



## Fiscal Services Division

### ADMINISTRATIVE RULES — FISCAL IMPACT SUMMARIES

April 3, 2020

Iowa Code section 17A.4(4) requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at <https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact>.

With each rule summary, the rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (**NOIA**), Amended Notice of Intended Action (**ANOIA**), Notice of Termination (**NOT**), Adopted and Filed Emergency (**AFE**), Filed Emergency After Notice (**FEAN**), and Adopted and Filed (**AF**).

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#### Department of Human Services

#### **ARC 4974C (AF)**

**Rule Summary** Eliminates the monthly budget maximum or cap for individuals eligible for the Medicaid home- and community-based services (HCBS) brain injury waiver, and increases per diem rates for assertive community treatment (ACT) services.

**State or Federal Law Implemented:** 2019 Iowa Acts, chapter 85.

**Fiscal Impact** **Agency Response:** Increasing per diem rates for ACT is estimated to cost \$211,332 in FY 2020 and subsequent fiscal years. Funding for this change was provided in HF 766 (FY 2020 Health and Human Services Appropriations Act).

No fiscal impact is expected from eliminating the monthly budget maximum or cap for individuals eligible for the brain injury (BI) waiver. During calendar year 2018, Iowa Medicaid Enterprise received 126 exception to policy (ETP) requests for BI waiver members to exceed the monthly cap for services, and of these, only two requests were denied. Because the ETP process is an existing practice, costs related to exceptions would already be incorporated into the base data used to set Managed Care Organization rates.

**LSA Response:** The LSA concurs.

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#### Department of Veterans Affairs

#### **ARC 5012C (AF)**

**Rule Summary** Increases the Veterans Trust Fund (VTF) award maximum for dental care from \$2,500 in a 12-month period to \$10,000.

**State or Federal Law Implemented:** Iowa Code section 35A.13.

**Fiscal Impact** **Agency Response:** No fiscal impact.

**LSA Response:** The LSA concurs in part. Awards data presented in the VTF Annual Report indicates an average award of \$1,900 per award per year for dental assistance

over the past five calendar years, or 75.0% of the cap. The past five years had an average of 50 awards per year. Increasing the expenditure cap could increase expenditures for dental assistance by as much as \$300,000 per year from the VTF if the trend in dental awards stayed at 75.0% of the cap. However, total VTF expenditures would still be limited to the amount of funds available through the \$500,000 of lottery receipts transferred and interest earned. Dental care would still be subject to the lifetime maximum benefit cap of \$10,000.

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**Economic Development Authority**

**ARC 4967C (NOIA)**

**Rule Summary** Implements a portion of the Workforce Housing Tax Incentive Program (WHTIP) provisions of 2019 Iowa Acts, chapter 159 (HF 772, Broadband and Workforce Housing Incentives Act). The rules associated with the portions of HF 772 that apply to housing in disaster areas were adopted and filed as emergency rules in October 2019. The current proposed rulemakings:

- Limit projects eligible under the WHTIP to properties located outside of a 100-year floodplain.
- Change the project application process to require competitive scoring of projects and remove references to a wait list for pending applications.
- Limit the amount of tax incentives a project may receive to the amount specified in the project application and the subsequent agreement with the Economic Development Authority (EDA).
- Remove a reference to the \$20.0 million annual maximum amount of tax credits allocated to the program.
- Add language describing the tax credit implications for projects that have final costs that exceed the per dwelling unit average cost allowed under law.

**State or Federal Law Implemented:** Iowa Code chapter 15, part 17, and 2019 Iowa Acts, chapter 159.

**Fiscal Impact** **Agency Response:** No fiscal impact.

**LSA Response:** The LSA concurs in part. Among the WHTIP changes, HF 772 increased the fiscal year total tax incentives that may be awarded through the WHTIP by \$5.0 million (from \$20.0 million to \$25.0 million) beginning with FY 2020. The Act also provided an additional one-time allocation of \$10.0 million in tax incentives for projects located in major disaster areas. The Fiscal Note for HF 772 projected that these changes (including disaster housing rule changes previously adopted) would reduce net General Fund revenue by the following amounts:

- FY 2020 = \$2.2 million
- FY 2021 = \$4.9 million
- FY 2022 = \$8.2 million
- FY 2023 = \$7.2 million
- FY 2024 = \$5.0 million
- FY 2025 and after = \$4.8 million

The WHTIP changes enacted in HF 772 were effective upon enactment (May 20, 2019) and generally apply to projects submitted on or after July 1, 2019. Section 30 of HF 772 granted the EDA the authority to adopt WHTIP rules on an emergency basis. Only the rules associated with the disaster housing program and the change to the definition of “small city” were part of the October emergency rulemaking.

As specified in section 20 of HF 772, “All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to rules adopted by the authority.” The proposed rules provide little detail as to how projects are scored under the WHTIP. The entirety of the scoring language from the proposed rules reads, “All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to these rules. Review criteria include but are not limited to project need, project readiness, financial capacity, and project impact.”

Item 1 of the proposed rules restricts applications under the WHTIP to projects not located within a 100-year floodplain. This restriction was not added in HF 772 and is not a requirement that is specified within the WHTIP.

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**Department of Agriculture and Land Stewardship**

**ARC 4988C (NOIA) & ARC 4989C (AFE)**

**Rule Summary** Implements additional requirements related to THC content concentration in hemp requested by the United States Department of Agriculture (USDA) to ensure compliance with the Agriculture Improvement Act of 2018, which amended the Agricultural Marketing Act of 1946. Further restrictions are found in 2019 Iowa Acts, Senate File 599 (Iowa Hemp Act). Fulfillment of these changes is necessary for the Department to receive USDA approval of the state plan to administer an industrial hemp program.

**State or Federal Law Implemented:** Iowa Code chapter 204.

**Fiscal Impact** **Agency Response:** 2019 Iowa Acts, Senate File 599 increases expenditures for the Department by an estimated \$304,000 in FY 2020, and \$209,000 in FY 2021. The income that will be deposited into the hemp fund cannot be estimated, as it is unknown how many persons will participate in the manufacturing of industrial hemp.

**LSA Response:** The LSA concurs.

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