5) The board of directors' minutes (if applicable).
- (6) Loan agreements and other contracts.

(7) Reviewable, legible census reports and documentation of units of service provided to departmental clients that identify the individual client and are kept on a daily basis and summarized in a monthly report.

(8) For nondepartmental clients, sufficient documentation of utilization to establish a complete unit of service count.

*b.* The provider shall maintain the following documentation for each program.

- (1) A list of all staff and supervisors providing foster group care services and their qualifications.
- (2) The number of staff hired and terminated in the year to date.

*c.* The documentation prepared by the provider shall be retained for use when any financial report is prepared and for review by the department's fiscal consultant. Financial records must be retained for five years from the date of report submission or final payment for services.

*d.* Independent audits. When a provider has an audit conducted, a firm not related to the provider shall conduct the audit. The provider shall submit a copy of the independent audit report to the department within 30 days of receipt of the report. The bureau of purchased services shall maintain the report and provide a copy of the report to the fiscal consultant.

**152.2(8)** *Special-purpose organizations.* A provider may establish a separate, special-purpose organization to conduct certain client-related or non-client-related activities on behalf of the provider. (For example, a provider may establish a development foundation to assume the provider's fund-raising activity.) Even if the provider does not own the special-purpose organization (e.g., a nonprofit, non-stock-issuing corporation) and has no common governing body membership, a separate special-purpose organization shall be considered a related party for purposes of this chapter when one of the following applies:

*a.* The provider controls the organization through contracts or other legal documents that give the provider the authority to direct the organization's activities, management, and policies.

*b.* For all practical purposes, the provider is the primary beneficiary of the organization's activities. The provider shall be considered the special-purpose organization's primary beneficiary if one or more of the following circumstances exist:

(1) The organization has solicited funds on the provider's behalf with provider approval, and substantially all funds so solicited were contributed with the intent of benefiting the provider.

(2) The provider has transferred some of its resources to the organization, substantially all of whose resources are held for the benefit of the provider.

(3) The provider has assigned certain of its functions to a special-purpose organization that is operating primarily for the benefit of the provider.

**152.2(9)** *Certification by department of transportation.*

*a.* If the provider furnishes public transit service as defined in rule 761—910.1(324A), the provider shall annually submit to the contract monitor information regarding compliance with or exemption from public transit coordination requirements as found in Iowa Code chapter 324A and department of transportation rules in 761—Chapter 910. This information shall include:

(1) Form 020107, Certification Application for Coordination of Public Transit Services, which the contract monitor shall submit to the department of transportation; and

(2) A copy of an ACORD Certificate of Insurance or similar self-insurance documentation, as applicable.

*b.* If a provider believes it does not furnish public transit service as defined in rule 761—910.1(324A) and, therefore, is exempt from the requirements in paragraph "a," the provider shall submit Form 020107 with only Section 1 completed when the provider enters into a new contract.

*c.* If a provider that has furnished public transit service as defined in rule 761—910.1(324A) ceases to do so, the provider becomes exempt from the requirements in paragraph "a."

*d.* If an exempt provider begins to furnish public transit service as defined in rule 761—910.1(324A), the provider shall inform the contract monitor within 30 days of the change and shall adhere to the procedures in paragraph “*a.*”

*e.* Failure of the provider to cooperate in obtaining or providing the required documentation of compliance or exemption is grounds for denial or termination of the contract.

**152.2(10)** *Copyright and patents.* The activities and results of contract activity may be published subject to confidentiality requirements.

[ARC 7741B, IAB 5/6/09, effective 7/1/09]