



# IOWA ADMINISTRATIVE BULLETIN

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May 3, 2000

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Pages 1557 to 1612

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**PREFACE**

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other “materials deemed fitting and proper by the Administrative Rules Review Committee” include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers’ Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)“a”]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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 Hoover State Office Building, Level A  
 Des Moines, IA 50319  
 Telephone: (515)242-5120**

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

- |                       |                |
|-----------------------|----------------|
| 441 IAC 79            | (Chapter)      |
| 441 IAC 79.1(249A)    | (Rule)         |
| 441 IAC 79.1(1)       | (Subrule)      |
| 441 IAC 79.1(1)“a”    | (Paragraph)    |
| 441 IAC 79.1(1)“a”(1) | (Subparagraph) |

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

## Schedule for Rule Making 2000

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
24	Friday, May 12, 2000	May 31, 2000
25	Friday, May 26, 2000	June 14, 2000
26	Friday, June 9, 2000	June 28, 2000

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

## PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

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Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division,  
Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 9, 2000, at 9:00 a.m. in Reagan Conference Room (Room 19), State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the April 19, 2000, Iowa Administrative Bulletin.

Bulletin

**CORRECTIONS DEPARTMENT[201]**

Visits to offenders, 20.3, Notice ARC 9813A ..... 5/3/00

**EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

State and federal background checks for initial licensure applicants, 14.1(1), 14.1(2), Filed ARC 9805A ..... 5/3/00

Alternative preparation license, 14.10, 14.33, Filed ARC 9806A ..... 5/3/00

Substitute teaching—two-year exchange license, 14.17(3), Filed ARC 9807A ..... 5/3/00

Staff development units for occupational and postsecondary licensure renewal, 16.3(3), 16.5(1)"b"(3), Filed ARC 9808A ..... 5/3/00

**GENERAL SERVICES DEPARTMENT[401]**

Terrace Hill commission, 14.3(2), 14.3(3), Filed Emergency ARC 9812A ..... 5/3/00

**HUMAN SERVICES DEPARTMENT[441]**

Accreditation of providers of services to persons with mental illness,

mental retardation, and developmental disabilities, ch 24, Filed ARC 9796A ..... 5/3/00

Amount, duration and scope of medical and remedial services, 78.10(2)"a"(6), 78.20, Filed ARC 9797A ..... 5/3/00

Reimbursement rate for facilities providing ventilator care for Medicaid clients, 79.1(9)"b," Filed ARC 9798A ..... 5/3/00

Medicaid reimbursement rate for non-state-owned nursing facilities, 81.6(16)"d," Filed ARC 9799A ..... 5/3/00

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Reconstructive surgery; licensure requirement for health care professionals who are not medical professionals; community health management information system, 35.35, 71.23, 75.17,

76.9(1)"c," rescind ch 100, Filed ARC 9795A ..... 5/3/00

**IOWA FINANCE AUTHORITY[265]**

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

Local contributing effort; contested case proceedings; low-income housing tax credits,

1.9, 9.29, 9.30, ch 12, Notice ARC 9811A ..... 5/3/00

**MEDICAL EXAMINERS BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physician assistant supervision, ch 21, Notice ARC 9794A ..... 5/3/00

**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Nonresident deer hunting licenses, 94.8, Notice ARC 9804A ..... 5/3/00

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**

Remedial claims, 11.1(3)"b"(2) and (3), 11.4(11), Notice ARC 9793A ..... 5/3/00

**PUBLIC HEALTH DEPARTMENT[641]**

Special supplemental nutrition program for women, infants, and children (WIC), 73.5, 73.8, 73.8(1), 73.8(2), 73.8(4), 73.8(5), 73.9(2)"c"(1), 73.9(3)"c," 73.9(3)"d"(4), 73.9(3)"e," 73.9(3)"f"(3), 73.12(1), 73.19(1),

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Health care plan disclosures, 201.19, Notice ARC 9802A ..... 5/3/00

**REVENUE AND FINANCE DEPARTMENT[701]**

Practice and procedure before the department—power of attorney, 7.34(2), 7.34(6), 7.34(9), 7.34(11),

7.34(13) to 7.34(15), Filed ARC 9801A ..... 5/3/00

**TRANSPORTATION DEPARTMENT[761]**

Discretionary issuance of licenses—field of vision standards, 604.13(4), Filed Emergency After Notice ARC 9800A ..... 5/3/00

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

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 Equipment distribution program, 37.2(1)"b," 37.2(3), 37.3(1), 37.3(5), 37.3(6),  
 37.3(8), 37.4, 37.5(1), Filed **ARC 9810A** ..... 5/3/00

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2003.**

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 Fremont, Iowa 52561

Senator Merlin E. Bartz  
 2081 410th Street  
 Grafton, Iowa 50440

Senator Patricia M. Harper  
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 Waterloo, Iowa 50702

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Brian Gentry  
**Administrative Rules Coordinator**  
 Governor's Ex Officio Representative  
 Capitol, Room 11  
 Des Moines, Iowa 50319

## To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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**CORRECTIONS DEPARTMENT[201]**

Visits to offenders, 20.3 IAB 5/3/00 ARC 9813A	Conference Room—2nd Floor 420 Keo Way Des Moines, Iowa	May 23, 2000 11 a.m. to 1 p.m.
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**HUMAN SERVICES DEPARTMENT[441]**

Oral health screening for children, 78.1(24) IAB 4/19/00 ARC 9783A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	May 11, 2000 9 a.m.
	Administrative Conference Room 417 E. Kanessville Blvd. Council Bluffs, Iowa	May 11, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Davenport, Iowa	May 11, 2000 12:30 p.m.
	Conference Room 102 City View Plaza 1200 University Des Moines, Iowa	May 10, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	May 11, 2000 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	May 12, 2000 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	May 11, 2000 1:30 p.m.
	Conference Room 213 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	May 11, 2000 10 a.m.

**IOWA FINANCE AUTHORITY[265]**

Local contributing effort; low-income housing tax credits, 1.9, 9.29, 9.30, ch 12 IAB 5/3/00 ARC 9811A	Conference Room—2nd Floor 200 E. Grand Ave. Des Moines, Iowa	May 25, 2000 8:30 a.m.
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**MEDICAL EXAMINERS BOARD[653]**

Supervision of pharmacists who administer adult immunizations, 13.3 IAB 4/19/00 ARC 9786A	Conference Room Suite C or E 400 SW Eighth St. Des Moines, Iowa	May 9, 2000 1 p.m.
Physician assistant supervision, ch 21 IAB 5/3/00 ARC 9794A	Suite C 400 SW Eighth St. Des Moines, Iowa	May 26, 2000 10 a.m.

**NATURAL RESOURCE COMMISSION[571]**

Nonresident deer hunting license, 94.8 IAB 5/3/00 ARC 9804A	Conference Room—4th Floor West Wallace State Office Bldg. Des Moines, Iowa	May 23, 2000 10 a.m.
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**PHARMACY EXAMINERS BOARD[657]**

Supervision of pharmacists who administer adult immunizations, 8.33 IAB 4/19/00 ARC 9790A	Conference Room Suite C or E 400 SW Eighth St. Des Moines, Iowa	May 9, 2000 1 p.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Health care plan disclosures, 201.19 IAB 5/3/00 ARC 9802A (ICN Network)	ICN Conference Room—6th Floor Lucas State Office Bldg. Des Moines, Iowa	May 23, 2000 10 a.m.
	National Guard Armory 1160 19th St. SW Mason City, Iowa	May 23, 2000 10 a.m.
	Burlington High School 421 Terrace Dr. Burlington, Iowa	May 23, 2000 10 a.m.
	National Guard Armory 170 Boulevard Rd. Keokuk, Iowa	May 23, 2000 10 a.m.
	Building A, Room 925 Western Iowa Tech Community College-1 Sioux City, Iowa	May 23, 2000 10 a.m.

**SECRETARY OF STATE[721]**

Competing nominations by nonparty political organizations, 21.201 IAB 4/19/00 ARC 9785A	Second Floor Hoover State Office Bldg. Des Moines, Iowa	May 9, 2000 1:30 p.m.
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**TRANSPORTATION DEPARTMENT[761]**

Regulations applicable to carriers, 520.1(1), 520.2, 520.3(1), 520.4(1), 520.6(1), 520.7, 520.8 IAB 4/19/00 <b>ARC 9779A</b>	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	May 11, 2000 1 p.m. (If requested)
School transportation services provided by regional transit systems, ch 911 IAB 4/19/00 <b>ARC 9778A</b>	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	May 11, 2000 9:30 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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Public Health	Substance Abuse Community Grants	Statewide	Nonprofit volunteer community organization	Community Substance Abuse Prevention Services	6/15/00	9/1/00 to 6/30/01

Application Materials will be mailed on May 3, 2000.

**In writing, request application packet from:**

Allen Vander Linden  
Contracts Administrator  
Iowa Department of Public Health  
Division of Substance Abuse and Health Promotion  
321 East 12th Street  
Lucas State Office Building  
Des Moines, Iowa 50319-0075  
Phone: (515)281-4636  
Fax: (515)281-4535

## ARC 9813A

## CORRECTIONS DEPARTMENT[201]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 904.108, the Department of Corrections gives Notice of Intended Action to amend Chapter 20, "Institutions Administration," Iowa Administrative Code.

This amendment proposes to rescind rule 20.3(904) and to adopt in lieu thereof a new rule that provides for an appeal process for visitors testing positive on an electronic detection device. Language in current rule 20.3(904) authorizing strip searches of visitors is omitted in the new rule. In addition, the new rule addresses who is considered to be an authorized visitor of an offender.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 23, 2000. Such written materials should be sent to the Director of Policy and Legal Services, Corrections Department, 420 Keo Way, Des Moines, Iowa 50309.

There will be a public hearing on May 23, 2000, from 11 a.m. to 1 p.m. in the second floor conference room at 420 Keo Way, Des Moines, Iowa 50309, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and has special requirements should contact the Department of Corrections and advise of special needs.

This amendment is intended to implement Iowa Code section 904.512.

The following amendment is proposed.

Rescind rule 201—20.3(904) and adopt the following **new** rule in lieu thereof:

**201—20.3(904) Visits to offenders.** Visiting is a privilege which allows offenders to maintain and strengthen relationships with family members and friends. Though visits are encouraged as a means to accomplish this, the number and length of visits may be limited by the institutions' schedules, space, personnel constraints, treatment considerations, or other substantial reasons relating to the safety and security of the institutions and their operations.

**20.3(1) Definitions.**

"Application" means a written application identifying the visitor and the visitor's relationship to the offender.

"Background investigation" means security staff may verify the accuracy of a visitor's application for any reason.

"Immediate family" means an offender's spouse, mother, father, sister, brother, child, grandparent, established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the offender were raised as cohabitating siblings.

"Personal search" means a pat-down search on top of the visitor's clothes or a nonintrusive use of an electronic search process.

"Visiting list" means the screened list of approved visitors with authorized visiting privileges at all department of corrections institutions.

**20.3(2) Authorized visitors.** Each institution will establish an approved visiting list for each offender. This visiting list will be sent with the offender when the offender is transferred to another institution. To meet facility design limitations and security considerations, the offender's visiting list shall be limited to immediate family members and two other visitors.

a. Immediate family members. The offender's immediate family members may be included on the list, normally without a background investigation unless one is required for security purposes.

b. Two other visitors. The offender's relatives other than immediate family may be included on the list and allowed to visit if visiting space is available. Relatives of the offender other than immediate family may be subject to a background investigation. Friends of the offender may be included on the list. All friends of the offender will be subject to a background investigation conducted by law enforcement officials.

c. Limitations. An individual on the approved visiting list of one offender shall not be on the approved visiting list of another offender unless approved by the warden/superintendent or designee of each affected institution, jurisdiction, or sovereign. Exception may be made for a visitor who is an immediate family member of more than one offender.

A person working in any institution as a volunteer shall not be on an offender's visiting list, except with the permission of the warden/superintendent or designee.

**20.3(3) Nonauthorized visitors.** The following persons shall not be authorized to visit without prior approval of the warden/superintendent or designee:

a. Individuals who have been discharged from a correctional institution, from parole or from probation within the last 18 months. Noncontact visiting may be authorized for an offender's spouse or child who has been discharged from a correctional institution, from parole or from probation within the last 18 months.

b. Individuals whose behavior represents a control problem or is counterproductive to stable offender behavior. This may be reflected in the background investigation report which shows that the individual has a record of carrying concealed weapons, use of a controlled substance, previous violation of institutional rules, or similar behavior.

c. Individuals under criminal indictment.

d. Individuals on probation, work release, or parole.

e. Individuals who have been convicted of incidents of aiding an escape or introducing contraband in any detention or supervised correctional setting.

f. Individuals who intentionally give false information on the visitor's application form.

g. Individuals convicted of a felony.

h. Persons who may compromise the order and security of the institution.

i. Current and prior employees, volunteers or ex-volunteers, and individuals who currently are providing, or have previously provided, contract services to the department of corrections or a judicial district.

j. Former department of corrections employees of this or other federal, state, or local jurisdiction or volunteers who have left employment voluntarily or been terminated as a re-

## CORRECTIONS DEPARTMENT[201](cont'd)

sult of accusation or investigation for misconduct shall not be allowed to visit offenders.

k. Registered victims of a sex offense or their family members will not be approved for the visiting list of the perpetrator in their case.

**20.3(4) Written notification.** Written notification of denial will be given to both the offender and the applicant within 30 days from application to be on a visiting list. Notification of approval will be given only to the offender. The offender is responsible for notifying the approved visitor.

a. When approved, visitors will be subject to the following conditions:

(1) The visitor may be subject to a search when the institution has reason to believe that the visitor is concealing contraband;

(2) The search may include a pat down, review by an electronic detection device, or visual search.

b. When an application is denied, the applicant and the offender shall be apprised of the reasons for denial.

(1) Applicants may appeal to the warden/superintendent or designee in writing.

(2) The decision of the warden/superintendent or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

**20.3(5) Identification.** All visitors shall present proper identification upon entrance to the institution. Photo identification is preferred, but all identification shall identify personal characteristics, such as color of hair and eyes, height, weight, and birth date.

a. Signature cards may be required from visitors.

b. All visitors may be required to be photographed for future identification purposes only.

**20.3(6) Special visitors.** Attorneys, division of criminal investigation agents, Federal Bureau of Investigation agents, law enforcement officials, and ministers shall present proof of identity upon entrance to the institution. The offender must express a desire to visit a minister or attorney before the minister or attorney will be admitted. Attorney and minister visits shall be during normal visiting hours unless a special visit has been requested by the offender and approved by the warden/superintendent or designee prior to the visit.

An attorney or minister testing positive by an electronic detection device may be required to visit without direct contact.

**20.3(7) Termination of visits.** Individuals may have visiting privileges modified or terminated when:

a. The offender or visitor engages in behavior that may in any way be disruptive to order and control of the institution.

b. The visitor or offender fails to follow the established rules and procedures of the institution.

c. The visitor and offender directly exchange or attempt to exchange any object or article. This does not apply to purchases from the canteen or visiting room vending machines that are consumed during the visit.

d. The visitor fails to test negative for drugs or explosives using an authorized electronic detection device calibrated for such purposes testing for the presence of drugs or other contraband.

e. The visit or future visiting is detrimental to the health or welfare of the offender or visitor.

f. The visitor does not supervise the visitor's children to prevent them from interfering with or disrupting other visits.

Offenders may request reconsideration of denied visitors six months after resolution of the reason for denial or when approved by the warden/superintendent or regional deputy director.

**20.3(8) Noncontact visiting.** Visits may be restricted to noncontact when, in the discretion of the warden/superintendent or designee, the order or security of the institution may be threatened or when disciplinary rules or procedures have been violated. Noncontact visiting hours will be provided on a scheduled basis. The hours and days will be posted by the warden/superintendent or designee, and notice will be posted at least one week prior to any change. Visitors on the noncontact list at the time of a schedule change will be notified of the schedule change by regular mail sent to the last-known address.

**20.3(9) Minors.** Minors outside the offender's immediate family shall have written permission from a parent or guardian and be accompanied by an adult on the approved visiting list. All minors shall have adult supervision. Exceptions shall have prior approval of the warden/superintendent or designee.

**20.3(10) Clothing.** Visitors shall be properly attired as would be expected in a correctional setting. All visitors shall wear shoes. Visitors wearing miniskirts, shorts, muscle shirts, see-through clothing or halter tops will not be allowed to visit. No clothing with slogans, pictures, or words intended to deprecate race, sex, or cultural values shall be worn. Visitors may be required to remove for the duration of the visit outerwear such as, but not limited to, coats, hats, gloves, or sunglasses. A medical need for sunglasses must be verified by prescription.

**20.3(11) Security procedures.** Visitors may be requested to submit to a personal search (pat down) or an electronic search for weapons or contraband. "Personal search" means a pat-down search on top of the visitor's clothes or a nonintrusive use of an electronic search process. When the electronic detection device alarm is activated, the visitor shall produce the item that set off the alarm or a personal search may be made to find the item. If the visitor refuses to submit to a search, access to visiting shall be denied and entrance shall be denied. All searches shall be conducted in a courteous manner to respect the visitor's privacy. Minors are subject to personal and electronic searches. When a visitor accompanied by a minor refuses to leave the minor with a staff person and does not want the minor present during the search, the visit will be denied. When a minor is searched, the supervising adult shall be present in the room at all times.

a. Records shall be kept of all searches and shall include the name of each person subjected to a search, the names of the persons conducting and in attendance at the search, and the time, date, and place of the search. The written record shall reflect the reason for the search and the results of the search. The written authorization for the search shall be included in the record.

b. When a visitor tests positive by an electronic search device, the visitor may appeal to the warden/superintendent or designee in writing. The decision of the warden/superintendent or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

c. Staff may request local law enforcement to search visitors if search procedures or an electronic testing device shows that there is a clear, distinct, and reliable basis to suspect a particular visitor of attempting to smuggle contraband into the facility. If the search reveals drugs or illegal contra-

## CORRECTIONS DEPARTMENT[201](cont'd)

band, the item shall be confiscated and preserved by local law enforcement. Visitors found in possession of contraband shall be referred by local law enforcement to the county attorney for prosecution.

**20.3(12) Money.** Money for deposit in the offender's account may be left at the cashier's office during business hours or as designated by the warden/superintendent or designee.

**20.3(13) Limits.** Each institution, according to its facilities and conditions, shall limit the number of visitors an offender may have at any one time and the length of visits.

**20.3(14) Segregation status.** Offenders in segregation status may have visits modified in regard to place, time, and visitor, depending on the staff and space available.

**20.3(15) Reserved.**

**20.3(16) Abuse of visiting privileges.** Visiting privileges may be modified, suspended, or terminated when abuses are evidenced or planned.

**20.3(17) Special visits.** The warden/superintendent or designee may permit special visits not otherwise provided for in this rule. These may include, but are not limited to, extended visits for close family members traveling extended distances, immediate visits for close relatives or friends about to leave the area, visits necessary to straighten out critical personal affairs, and other visits for similar reasons. All these visits shall be at the sole discretion of the warden/superintendent or designee. When ruling on such visits, the warden/superintendent or designee shall consider appropriate factors including the uniqueness of the circumstances involved for both the offender and the visitor; security, order, and administrative needs of the institution; and alternatives available to a special visit. The decision of the warden/superintendent or designee in these cases constitutes final agency action.

**20.3(18) Temporary modifications.** Visiting procedures may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space restrictions, natural disaster, or other emergency.

This rule is intended to implement Iowa Code section 904.512.

**ARC 9811A****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), the Iowa Finance Authority proposes to amend Chapter 1, "General," and Chapter 9, "Title Guaranty Division," to rescind Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code, and to adopt a new Chapter 12 with the same title.

The purpose of the amendment to Chapter 1 in Item 1 is to amend rule 1.9(16) so that the language of the rule comports with the language of Iowa Code section 16.4(3).

In Item 2, rules 9.29(17A,16) and 9.30(17A,16) are rescinded because they are inconsistent with changes the Authority made to its contested case rules in 1999 and were

overlooked when the Authority combined all of its contested case rules in one chapter.

In Item 3, Chapter 12 is being rescinded and replaced with a new Chapter 12 to incorporate by reference the qualified allocation plan, application and compliance manual applicable to the 2000 round of low-income housing tax credit allocations. The plan sets forth the purpose of the program, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the monitoring compliance component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan, application and the compliance manual are available upon request from the Authority and are available electronically on the Authority's Web site at <http://www.ifahome.com>. It is the Authority's intent to incorporate each of these documents by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules. Waivers would cause an inconsistency in the application of the amended definition of "local contributing effort" and would be inconsistent with the statute. The qualified allocation plan, compliance manual and application are subject to state and federal requirements that cannot be waived. (See IRC Section 42 and Iowa Code section 16.52.) Moreover, due to the competitive nature of the award of low-income tax credits, waiver would create unevenness in the application of the rules that would expose the Authority to liability. A waiver provision does not apply to rules that are being rescinded.

Consistent with Executive Order Number 9, the Authority has considered the regulatory principles identified in the Order and finds that the proposed amendments will serve an important public need in bringing the rules of the Authority into compliance with the provisions of Iowa Code section 16.4(3). The amendments will further the housing policy of the state to encourage the production of affordable housing in Iowa and will create consistency within the Authority's rules.

The Authority will receive written comments on the proposed amendments until the close of business on May 23, 2000. Comments may be addressed to Libby Nelson, General Counsel, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Libby Nelson at (515)242-4957. Comments may be E-mailed to Libby Nelson at [Libby.Nelson@ifa.state.ia.us](mailto:Libby.Nelson@ifa.state.ia.us).

The Authority will hold a public hearing on May 25, 2000, to receive public comments on these amendments. The public hearing will be held at 8:30 a.m. in the Second Floor Conference Room, Iowa Department of Economic Development, 200 East Grand, Des Moines, Iowa 50309.

The Authority intends to hold informal public meetings in other locations around the state prior to May 24, 2000. The times and locations of these meetings will be announced on the Authority's Web site.

These amendments are intended to implement Iowa Code sections 16.4(3), 16.52, 17A.12, and 17A.16 and IRC Section 42.

The following amendments are proposed.

ITEM 1. Amend rule 265—1.9(16) as follows:

**265—1.9(16) Local contributing effort.** The authority shall consider the contribution of any of the following items



## IOWA FINANCE AUTHORITY[265](cont'd)

in determining whether the local contributing effort has been fulfilled:

1. Payment of governmental funds by a political subdivision or governmental entity, or ~~of private funds by a private entity~~ by a private agency. Evidence of payment and the authority to provide ~~the funds same~~ shall be furnished upon request of the authority.

2. Real property which may be vacant or improved property suitable, in the judgment of the authority, to the proposed housing project. Liens and encumbrances, if any, shall be disclosed to satisfaction of the authority.

3. Personal property which may include appliances, furnishings, property maintenance tools, remodeling material to be purchased subsequent to project approval, and any other personal property which, in the judgment of the authority, is of relevance to the proposed housing project.

The authority may consider any type of proposed local contributing effort, in addition to or other than the above. Proposals which, in the judgment of the authority, are truly innovative will receive priority.

Local contributing efforts may be combined by type or source.

For the purpose of the rent supplement program provided in Iowa Code chapter 16, the local contributing effort shall be as described in paragraph "1," and shall be provided on a one-to-one matching basis.

In the case where all or part of the costs of a housing project is to be funded from proceeds of the sale of authority notes or bonds, moneys paid to the authority by participating mortgage lenders may, to the extent such payments exceed the payments due from the authority to its note and bond holders, be considered satisfactory fulfillment of the local contributing effort.

This rule is intended to implement Iowa Code section 16.4(3).

ITEM 2. Rescind rules **265—9.29(17A,16)** and **265—9.30(17A,16)**.

ITEM 3. Rescind 265—Chapter 12 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 12

## LOW-INCOME HOUSING TAX CREDITS

**265—12.1(16) Qualified allocation plan.** The qualified allocation plan entitled Qualified Allocation Plan 2000 effective June 9, 2000, shall be the qualified allocation plan for the distribution of low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, the application instructions and the compliance manual. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

**265—12.2(16) Location of copies of the plan.** The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the qualified allocation plan, application, compliance manual and all supporting exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of June 9, 2000. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library and links to these statutes, regulations and rules are on the authority's

Web site. Copies are available upon request at no charge from the authority.

These rules are intended to implement Iowa Code section 16.52.

ARC 9794A

## MEDICAL EXAMINERS BOARD[653]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to rescind Chapter 21, "Physician Assistant Supervision," Iowa Administrative Code, and to adopt a new Chapter 21 with the same title.

The Board approved proposed Chapter 21 during its regularly held meeting on April 6, 2000.

The proposed chapter replaces the current chapter and establishes:

- The physician's authority to supervise a physician assistant,
- Terms under which a physician is deemed ineligible to supervise a physician assistant,
- Grounds for disciplinary action against a physician who supervises a physician assistant, and
- The disciplinary sanction the Board may impose on a physician who supervises a physician assistant.

Any interested person may present written comments on the proposed chapter not later than 4 p.m. on May 23, 2000. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing on May 26, 2000, at 10 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code sections 148.13 and 272C.3.

The following amendment is proposed.

Rescind 653—Chapter 21 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 21

## PHYSICIAN ASSISTANT SUPERVISION

**653—21.1(148,272C) Authority to supervise a physician assistant.** A physician with an active, permanent Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant in that physician's area of practice.

**653—21.2(148,272C) Ineligibility determinants.** A physician is ineligible to supervise a physician assistant for any of the following reasons:

**21.2(1)** The physician does not hold an active, permanent Iowa license.

## MEDICAL EXAMINERS BOARD[653](cont'd)

**21.2(2)** The physician is not actively practicing medicine in Iowa.

**21.2(3)** The physician's area of practice differs from that of the physician assistant to be supervised.

**21.2(4)** The physician is subject to a disciplinary order of the board that restricts the physician from supervising a physician assistant.

**653—21.3(148,272C) Grounds for discipline.** A physician may be subject to disciplinary action for supervising a physician assistant in violation of these rules.

**653—21.4(148,272C) Disciplinary sanction.** The board may restrict or rescind a physician's authority to supervise a physician assistant as part of a disciplinary sanction following a contested case proceeding, if the reason for the disciplinary action impacts the ability of the physician to supervise a physician assistant.

These rules are intended to implement Iowa Code sections 148.13 and 272C.3.

**ARC 9804A****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

This amendment allows nonresidents who do not draw a deer hunting license to receive a preference which may be used when applying for a deer license the following year.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 23, 2000. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on May 23, 2000, at 10 a.m. in the Fourth Floor West Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.38 and 481A.48.

The following amendment is proposed.

Amend rule **571—94.8(483A)** by adopting the following **new** unnumbered paragraph after the first unnumbered paragraph:

Applicants who are unsuccessful in the drawing for a non-resident deer license will be given preference in the next year's application process. Applicants who fail to apply in the second year cannot carry their preference into future years. Applicants with preference may apply for any zone in the second year. Licenses for each zone will be drawn first from among applicants with preference. If licenses are still available after the preference drawing, a second drawing will be held from all other applicants. Preference does not guarantee a license.

**ARC 9793A****PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455G.4(3)"a," the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, "Remedial Claims," Iowa Administrative Code.

591—Chapter 10 provides for the restructuring of the Insurance Fund as a private entity pursuant to Iowa Code section 455G.11. The proposed amendments to Chapter 11 remove references to the now defunct Insurance Program formerly offered by the Board. The Board does not pay benefits for future or existing releases that occur from insured tanks. The Board may no longer accept insurance premiums to reinstate financial responsibility coverage. The remaining provision allows a one-time reinstatement of remedial benefits for a site for which there has been a lapse in financial responsibility coverage.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on May 23, 2000. Interested persons may submit written or oral comments by contacting the Office of the Deputy Commissioner of Insurance, Division of Insurance, 330 Maple Street, Des Moines, Iowa 50319; telephone (515)281-5705.

These amendments do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

These amendments are intended to implement Iowa Code chapter 455G.

The following amendments are proposed.

ITEM 1. Rescind subparagraph **11.1(3)"b"(2)**.

ITEM 2. Amend subparagraph **11.1(3)"b"(3)** as follows:  
(3) 2) An owner or operator who has had a lapse of financial responsibility coverage shall be allowed to remain eligible for remedial benefits if the following conditions are met:

1. The owner or operator applies for reinstatement of remedial benefits and submits a reinstatement fee equal to the

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

full premium which would have been paid to maintain financial responsibility coverage plus an additional 10 percent according to the following table:

<i>Fiscal Year</i>	<i>Per Tank Reinstatement Fee</i>
July 1, 1991 through June 30, 1992	\$330
July 1, 1992 through June 30, 1993	\$415
July 1, 1993 through June 30, 1994	\$495
July 1, 1994 through June 30, 1995	\$575
July 1, 1995 through Present	\$450

For each fiscal year in which the owner or operator lacked financial responsibility coverage, such owner or operator shall pay the per tank reinstatement fee for such fiscal year, as set forth above. The reinstatement fees above are for full years and shall be prorated on a per-month basis for each month or portion of a month for which there was a lapse of financial responsibility coverage. There is a minimum reinstatement fee of \$500 per site per lapse of coverage.

2. At the time of the application for reinstatement of remedial benefits, all active tanks must be in compliance with all state and federal technical and financial responsibility requirements.

3. The owner or operator is in compliance with all other requirements of this rule.

4. An owner or operator is only eligible for reinstatement of remedial benefits one time per site. If there is another lapse of financial responsibility coverage on any active tank on site after remedial benefits have been reinstated, the owner or operator will lose eligibility for remedial benefits and will be subject to cost recovery pursuant to Iowa Code section 455G.13.

ITEM 3. Rescind subrule 11.4(11).

## ARC 9802A

### PUBLIC HEALTH DEPARTMENT[641]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11 and Iowa Code Supplement section 514K.1, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 201, "Organized Delivery Systems," Iowa Administrative Code.

The proposed amendment sets forth the type of health care plan disclosures required to be provided to consumers and the information to be collected by the Department from organized delivery systems for the purpose of publishing a consumer guide. The amendment also provides for the annual filing of the information with the Department and the form in which it shall be filed with the Department.

This rule is not subject to waiver or variance because Iowa Code Supplement section 514K.1 makes no such provision. The requirements listed herein are taken, in part, directly from statutory provisions that are not subject to waiver.

Any person may make written comments on the proposed amendment on or before May 23, 2000. These comments should be directed to Mariette Brodeur, Senior Health Regulation and Policy Advisor, Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may also be transmitted by fax to (515)281-4958 or by E-mail to [mbrodeur@health.state.ia.us](mailto:mbrodeur@health.state.ia.us).

A public hearing will be held on May 23, 2000, at 10 a.m., utilizing the Iowa Communications Network at which time persons may present their views. The following ICN sites have been confirmed for the hearing:

Des Moines	Department of Public Health Lucas State Office Building Sixth Floor, ICN Conference Room 321 E. 12th Street Des Moines, Iowa 50319
Mason City	Mason City National Guard Armory 1160 19th Street SW Mason City, Iowa 50401 Contact: John Graves (712)732-3901
Burlington	Burlington High School 421 Terrace Drive Burlington, Iowa 52601 Contact: Jim Wood (319)753-2211
Keokuk	Keokuk National Guard Armory 170 Boulevard Road Keokuk, Iowa 52632 Contact: Ed Glenn (515)683-9826
Sioux City	Western Iowa Tech Community College-1 Building A, Room 925 Sioux City, Iowa 51109 Contact: Connie Rosenberger (712)274-8733 ext. 1383

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any person who plans to attend the public hearing and who may have special requirements, such as hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

This amendment is intended to implement Iowa Code Supplement section 514K.1.

The following amendment is proposed.

Amend 641—Chapter 201 by adopting the following new rule:

#### **641—201.19(135,514K) Health care plan disclosures.**

**201.19(1) Purpose.** This rule implements Iowa Code Supplement section 514K.1, which requires the commissioner of insurance and the director of public health to adopt rules with regard to information required to be provided to health care plan enrollees. The commissioner and the director of public health are also required, pursuant to this section, to annually publish a consumer guide. This rule applies to all organized delivery systems.

**201.19(2) Information to enrollees.** This subrule implements Iowa Code Supplement section 514K.1, which provides for certain health care plan disclosures. An organized delivery system shall provide to each of its enrollees at the time of enrollment, and shall make available to each pro-

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

spective enrollee upon request, written information as required by this subrule. The information required by this subrule shall include, but not be limited to, all of the following:

- a. A description of the plan's benefits and exclusions.
- b. Enrollee cost-sharing requirements.
- c. A list of participating providers.
- d. Disclosure of the existence of any drug formularies used and, upon request, information about the specific drugs included in the formulary.
- e. An explanation for accessing emergency care services.
- f. Any policies addressing investigational or experimental treatments.
- g. The methodologies used to compensate providers.
- h. Performance measures as determined by the commissioner and the director.
- i. Information on how to access internal and external grievance procedures.

**201.19(3)** Consumer guides. This subrule implements Iowa Code Supplement section 514K.1, which provides for a consumer guide. The consumer guide shall provide a comparison by plan on performance measures, network composition, and other key information to help consumers better understand plan differences.

**201.19(4)** Information filing requirements. Each organized delivery system shall annually file with the department no later than March 1 the following information by plan as requested by the department:

- a. Health plan employer data information set (HEDIS).
- b. Network composition.
- c. Other information determined to be beneficial to consumers including, but not limited to, consumer survey information.

Each organized delivery system shall transmit the information requested in this subrule by electronic mail or diskette in a format prescribed by the department.

**201.19(5)** Limitation of information published. The department may establish limits on the data to be collected and published in the event the department believes the information is not statistically relevant and would not be beneficial to consumers.

This rule is intended to implement Iowa Code Supplement section 514K.1.

## NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

April 1, 1999 — April 30, 1999	7.00%
May 1, 1999 — May 31, 1999	7.25%
June 1, 1999 — June 30, 1999	7.25%
July 1, 1999 — July 31, 1999	7.50%
August 1, 1999 — August 31, 1999	8.00%
September 1, 1999 — September 30, 1999	8.00%
October 1, 1999 — October 31, 1999	8.00%
November 1, 1999 — November 30, 1999	8.00%
December 1, 1999 — December 31, 1999	8.00%
January 1, 2000 — January 31, 2000	8.00%
February 1, 2000 — February 29, 2000	8.25%
March 1, 2000 — March 31, 2000	8.75%
April 1, 2000 — April 30, 2000	8.50%
May 1, 2000 — May 31, 2000	8.25%

## UTILITIES DIVISION[199]

### Notice of Formal Notice and Comment Proceeding

The Utilities Board (Board) hereby gives notice that on April 11, 2000, the Board issued an order in Docket No. INU-00-3, **In Re: U S WEST Communications, Inc.**, "Order Initiating Formal Notice and Comment Proceeding," pursuant to Iowa Code section 476.1D, to consider whether the provision of local directory assistance (DA) services is subject to effective competition in Iowa and should be deregulated.

On February 11, 2000, U S WEST Communications, Inc. (U S WEST), filed a petition asking the Board to determine that the provision of local DA services in Iowa is subject to effective competition and should be deregulated. Pursuant to 199 IAC 5.3(1), the Board is initiating a formal notice and comment proceeding. U S WEST's petition provides indications that the criteria for effective competition in 199 IAC 5.6(1) may be met, including availability of comparable services from a choice of suppliers, inability of a single provider to determine or control prices, ease and likelihood of entry, and substitutability of one provider's service for another. The petition makes a sufficient initial showing of competition to justify these proceedings.

Copies of the Board's complete order initiating formal notice and comment proceedings may be obtained from the Board at (515)281-6240 or at the Board's Web site, <http://www.state.ia.us/iub>.

Any interested person may file, on or before June 12, 2000, a statement of position concerning deregulation of the local DA. Statements of position must substantially comply with 199 IAC 2.2(2). Ten copies must be filed with the original. All written statements should clearly state the author's name and address and should make specific reference to Docket No. INU-00-3.

Any person filing a statement of position may file a counterstatement replying to the comments of other participants no later than June 26, 2000. Ten copies must be filed with the original, and copies must be served upon all participants filing statements to which the counterstatement responds. Counterstatements must substantially comply with 199 IAC 2.2(3).

All statements and counterstatements shall be sworn and directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation is scheduled, pursuant to 199 IAC 5.3(4) and 5.5(476), for the purpose of taking sworn testimony concerning the statements and counterstatements. The oral presentation shall be held July 12, 2000, beginning at 10 a.m. in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. All persons filing written statements shall have at least one witness available at the oral presentation who may be cross-examined on the subject matter of the written statement. Cross-examination may be by the Board, the Consumer Advocate Division of the Department of Justice, and other participants as the Board may deem appropriate to develop the record fully. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

## **WORKERS' COMPENSATION DIVISION[876]**

### **Public Notice**

Executive Order Number 8 requires each state agency to comprehensively review its rules and submit a report to the Governor's office no later than November 1, 2001. The Division of Workers' Compensation invites interested persons to participate in the review of its rules.

The Iowa Workers' Compensation Advisory Committee, Inc. will be a constituent group participating in the review of the rules. The Iowa Bar Association Workers' Compensation Section, the Iowa Association of Workers' Compensation Lawyers, Inc., the Iowa Trial Lawyers Association, the Iowa Federation of Labor AFL-CIO, the Iowa United Auto Workers, the Iowa Association of Business and Industry, the National Federation of Independent Business, the Association of Iowa Hospitals and Health Systems, the Iowa Medical Society and the Iowa Medical Group Management Association will be invited to participate. In addition, any trade or occupational association that has registered its name and address with the Division of Workers' Compensation will be invited to participate.

Other constituent groups of 25 interested persons, a governmental subdivision, or an association having not less than 25 members who wish to participate in the review should notify the agency. The notification should be submitted on or before June 1, 2000, to Clair R. Cramer, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines,

Iowa 50319; fax (515)281-6501. The notification shall include the group's name and the name, mailing address, and telephone number of the group's contact person and shall identify in which rules review process the group wishes to participate.

Following is a schedule/time line for review of the Division of Workers' Compensation rules:

- |                    |   |
|--------------------|---|
| By June 1, 2000    | Review Chapter 5, "Declaratory Orders"; Chapter 7, "Petition for Rule Making"; and Chapter 12, "Formal Review and Waiver of Rules."                       |
| By October 1, 2000 | Review Chapter 1, "Purpose and Function"; Chapter 8, "Substantive and Interpretive Rules"; and Chapter 9 "Public Records and Fair Information Practices." |
| By January 2, 2001 | Review Chapter 3, "Forms" and Chapter 6, "Settlements and Commutations."  |
| By March 1, 2001   | Review Chapter 2, "General Provisions"; Chapter 10, "Informal Dispute Resolution Procedures"; and Chapter 11, "Electronic Data Interchange (EDI)."        |
| By June 1, 2001    | Review Chapter 4, "Contested Cases."  |

## ARC 9812A

GENERAL SERVICES  
DEPARTMENT[401]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 18.8A, the Terrace Hill Commission hereby amends Chapter 14, "Organization and Operation of Terrace Hill," Iowa Administrative Code.

The amendments establish the membership of the Commission and the quorum requirement.

Pursuant to Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary because these amendments mirror statutory requirements.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Commission finds these amendments will confer a benefit on the public by accurately reflecting the Commission membership and voting requirements.

These amendments are intended to implement Iowa Code section 18.8A.

These amendments became effective April 14, 2000, upon filing in the office of the Administrative Rules Coordinator.

The following amendments are adopted.

Amend subrules 14.3(2) and 14.3(3) as follows:

**14.3(2)** Composition. The commission consists of nine members appointed by the governor in accordance with Iowa Code section 18.8A. ~~The governor's spouse shall serve as an ex-officio voting member of the commission.~~

**14.3(3)** Meetings. The commission shall meet at the call of the chair. ~~Seven~~ Six members present and voting constitutes a quorum and an affirmative vote of ~~six~~ five members is required for approval of an item.

All meetings are open to the public under Iowa Code chapter 21, and in accordance with Robert's Rules of Order, Revised Edition. Public notice of all meetings shall be distributed to the news media. The tentative agenda for meetings shall be posted in the governor's office at the State Capitol at least 24 hours prior to the commencement of any meeting in accordance with Iowa Code chapter 21.

[Filed Emergency 4/14/00, effective 4/14/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

## ARC 9800A

TRANSPORTATION  
DEPARTMENT[761]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on April 11, 2000, adopted an amendment to Chapter 604, "License Examination," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the February 23, 2000, Iowa Administrative Bulletin as **ARC 9694A**.

This amendment permits the issuance of a driver's license after recommendation by the medical advisory board when an applicant does not meet the minimum field of vision standards set by rule. The Department received two letters supporting this rule change.

This amendment is identical to the one published under Notice of Intended Action.

In accordance with Iowa Code paragraph 17A.5(2)"b," the Department of Transportation finds that this amendment will confer a benefit on members of the public whose field of vision does not meet the standards currently set by rule. These individuals may be able to obtain limited driving privileges as a result of this amendment.

Accordingly, this amendment became effective April 14, 2000.

This amendment is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

Rule-making action:

Amend subrule 604.13(4) as follows:

**604.13(4)** Discretionary issuance.

a. An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

b. Based upon consideration of the applicant's vision screening results or vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/200 with both eyes or with the better eye shall not be licensed.

(3) If an applicant's binocular field of vision (sum of temporal measurements) is less than 95 degrees, or if neither eye has a monocular field of vision of at least 60 degrees temporal and 35 degrees nasal, the applicant ~~shall not be licensed~~ may be considered for licensing only after recommendation by the medical advisory board.

c. The officer's recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

*This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.*

[Filed Emergency After Notice 4/12/00, effective 4/14/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

ARC 9805A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment requires both a state and a federal background check for all initial applicants. These subrules require applicants to submit a completed set of fingerprints to accompany the application to facilitate a national criminal history background check. The fee for the state background check from the Iowa Department of Criminal Investigation (approximately \$10 to \$13) will be assessed to the applicant. The fee for the evaluation of the national criminal investigation (approximately \$24) will be assessed to the applicant. Fees for conducting background checks will be in addition to any licensure fee.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 9672A on February 9, 2000. A public hearing on the amendment was held on March 14, 2000. No one attended the public hearing, and no written comments were received. One change has been made from the Notice of Intended Action. The effective date has been changed from February 1, 2001, to October 1, 2000.

This amendment will become effective October 1, 2000. This amendment is intended to implement Iowa Code chapter 272.

The following amendment is adopted.

Amend 282—14.1(272) by adopting the following new subrules:

14.1(1) Effective October 1, 2000, an initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

14.1(2) Effective October 1, 2000, an Iowa department of criminal investigation background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

[Filed 4/14/00, effective 10/1/00]
[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

ARC 9806A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendments will allow a person with a baccalaureate degree who meets any 30-hour teaching major listed in the Board's rules to apply to an approved alternative preparation

program for licensure. The amendments also allow persons from other states who have been prepared through an alternative preparation program and have completed three years of teaching to be issued an alternative preparation license in Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 9666A, on February 9, 2000. A public hearing was held on March 14, 2000. No one attended the public hearing, and no written comments were received. A nonsubstantive change was made for clarification in paragraph 14.33(2)"d."

These amendments will become effective June 7, 2000.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are adopted.

ITEM 1. Amend rule 282—14.10(272) as follows:

282—14.10(272) Licenses. These The following licenses will be issued effective October 1, 1988 are issued by the board.

- Provisional
Educational
Professional Teacher
Professional Administrator
Conditional
Substitute
Area Education Agency Administrator
Alternative Preparation

ITEM 2. Adopt the following new rule:

282—14.33(272) Requirements for an alternative preparation license.

14.33(1) Following are the requirements for the issuance of a teaching license based on an alternative preparation program for persons prepared in Iowa.

- a. Baccalaureate degree with a cumulative grade point average of 2.5 or better from a regionally accredited institution. This degree must have been conferred at least three years prior to application to an alternative preparation program.
b. Completion of an alternative preparation program approved by the state board of education.
c. Completion of an approved human relations component.
d. Completion of the exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.
e. Professional education core. Completed coursework or evidence of competency in:

(1) Student learning. The practitioner understands how students learn and develop and provides learning opportunities that support intellectual, career, social, and personal development.

(2) Diverse learners. The practitioner understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

(3) Instructional planning. The practitioner plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

(4) Instructional strategies. The practitioner understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(5) Learning environment/classroom management. The practitioner uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(6) Communication. The practitioner uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

(7) Assessment. The practitioner understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

(8) Foundations, reflection, and professional development. The practitioner continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community and actively seeks out opportunities to grow professionally.

(9) Collaboration, ethics, and relationships. The practitioner fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

- f. Computer technology related to instruction.
- g. Completion of pre-student teaching field-based experiences.
- h. Methods of teaching with an emphasis on the subject and grade level endorsement desired.
- i. Content/subject matter specialization. The practitioner understands the central concepts, tools of inquiry, and structure of the discipline(s) the practitioner teaches and creates learning experiences that make these aspects of subject matter meaningful for students.

This is evidenced by completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas or special education teaching endorsements listed in 282—14.20(272) or 282—15.2(272).

j. A minimum of 12 weeks of student teaching in the subject area and at the grade level in which the endorsement is desired.

**14.33(2)** Following are the basic requirements for the issuance of a teaching license based on an alternative preparation program with an endorsement for persons prepared in states other than Iowa.

- a. Hold a baccalaureate degree from a regionally accredited institution.
- b. Provide a valid out-of-state teaching license based on a state-approved alternative preparation program.
- c. Provide a recommendation from a regionally accredited institution, Department of Education, or a state's standards board indicating the completion of an approved alternative teacher preparation program.
- d. Provide official institutional transcript(s) to be analyzed for the coursework necessary for full Iowa licensure based on 14.33(1)"c" to "i" above.
- e. Verify three years of teaching experience which will waive the student teaching requirement.

The alternative preparation license is valid for two years and may be renewed under certain prescribed conditions for a provisional license listed in 282—17.8(272).

[Filed 4/14/00, effective 6/7/00]  
[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9807A****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment expands the options for an individual who wishes to substitute teach on the same basis as the holder of a substitute license while the regular license is in effect, to include the two-year exchange license.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9670A**, on February 9, 2000. A public hearing was held on March 16, 2000. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective June 7, 2000.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is adopted.

Amend subrule 14.17(3) as follows:

**14.17(3)** The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year.

In addition to the authority inherent in the provisional, educational, professional teacher, *two-year exchange*, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

[Filed 4/14/00, effective 6/7/00]  
[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9808A****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts amendments to Chapter 16, "Occupational and Postsecondary Endorsements and Licenses," Iowa Administrative Code.



## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The amendments allow a maximum of six staff development units to be earned for licensure renewal rather than only five. These amendments were inadvertently omitted and should have accompanied the parallel rules for PK-12 in Chapter 17.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9673A**, on February 9, 2000. A public hearing was held on March 16, 2000. No one attended the public hearing, and no written comments were received. The amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective on June 7, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 16.3(3) as follows:

**16.3(3)** Renewal units may be earned upon the completion of staff development programs approved through guidelines established by the board of educational examiners or approved technical update program approved by the board of educational examiners. ~~A maximum of five units may be earned from this subrule.~~

ITEM 2. Amend **16.5(1)“b”(3)** as follows:

(3) Renewal units may be earned upon the completion of staff development programs approved through guidelines established by the board of educational examiners or approved technical update program approved by the board of educational examiners. ~~A maximum of five units may be earned from this subparagraph.~~

[Filed 4/14/00, effective 6/7/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9796A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 225C.6, the Department of Human Services hereby rescinds Chapter 24, "Accreditation or Certification of Providers of Services to Persons with Mental Illness, Mental Retardation, and Developmental Disabilities," appearing in the Iowa Administrative Code and adopts Chapter 24, "Accreditation of Providers of Services to Persons with Mental Illness, Mental Retardation, and Developmental Disabilities," Iowa Administrative Code.

The Mental Health and Developmental Disabilities Commission adopted these rules on April 4, 2000. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on February 9, 2000, as **ARC 9643A**.

These rules rewrite the policies governing accreditation of mental health service providers and terminate the three-year pilot project for certification of services for persons with mental illness, mental retardation, developmental disabilities, and brain injury.

The three-year pilot was established to test the implementation of one set of outcome-based standards for persons

with mental illness, mental retardation, developmental disabilities, or brain injury. The pilot was a joint project with the Department of Inspections and Appeals, the Division of Vocational Rehabilitation, and the Department of Human Services.

The pilot project is very staff intensive. These outcome-based standards are implemented by interviewing consumers, direct care staff, and important persons in the consumer's life. Currently the Division of Vocational Rehabilitation does not have any quality assurance specialists on its staff. The Division relies on national accrediting bodies to accredit the providers it funds. The other divisions and departments also do not have adequate staff to continue to implement these standards at this time. For that reason, the pilot is being discontinued at this time.

The following changes are made to the policies governing accreditation:

- The standards have been organized into three sections: policies and procedures, organizational activities, and services. The standards for policies and procedures are new. The standards clarify what organizations need to have in the way of policies and procedures.

The standards which are currently grouped under organizational activities have been divided into two groups, those that are service and case specific (client records, social histories, assessments, consumer service plans, documentation of service provision, and confidentiality and legal status) and those that are not (organization of service systems, consumer rights, performance improvement system, leadership, management information system, human resources, and organizational environment). Those standards that are service and case specific have been included in the section on services with the standards for the specific services and will be reviewed with each specific service. Those standards which are not service and case specific are grouped together in the organizational activities section.

In computing the total overall rating which establishes the length of accreditation, the performance rating for policy and procedures shall be counted as 25 percent of the total, organizational activities as 25 percent of the total, and services as 50 percent of the total. There continues to be one accreditation award for all the services based upon the lowest score of the services surveyed. A review of a sample of consumer files is used to determine whether each specific service meets the established standards.

- Supported community living services are more clearly defined. Group therapy and support groups provided by community mental health centers are not considered part of supported community living services. Local counties and central point of coordination administrators will need to work with some community mental health centers and other mental health providers to determine what to call and how to bill some of the current services being provided under supported community living.

- A discrete service plan is not required for outpatient services. Draft copies of these rules were shared with providers. Community mental health center representatives had the most concern about the standards established by the rules for outpatient services. After several advisory meetings with division staff, a decision was made not to require a discrete service plan for outpatient services. Information that needs to be documented can be noted in the intervention notes or narratives. Merit Behavioral Care, as the primary source of funding for this service, also had input on these changes and agreed to the revision.

- Policy is clarified that group therapy is not a part of supported community living. If group therapy is needed,

## HUMAN SERVICES DEPARTMENT[441](cont'd)

that service can be developed under outpatient services. Supported community living must be provided in the community where the consumer lives.

- Policy is clarified regarding the federal requirements for case management services.

- Several definitions are added and some are amended to more clearly define the intent of the standards.

- The appeal process for the accreditation decision is revised to require a review by the Division and the Commission prior to an appeal pursuant to 441—Chapter 7.

- A new rule is added governing the granting of exceptions to the accreditation standards in these rules. Exceptions to policy shall follow the Department's general rule on exceptions to policy at rule 441—1.8(217). The Mental Health and Developmental Disabilities Commission shall make a recommendation to the Director on whether the exception shall be approved.

For each of the services accredited under these standards, input was received from both the Mental Health and Developmental Disabilities Division and the Mental Health and Developmental Disabilities Commission throughout the rule-making process.

Community mental health centers chose members for an advisory group that met several times with staff from the Division. Once a draft was completed, the draft was shared with the Commission and with Merit Behavioral Care to ensure it was in agreement for payment purposes.

Division staff met quarterly with both Department and county case management administrators. Ongoing drafts were shared for input and changes made when necessary. A draft was also shared with Independent Case Management for input.

The Iowa Association of Community Providers chose to have input from its providers by sending a draft to all member providers. This included supported community living and other mental health providers. Any provider with concerns or questions sent written comments. The Division then dialogued with the provider staff and came to consensus on language contained in the standards.

These rules provide for waivers (exceptions to policy) in specified situations under the Department's general rule on exceptions to policy at rule 441—1.8(217).

Eight public hearings were held around the state. Twenty-four persons attended the hearings. The following revisions were made to the Notice of Intended Action as a result of those public comments:

Subrule 24.4(8) was revised by removing terminology regarding intensive outpatient therapy services and intensive psychiatric rehabilitation under day treatment to prevent confusion with intensive psychiatric rehabilitation services.

Subrule 24.4(10), paragraph "b," subparagraph (8), was revised to clarify that skill training groups can be one of the activities in the service plan and part of supported community living.

Subrule 24.4(12), paragraph "b," subparagraphs (3) and (4), were revised to clarify what is needed in the outpatient narrative for documentation in lieu of a treatment plan.

The following revisions were made following further staff review:

Rule 441—24.1(225C), definition of "mental health service provider," was renamed to "provider of other mental health services" for editorial consistency.

Subrule 24.4(7), introductory paragraph, was revised to clarify that case management providers shall meet the guidelines set forth in the Medicaid state plan.

These rules are intended to implement Iowa Code chapter 225C.

These rules shall become effective July 1, 2000.

The following amendment is adopted.

Rescind 441—Chapter 24 and adopt the following new Chapter 24 in lieu thereof:

CHAPTER 24  
ACCREDITATION OF PROVIDERS OF SERVICES TO  
PERSONS WITH MENTAL ILLNESS,  
MENTAL RETARDATION, AND  
DEVELOPMENTAL DISABILITIES

PREAMBLE

The mental health and developmental disabilities commission has established this set of standards to be met by all mental health and mental retardation organizations and services that are not licensed by the department of inspections and appeals and that are required to meet specific standards for the organizations and services under the authority of the commission.

The mental health and developmental disabilities commission has established this set of standards to be met by community mental health centers, mental health services providers, case management providers and supported community living providers in accordance with Iowa Code chapter 225C. The commission's intent is to establish standards that are based on the principles of quality improvement, that are designed to facilitate the provision of excellent quality services that lead to positive outcomes, that make organizations providing services responsible for effecting efficient and effective management and operational systems that enhance the involvement of consumers and that establish a best practices level of performance by which to measure provider organizations. The standards are to serve as the foundation of a performance-based review of those organizations for which the commission holds accreditation responsibility as set forth in Iowa Code chapters 225C and 230A.

MISSION OF ACCREDITATION

To ensure consumers and the general public of organizational accountability for meeting best practices performance levels, for efficient and effective management and for the provision of quality services that result in quality outcomes for consumers.

**441—24.1(225C) Definitions.**

"Accreditation" means the decision made by the commission that the organization has met the applicable standards. There will be one accreditation award for all the services based upon the lowest score of the services surveyed.

"Advisory board" means the board that reviews and makes recommendations to the organization's board of directors on the program being accredited. The advisory board meets at least three times a year and has at least three members, at least 51 percent of whom are not providers. The advisory board includes representatives who have disabilities or family members of persons with disabilities. The advisory board's duties include review and recommendation of policies, development and review of the organization plan for the program being accredited, review and recommendation of the budget for the program being accredited, and review and recommendation of the total quality improvement program of the program being accredited.

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"Anticipated discharge plan" means the general statement of the condition or circumstances by which the consumer would no longer need services.

"Appropriate" means the degree to which the services or supports or activities provided or undertaken by the organization are relevant to the consumer's needs, situation, problems, or desires.

"Assessment" means the review of the consumer's current functioning in regard to the consumer's situation, needs, strengths, abilities, desires and goals.

"Benchmarks" are defined as best practices or competencies of excellent quality organizations producing excellent quality services and outcomes.

"Board of directors" means the board that provides oversight, guidance, and policy direction for the operation of the program being accredited. The board shall have at least three members. Organization staff shall not constitute the majority of members of the board.

"Case management services" means those services established pursuant to Iowa Code chapter 225C.

"Chronic mental illness" means the same as serious and persistent mental illness for the purposes of these standards.

"Commission" means the mental health and developmental disabilities commission (MH/DD commission) as established and defined in Iowa Code chapter 225C.

"Community" means a natural setting where consumers live, learn, work, and socialize.

"Community mental health center" means an organization providing mental health services which is established pursuant to Iowa Code chapters 225C and 230A.

"Consultation services" means case, program and community levels of professional assistance and information to increase the skill level and effectiveness of services being provided by other service organizations or groups.

"Consumer" means a person who uses the services of the organization.

"Credentialed staff" or "staff who have been credentialed" means staff who have completed the organization credential verification process.

"Credential verification process" means the process used by the organization to define the qualifications of education, training and experience required for each staff position, and the procedures for verifying that staff in the positions meet those qualifications.

"Crisis intervention plan" means a personalized, individualized plan developed with the consumer that identifies potential personal psychiatric, environmental and medical emergencies. This plan shall also include how the consumer will access emergency services and professional and natural supports.

"Deemed status" means acceptance by the commission of accreditation or licensure of a program or service by another accrediting body in lieu of accreditation based on review and evaluation by the division (as outlined in accreditation procedures).

"Department" means the Iowa department of human services.

"Direct services" means services involving direct interaction with a consumer such as transporting a consumer or providing therapy, habilitation, or rehabilitation activities.

"Division" means the division of mental health and developmental disabilities of the department of human services.

"Doctor of medicine or osteopathic medicine" means a person who is licensed in the state of Iowa to practice medicine as a medical physician under Iowa Code chapter 148 or as an osteopathic doctor under Iowa Code chapter 150A.

"Education services" means professional information, training, assistance, and referral services provided to the general public, to individual persons and to organizations about mental illness and mental health, the promotion of prevention services, and skill training for organizations.

"Functional assessment" means the assessment of the consumer's level of effectiveness in the activities and decision making required by daily living situations. The functional assessment also takes into consideration consumer strengths, stated needs, and level and kind of disability.

"Human services field" means a post-high school course of study resulting in a degree from an accredited four-year college in a field of study which includes, but is not limited to, psychiatry, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy.

"Indicators" are defined as conditions that will exist when the activity is done competently and benchmarks are achieved. They also provide a means to assess the activity's effect on outcomes of services.

"Informed consent" refers to time-limited, voluntary consent. The consumer or legal guardian may withdraw consent at any time without risk of punitive action. The consumer or legal guardian has the opportunity to ask and have questions satisfactorily answered. Informed consent includes a description of the treatment and specific procedures to be followed, the intended outcome or anticipated benefits, the rationale for use, the risks of use and nonuse, and the less restrictive alternatives considered.

"Intensive psychiatric rehabilitation services" means services designed to restore, improve, or maximize level of functioning, self-care, responsibility, independence, and quality of life and to minimize impairments, disabilities, and disadvantages of persons with a disabling mental illness. Services are focused on improving personal capabilities while reducing the harmful effects of psychiatric disability and resulting in consumers' recovering the ability to perform a valued role in society.

"Leadership" means the governing board, the chief administrative officer or executive director, managers, supervisors, and clinical leaders who participate in developing and implementing organizational policies, plans and systems.

"Marital and family therapist" means a person who is licensed under Iowa Code chapter 154D in the application of counseling techniques in the assessment and resolution of emotional conditions. This includes the alteration and establishment of attitudes and patterns of interaction relative to marriage, family life, and interpersonal relationships.

"Mental health counselor" means a person who is licensed under Iowa Code chapter 154D in counseling services involving assessment, referral, consultation, and the application of counseling, human development principles, learning theory, group dynamics, and the etiology of maladjustment and dysfunctional behavior to individuals, families, and groups.

"Mental health professional" means a person who meets all of the following conditions:

1. Holds at least a master's degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing and social work; or is a doctor of medicine (MD) or doctor of osteopathic medicine and surgery (DO); and
2. Holds a current Iowa license when required by the Iowa licensure law; and
3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental

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health problems, mental illness and needs of persons and in providing appropriate mental health services for those persons.

“Mental health treatment services” are those activities, programs, or services which include, but are not limited to, diagnosis, evaluation, psychotherapy, and psychosocial rehabilitation provided to persons with mental health problems, mental illness, or disorders and the stabilization, amelioration, or resolution of the problems, illness, or disorder.

“Mental retardation” means a diagnosis of mental retardation under these rules which shall be made only when the onset of the person’s condition was prior to the age of 18 years and shall be based on an assessment of the person’s intellectual functioning and level of adaptive skills. A psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person’s adaptive skills shall make the diagnosis. A diagnosis of mental retardation shall be made in accordance with the criteria provided in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association.

“Natural supports” means those services and supports identified as wanted or needed by the consumer provided by persons not for pay (family, friends, neighbors, and others in the community) and organizations or entities that serve the general public.

“Organization” means the entity being accredited under 441—Chapter 24 that is a governmental entity or is an entity that meets Iowa Code requirements for a business organization as a for-profit or not-for-profit business including, but not limited to, a business corporation under Iowa Code chapter 490 or a nonprofit corporation under Iowa Code chapter 504A. “Organization” does not mean an individual for whom a license to engage in a profession is required under Iowa Code section 147.2 or any individual providing a service if the individual is not organized as a corporation or other business entity recognized under Iowa Code.

“Outcome” means the result of the performance or non-performance of a function or process or activity.

“Persons with a chronic mental illness” means persons aged 18 and over with a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment. Persons with chronic mental illness typically meet at least one of the following criteria:

1. Have undergone psychiatric treatment more intensive than outpatient care, more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or inpatient hospitalization).
2. Have experienced at least one episode of continuous, structured supportive residential care other than hospitalization.

In addition, these persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:

- Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history.
- Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help.
- Show severe inability to establish or maintain a personal social support system.
- Require help in basic living skills.
- Exhibit inappropriate social behavior that results in demand for intervention by the mental health or judicial system.

In atypical instances, a person who varies from the above criteria could still be considered to be a person with chronic mental illness.

“Persons with developmental disabilities” means persons with a severe, chronic disability which:

1. Is attributable to mental or physical impairment or a combination of mental and physical impairments.
2. Is manifested before the person attains the age of 22.
3. Is likely to continue indefinitely.
4. Results in substantial functional limitation in three or more of the following areas of life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.
5. Reflects the person’s need for a combination and sequence of services which are of lifelong or extended duration and are individually planned and coordinated, unless this term is applied to infants and young children from birth to the age of five inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

“Procedures” means the steps to be taken to implement the policies of the organization.

“Program” means a set of related resources and services directed to the accomplishment of a fixed set of goals for the population of a specified geographic area or for special target populations.

“Provider of other mental health services” means an organization whose services are established to specifically address mental health services to individuals or the administration of facilities in which these services are provided. Organizations included are those that are contracting with a county board of supervisors to provide mental health services in lieu of that county’s affiliation with a community mental health center (Iowa Code chapter 230A) and those that may contract with a county board of supervisors for special services to the general public or special segments of the general public and that are not accredited by any other accrediting body. These standards do not apply to individual practitioners or partnerships of practitioners who are covered under professional licensure laws.

“Psychiatric nurse” means a person who meets the requirements of a certified psychiatric nurse and is eligible for certification by the American Nursing Association and licensed by the state of Iowa to practice nursing as defined in Iowa Code chapter 152.

“Psychiatric rehabilitation practitioner” means a person who holds a graduate degree in rehabilitation counseling, mental health counseling, psychology, social work, nursing, or medicine and has at least two years’ experience working in a psychiatric rehabilitation program or has at least 60 contact hours of training in psychiatric rehabilitation; or a person who holds a bachelor’s degree in one of the above areas and has both at least two years of experience working in a psychiatric rehabilitation program and at least 60 contact hours of training in psychiatric rehabilitation.

“Psychiatrist” means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification and who is fully licensed to practice medicine in the state of Iowa.

“Psychologist” means a person who is licensed to practice psychology in the state of Iowa, or who is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements of eligi-

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bility for a license to practice psychology in the state of Iowa as defined in Iowa Code chapter 154B.

"Qualified case managers and supervisors" means persons who have the following qualifications: (1) a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field and at least one year of experience in the delivery of services to the population groups they serve, or (2) an Iowa license to practice as a registered nurse and at least three years of experience in the delivery of services to the population groups they serve. Persons employed as case management supervisors on or before August 1, 1993, who do not meet these requirements shall be considered to meet these requirements as long as they are continuously employed by the same case management provider.

"Qualified in a human services field" means holding at least a bachelor's degree from an accredited four-year college with a major or at least 30 semester hours or its equivalent in human services. Fields of study which qualify as "human-service-related fields" include, but are not limited to: psychiatry, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy.

"Registered nurse" means a person who is licensed to practice nursing in the state of Iowa as defined in Iowa Code chapter 152.

"Rehabilitation services" means services designed to restore, improve, or maximize the individual's optimal level of functioning, self-care, self-responsibility, independence and quality of life and to minimize impairments, disabilities and dysfunction caused by a serious and persistent mental or emotional disability.

"Service plan" means an individualized goal-oriented plan of services written in language understandable by the consumer and developed for a consumer by the consumer and with the organization.

"Social worker" means a person who is licensed to practice social work in the state of Iowa as defined in Iowa Code chapter 154C.

"Staff" means a person paid by the organization to perform duties and responsibilities defined in the organization's policies and procedures.

"Supported community living services" means those services provided to individuals with a mental illness, mental retardation, or developmental disability to assist them in living, learning, working and socializing in the community. They include the provision of or arrangement for personal and environmental supports, assistance and referral in meeting basic human needs, the provision of or arrangement for family and community support, and education, coordination and development of local support systems. These services are intended to be provided in the individual's home or other natural community environment.

**441—24.2(225C) Standards for policy and procedures.** The organization has written policy direction for the program being accredited.

**24.2(1) Performance benchmark.** The organization has a current policy and procedures manual with policy guidelines and administrative procedures for all organizational activities and services specific to its organization.

**24.2(2) Performance indicators.**

a. The policies and procedures in the manual are current and meet the requirements in this division.

b. The policies and procedures manual is made available to all staff. The policies and procedures reflect current organizational activities and practices.

**441—24.3(225C) Standards for organizational activities.**

**24.3(1) Organization of service systems.**

a. Performance benchmark. The organization designs and structures the activities and systems of services to maximize coordination and facilitate continuity and comprehensiveness of services to a consumer.

b. Performance indicators.

(1) The consumer's admission to an appropriate level of service is based on an assessment of the consumer's needs, desires and abilities, and the organization's capability to provide the services.

(2) The organization has established and documented the necessary admission information to determine the consumer's eligibility for participation in the service.

(3) Information is provided to the consumer and, when appropriate, family and significant others about the nature of the services to be provided and the consumer's rights, choices, and responsibilities.

(4) Continuity of services occurs through coordination among the staff and professionals providing services to the consumer. Coordination of services through linkages with other settings and providers has occurred, as appropriate.

(5) Referral, transfer, or discharge of the consumer to another level of services or provider, or termination of services, is based upon the consumer's assessed needs, abilities, situation and desires, and is planned and coordinated.

(6) A written discharge summary is included in each consumer record at the time of discharge.

**24.3(2) Consumer rights.**

a. Performance benchmark. Each consumer is recognized and respected in the provision of services, in accordance with basic human, civil and statutory rights.

b. Performance indicators.

(1) Services are provided in ways that respect and enhance the consumer's sense of autonomy, privacy, dignity, self-esteem and involvement in the consumer's own treatment. Language barriers, cultural differences, and cognitive deficits are taken into consideration, and provisions are made to facilitate meaningful consumer participation.

(2) Requirements and expectations for participation in the service program are defined by the organization and staff providing the services.

(3) The organization has a mechanism established to protect the consumers and ensure their rights during any activities, procedure or research that requires informed consent.

(4) The organization informs the consumer about the consumer's rights and provides an avenue to express questions, concerns, complaints or grievances about any aspect of the consumer's service.

(5) The organization provides the consumers and their guardians the right to appeal the application of policies, procedures, or any staff action that affects the consumer. The provider has established written appeal procedures and a method to ensure that the procedures and appeal process are available to consumers.

(6) The organization has implemented procedures to ensure that the procedures and appeal process are available.

(7) All consumers, their legal representatives, or other persons authorized by law have access to the consumer's record in accordance with state and federal laws and regulations.

**24.3(3) Performance improvement system.**

a. Performance benchmark. The organization has a systematic, organizationwide, planned approach to designing, measuring, evaluating, and improving the level of its performance.

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## b. Performance indicators.

(1) Organization leaders provide the direction, resources, and training to facilitate quality assessment and improvement activities on an organizationwide basis.

(2) There is a systematic process of identifying, collecting, and assessing information and data which is used to measure the organization's level of performance, identify priority areas for improvement, design and assess new systems, and evaluate levels of improvement resulting from a change in existing systems.

(3) Consumer expectations and perceptions, or those of legal guardians and family, and staff identification of priority areas are included in assessing quality of services and effectiveness of performance.

(4) Measurement of organization and consumer-focused outcomes is carried out to assess effectiveness of performance and determine areas where services or systems may need improvement.

(5) Data is gathered about consumer achievements and outcomes so that effectiveness of interventions is measured and monitored.

(6) Performance improvement activities involve all staff and represent all areas and levels of organizational functioning.

(7) Performance improvement activities involve consumers served by the organization and their legal guardians and family members as appropriate.

**24.3(4) Leadership.**

a. Performance benchmark. Organizational leaders provide the framework for the planning, designing, directing, coordination, provision and improvement of services that are responsive to the consumers and the community served by the organization.

## b. Performance indicators.

(1) There are clearly articulated mission and values statements that are reflected in the long-range organizational plans and in organization policies.

(2) The annual and long-range budgeting process involves appropriate governing and managing levels of leadership and reflects the organization mission and values. An annual financial audit is done by an independent auditor or as provided by law.

(3) The organization establishes a board of directors or advisory board.

(4) The organization's decision-making process, including policy decisions affecting the organization, reflects involvement of the various levels of leadership and responsiveness to staff.

(5) Organization leaders solicit input from leaders of the various community and consumer groups served by the organization in designing responsive service delivery systems.

(6) The leaders develop and implement a service system appropriate to the needs of the consumers served by the organization.

(7) The organization leaders structure and support a method of performance improvement that ensures that internal systems and activities throughout the organization are measured, assessed and improved on an ongoing basis.

(8) Organization leaders make educational information and service consultation available to community groups and resources.

**24.3(5) Management information system.**

a. Performance benchmark. Information is obtained, managed and used in an efficient and effective method to document, enhance and improve organizational performance and service delivery to the consumers.

## b. Performance indicators.

(1) The organization has provided for the security, confidentiality and integrity of all data information including consumer records.

(2) The organization has a system of consumer records, maintained on a current basis, for the organization, compilation, documentation, and maintenance of all individual consumer-specific information related to the provision and outcomes of services and treatments provided to the consumer.

(3) The organization provides opportunities to obtain information to use in planning, designing, managing and improving consumer services and organizational systems.

(4) The organization gathers information and data is captured, analyzed and available to facilitate the following performance improvement activities: decision making, service delivery, and performance improvement.

**24.3(6) Human resources.**

a. Performance benchmark. The organization provides credentialed staff in order to support the organization's mission and facilitate the provision of quality services to consumers.

## b. Performance indicators.

(1) Qualifications and competencies are defined commensurate with the specific job responsibilities and applicable licensure laws, and a credentialing review process is established to ensure compliance. Copies of applicable licenses and degrees shall be included in personnel records.

(2) There is a system to ensure that the demonstrated performance and competency of all staff within their job responsibilities are assessed regularly, with provisions made for ongoing improvement goals, and for supervision or peer review.

(3) Ongoing in-service and other learning and educational opportunities are made available to and used by staff to maintain and improve staff competency levels. New staff receive initial orientation, information, and training which includes adult and child abuse mandatory reporter requirements and confidentiality training. Training on confidentiality and on reporting of child and dependent adult abuse and neglect shall be documented in personnel records.

(4) The organization has established and implemented a code of ethics for all staff. The personnel records shall have documentation that the current code of ethics has been reviewed with each staff member. The organization ensures that the following issues are addressed: confidentiality, consumer rights, professional and legal issues and statutory obligations in providing services to consumers.

**24.3(7) Organizational environment.**

a. Performance benchmark. Services are provided in an organizational environment that is safe and supportive for the consumers being served and the staff providing services.

## b. Performance indicators.

(1) The environment enhances the self-image of the consumer and preserves the consumer's dignity, privacy, and self-development.

(2) The environment is safe and accessible and meets all applicable local, state, and federal regulations.

(3) The processes that service and maintain the environment and the effectiveness of the environment are reviewed within the organization's monitoring and improvement system.

(4) Procedures for interventions are established for situations in which a consumer may be involved in behavior that presents significant risk to the consumer or others. The inter-

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ventions also ensure that the consumer's rights are protected and that due process is afforded.

(5) Risk management situations are reviewed by the organization's performance improvement system for necessity, appropriateness, effectiveness and prevention.

(6) The organization has a mechanism that addresses the safe storage, provision, and administration of medication when used within the service environment in accordance with state and federal regulations.

**441—24.4(225C) Standards for services.** The standards in subrules 24.4(1) through 24.4(6) shall be reviewed as part of the review for each specific service set forth in subrules 24.4(7) through 24.4(14).

**24.4(1) Clinical records.**

a. Performance benchmark. Each clinical record shall include a social history, assessment, consumer service plan, and documentation of service provision.

b. Performance indicators.

(1) Essential information is kept current.

(2) Records reflect the input of the consumer served.

**24.4(2) Social history.**

a. Performance benchmark. The social history shall include relevant historical information regarding the familial, physical, psychosocial, behavioral, environmental, social functioning, cultural and legal aspects of the consumer's life.

b. Performance indicators.

(1) Relevant historical information is collected and documented.

(2) The social history is developed and completed by staff credentialed in accordance with organization policy and procedure and appropriate professional standards of practice.

(3) The social history is updated at least annually.

(4) Family and significant others as desired by the consumer are involved, as appropriate, in developing the social history.

**24.4(3) Assessment.**

a. Performance benchmark. A written assessment is developed that is the basis for the services provided to the consumer. The assessment includes information about the consumer's current situation, needs, problems, wants, abilities and desired results.

b. Performance indicators.

(1) Staff credentialed in accordance with organization policy and procedure and appropriate professional standards of practice complete the assessment.

(2) Decisions regarding level, type and immediacy of services to be provided, or need for further assessment or evaluation, are based upon the analysis of the information gathered in the assessment and with the consumer's involvement.

(3) Assessments of children reflect developmental history and needs.

(4) Collateral provider information should be solicited as appropriate to the individual situation in order to compile a comprehensive and full assessment.

(5) Each consumer is reassessed at least annually during the course of services to determine the consumer's response to interventions and when a significant change occurs in the consumer's functioning, presenting problem, needs, or desires. The reassessment shall be documented in a written format.

(6) Consumers with a diagnosis of a serious and persistent mental illness must have this diagnosis supported by a psychiatric or psychological evaluation conducted by a qualified professional, and documentation of the diagnosis shall be contained in the consumer record.

(7) Documentation supporting the diagnoses of a developmental disability by professionals shall be in the consumer record.

**24.4(4) Consumer service plan.**

a. Performance benchmark. Individualized, planned and appropriate services are guided by an individual-specific service plan developed in collaboration with the consumer, significantly involved others as appropriate, and staff. Services are planned and directed to where the consumers live, learn, work, and socialize.

b. Performance indicators.

(1) The service plan is based on the current assessment.

(2) The service plan identifies observable or measurable consumer goals and action steps to meet the goals.

(3) The service plan includes interventions and supports needed to meet those goals with incremental time lines.

(4) The service plan includes the persons or organizations responsible for carrying out the interventions or supports.

(5) Services defined in the service plan are appropriate to the severity level of problems and specific needs or disabilities and related to desired consumer outcomes.

(6) The plan reflects consumer desires and involves other organizations and individuals as appropriate.

(7) The selection and wording of the goals and desired outcomes reflect consumer collaboration.

(8) Activities identified in the service plan encourage the consumer's ability and right to make choices, to experience a sense of achievement, and to modify or continue the consumer's participation in the treatment process.

(9) Staff monitor the service plan with review occurring regularly. At least annually, the service plan is assessed and revised to determine achievement, continued need or change in goals or intervention methods. The review includes the consumer with the involvement of significant others as appropriate.

(10) A separate, individualized, anticipated discharge plan is developed as part of the individualized service plan.

(11) The service plan shall include documentation of any rights restrictions with a plan to restore those rights or a reason why a plan is not needed.

**24.4(5) Documentation of service provision.**

a. Performance benchmark. Individualized and appropriate intervention services and treatments are provided in ways that support the needs, desires, and goals identified in the service plan, and that respect consumers' rights and choices.

b. Performance indicators.

(1) All interventions respect and enhance the consumer's abilities and dignity, encourage the development of a sense of achievement, and allow the consumer to choose to continue or to modify the consumer's participation in the treatment process.

(2) Responsible staff monitor and document the provision of the intervention services, the consumer's response to those services, and the outcomes of the services provided. This documentation shall be in a written, legible, narrative format in accordance with organizational procedures.

(3) Staff who are credentialed in accordance with organization policy and procedure, who meet relevant standards of practice, and who function within an authorized scope of practice provide intervention services.

(4) Services provided to consumers reflect current practice and knowledge levels.

**24.4(6) Confidentiality and legal status.** The benchmark for confidentiality and legal status applies to all clinical records.

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a. Performance benchmark. Information regarding a consumer is recognized and respected as confidential.

b. Performance indicators.

(1) The organization shall obtain written consent from the consumer, the consumer's legal guardian, or other persons authorized by law for the release of personal identifying information.

(2) Refusal by the consumer to authorize the release of personal identifying information is not an automatic reason for denial of services.

(3) Personal identifying information is released or disclosed only in accordance with existing federal and state laws and regulations.

(4) There shall be documentation of legal status including a copy of guardianship papers, probation, commitment or other court orders if applicable.

**24.4(7)** Providers of case management. Case management is a service that assists service recipients in gaining access to appropriate living environments, needed medical services, and interrelated social, vocational, and educational services. Consumers receive case management services from qualified, supervised case managers. Case management providers in this chapter shall meet the guidelines set forth in the Iowa Medicaid state plan.

Case management services link consumers to service agencies and support systems responsible for providing the necessary direct service activities and coordinate and monitor those services. Case managers shall not provide direct services. Within an accredited case management program, the average caseload shall be no more than 45 consumers per case manager.

a. Performance benchmark. Consumers are enabled to live, learn, work, and socialize as independently as possible in a community setting through the receipt of skill enhancement services that are coordinated and monitored.

b. Performance indicators.

(1) Consumers are part of a team composed of, at a minimum, the case manager and organizations or natural supports relevant to the consumer's service needs. In addition, the team may include family at the discretion of the consumer.

(2) The team works with the consumer to establish the service plan which guides and coordinates the delivery of the services.

(3) The case manager advocates for the consumer.

(4) The case manager coordinates the services. Face-to-face meetings with the consumer must be held at least quarterly.

(5) The case manager monitors the services but does not provide direct services.

(6) Consumers are linked to appropriate resources, which shall provide necessary direct services and natural supports.

(7) Consumers participate in developing an individualized crisis intervention plan.

(8) Consumers are facilitated to exercise choice, make decisions, and take risks that are a typical part of life and fully participate as members in the community.

(9) Documentation shows consumer input on choosing goals.

(10) Documentation shows consumers are informed about their choice of providers as provided in the county management plan.

**24.4(8)** Day treatment. Day treatment is an individualized service emphasizing mental health treatment and rehabilitation activities designed to increase the consumer's abil-

ity to function independently or facilitate transition from residential placement. Individual and group treatment and rehabilitation services are used based on consumer needs and identified behavioral or mental health issues. A mental health professional provides the mental health treatment services. Supervision of staff and services is done by a mental health professional.

a. Performance benchmark. Consumers who are experiencing a significantly reduced ability to function in the community are stabilized and improved by the receipt of mental health treatment services and in-home support services, and the need for residential or inpatient placement is alleviated.

b. Performance indicators.

(1) Consumers participate with the staff in identifying the problem areas to be addressed and the goals to be achieved that are based on the consumer's need for services.

(2) Consumers receive individualized services designed to focus on those identified mental health or behavioral issues that are causing the significant impairment in their day-to-day functioning.

(3) Consumers who receive day treatment services receive a comprehensive and integrated schedule of recognized individual and group treatment and rehabilitation services at least three hours per day, three days per week for an identified period of time.

(4) Consumers and staff review the consumer's progress in resolving problems and achieving goals on a frequent and regular basis.

(5) Consumers receive services appropriate to defined need and current risk factors.

(6) Consumers receive services from staff who are appropriately qualified and trained to provide the range and intensity of services required by the specific problems or disabilities of the consumer. A mental health professional provides or directly supervises the provision of treatment services.

(7) Consumers participate in discharge planning which focuses on coordinating and integrating consumer, family, and community and organization resources.

(8) Family members of consumers are involved in the planning and provision of services as appropriate and as desired by the consumer.

**24.4(9)** Intensive psychiatric rehabilitation services. Intensive psychiatric rehabilitation services are individualized services emphasizing mental health treatment, intensive psychiatric rehabilitation services and in-home support services designed to increase the consumer's ability to function independently and to prevent or reduce the need for services in a hospital or residential setting. A mental health professional provides the mental health treatment services. Intensive psychiatric rehabilitation services are provided by or under the supervision of a psychiatric rehabilitation practitioner or a mental health professional who has been trained as a rehabilitation practitioner.

a. Performance benchmark. Consumers who are experiencing a significantly reduced ability to function in the community are stabilized and improved by the receipt of intensive psychiatric rehabilitation, mental health treatment services and in-home support services, and the need for residential or inpatient placement is alleviated.

b. Performance indicators.

(1) Consumers participate with the organization staff in identifying the problem areas to be addressed and the goals to be achieved.

(2) Consumers receive individualized services designed to focus on those identified mental health needs, functional



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needs and support needs that are causing the significant impairment in their day-to-day functioning.

(3) Whenever possible, intensive psychiatric rehabilitative services should be provided in natural settings where people live, work, learn, and socialize.

(4) Consumers and staff review their progress in resolving problems and achieving goals on a frequent and regular basis.

(5) Consumers receive services appropriate to defined need and current risk factors.

(6) Consumers receive services from staff who are appropriately qualified and trained to provide the range and intensity of services required by the specific problems or disabilities of the consumer. A mental health professional provides or directly supervises the provision of treatment services. A mental health professional or a psychiatric rehabilitation practitioner provides or supervises the provision of rehabilitation and support services.

(7) Consumers participate in discharge planning which focuses on coordinating and integrating consumer, family, and community and organization resources.

(8) Significantly involved others are involved with the consumer in the planning and provision of services as appropriate and as desired by the consumer.

(9) Consumers receive four to ten hours per week of recognized individual and group treatment and rehabilitation services with an emphasis on individual services. Individual in-home support services may also be provided. All services are provided for an identified period of time.

(10) An increase in motivational readiness to choose valued roles and environments is documented in each consumer's file.

(11) Increases in skill competency are documented in each consumer's file.

(12) Increases in the use of critical resources are documented in each consumer's file.

(13) The achievement of chosen rehabilitation goals is documented in each consumer's file.

(14) Satisfaction with services is documented in each consumer's file.

(15) Satisfaction with chosen roles and environments is documented in each consumer's file.

(16) Positive changes in environmental status such as getting a job, moving to a more independent living arrangement, enrolling in an education program, and joining a community group are achieved by consumers and are documented in each consumer's file.

(17) A decrease in the need for and use of psychiatric inpatient services is documented in each consumer's file.

**24.4(10)** Supported community living services. Supported community living services are those services and supports determined necessary to enable consumers with a mental illness, mental retardation, or a developmental disability to live, learn, work, and socialize in a community setting. Services are consumer individualized, need and abilities focused, and organized according to the following components, which are to be provided by organizational staff or through linkages with other resources: outreach to appropriate support or treatment services; assistance and referral in meeting basic human needs; assistance in housing and living arrangements; mental health treatment; crisis intervention and assistance; social and vocational assistance; support, assistance, and education to the consumer's family and to the community; protection and advocacy; coordination and development of natural support systems; and service coordination. Services are directed to enhancing the consumer's abil-

ity to regain or attain higher levels of independence, or to maximize current levels of functioning.

a. Performance benchmark. Consumers with disabilities live, learn, work, and socialize in the community.

b. Performance indicators.

(1) Consumers receive services within their home and community setting based on need, desire and mutually identified problem areas.

(2) Consumers participate in a functional assessment at intake to assist in defining areas of service need and establishing a service plan. The functional assessment shall be summarized in a narrative that describes the consumer's current level of functioning in the areas of living, learning, working, and socialization. Functional assessments are reviewed on a regular basis to determine progress.

(3) Consumers with a mental illness have a current psychiatric evaluation contained in the consumer record.

(4) Consumers with a diagnosis of mental retardation must have this diagnosis supported by a psychological evaluation conducted by a qualified professional, and documentation of the diagnosis shall be contained in the consumer record.

(5) Documentation supporting the diagnosis of a developmental disability by professionals shall be in the consumer record.

(6) Consumers receive support services directed to enabling them to regain or attain higher levels of functioning or to maximize current functioning.

(7) Natural support systems identified by the consumers receive education and consultation services from staff.

(8) Services are delivered on an individualized basis in the place where the consumer lives or works. Supported community living is not part of an organized mental health support or treatment group. Skill training groups can be one of the activities in the service plan and part of supported community living. They cannot stand alone as a supported community living service.

(9) Documentation is in the consumer file that natural supports outside the organization are accessed.

(10) Consumers participate in developing a detailed individualized crisis intervention plan.

**24.4(11)** Partial hospitalization services. Partial hospitalization services are active treatment programs providing intensive group and individual clinical services within a structured therapeutic environment for those consumers who are exhibiting psychiatric symptoms of sufficient severity to cause significant impairment in day-to-day functioning. Short-term outpatient crisis stabilization and rehabilitation services are provided to avert hospitalization or to transition from an acute care setting. Services are supervised and managed by a mental health professional, and psychiatric consultation is routinely available. Clinical services are provided by a mental health professional.

a. Performance benchmark. Consumers who are experiencing serious impairment in day-to-day functioning due to severe psychiatric distress are enabled to remain in their community living situation through the receipt of therapeutically intensive milieu services.

b. Performance indicators.

(1) Consumers and staff mutually develop an individualized service plan that focuses on the behavioral and mental health issues and problems identified at admission. Goals are based on the consumer's need for services.

(2) Consumers receive clinical services that are provided and supervised by mental health professionals. A licensed

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and qualified psychiatrist provides psychiatric consultation and medication services.

(3) Consumers receive a comprehensive schedule of active, planned and integrated psychotherapeutic and rehabilitation services provided by qualified professional staff at least four hours per day, four days per week.

(4) Consumers receive group and individual treatment services that are designed to increase their ability to function independently.

(5) Consumers are involved in the development of an anticipated discharge plan that includes linkages to family, provider, and community resources and services.

(6) Consumers have sufficient staff available to ensure their safety, to be responsive to crisis or individual need, and to provide active treatment services.

(7) Consumers receive services commensurate with current identified risk and need factors.

(8) Support systems identified by consumers are involved in the planning and provision of services and treatments as appropriate and desired by the consumer.

**24.4(12)** Outpatient psychotherapy and counseling services. Outpatient psychotherapy and counseling services are dynamic processes in which the therapist uses professional skills, knowledge and training to enable consumers to realize and mobilize their strengths and abilities; take charge of their lives; and resolve their issues and problems. Psychotherapy services may be individual, group, or family, and are provided by a person meeting the criteria of a mental health professional, or a person with a master's degree in a mental health field who is directly supervised by a mental health professional.

a. Performance benchmark. Consumers realize and mobilize their own strengths and abilities to take control of their lives in the areas where they live, learn, work, and socialize.

b. Performance indicators.

(1) Consumers are prepared for their role as a partner in the therapeutic process at intake where they define their situation, evaluate those factors that affect their situation, and establish desired problem resolution. Psychiatric services and medical management are available to the consumer.

(2) Psychiatric and psychopharmacological services are available as needed by the consumer.

(3) Current and future treatment goals and interventions and supports mutually agreed to by the consumer and the therapist shall be documented in the initial assessment and progress notes. A distinct service plan document is not required.

(4) The consumer's status as of the last visit and the reasons for continuation or discontinuation of services are documented in the progress notes. A distinct discharge summary document is not required.

(5) Consumer records shall be subject to an internal quality assurance process and monitored by the organization. Quality assurance activities shall include:

1. A review of the consumer's involvement in and with treatment.

2. Verification that treatment activities are documented and are relevant to the diagnosis or presenting problem.

3. Verification that the mental health professional follows up on consumers who miss appointments.

**24.4(13)** Emergency services. Emergency services are crisis services that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress, and are available and accessible, by telephone or face-to-face, to consumers on a 24-hour basis. The clinical assessment and psychotherapeutic services shall be pro-

vided by a person who holds a master's degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing, psychiatric rehabilitation, and social work who has training in emergency services and who has access, at least by telephone, to a mental health professional, if indicated; or a person who holds a bachelor's degree in a human services discipline with five years of experience providing mental health services or human services who has training in emergency services and who has access, at least by telephone, to a mental health professional; or a psychiatric nurse with three years of clinical experience in mental health who has training in emergency services and who has access, at least by telephone, to a mental health professional. A comprehensive social history is not required for this treatment.

a. Performance benchmark. Consumers receive, when needed, emergency services that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress.

b. Performance indicators.

(1) Consumers can access 24-hour emergency services by telephone or in person.

(2) Information about how to access emergency services is publicized to facilitate availability of services to consumers, family members, and the public.

(3) Consumers receive assessments and services from either a mental health professional or from personnel who meet the requirements above and are supervised by a mental health professional. Psychiatric consultation is available, if needed.

(4) Consumers receive intervention services commensurate with current identified risk factors.

(5) Significantly involved others of consumers are involved as necessary and appropriate to the situation and as desired by the consumer.

(6) Consumers are involved in the development of post-emergency service planning and resource identification and coordination.

**24.4(14)** Evaluation services. Evaluation services are screening, diagnosis and assessment of individual and family functioning needs, abilities, and disabilities, and determining current status and functioning in the areas of living, learning, working, and socializing.

a. Performance benchmark. Consumers receive comprehensive evaluation services that include screening, diagnosis, and assessment of individual or family functioning, needs and disabilities.

b. Performance indicators.

(1) The evaluation shall include recommendations for services and need for further evaluations.

(2) Evaluations shall consider the emotional, behavioral, cognitive, psychosocial, and physical information as appropriate and necessary.

(3) Consumers shall receive comprehensive evaluation services by a mental health professional that include screening, diagnosis, and assessment of individual or family functioning, needs, abilities, and disabilities.

(4) Persons who meet the criteria of a mental health professional shall complete mental health evaluations.

**441—24.5(225C) Accreditation.** The commission shall make all decisions involving issuance, denial, or revocation of accreditation. This accreditation shall delineate all categories of service the organization is accredited to provide. Although an organization may have more than one facility or service site, only one accreditation notice shall be issued to the organization.

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**24.5(1)** Organizations eligible for accreditation. The commission accredits the following organizations:

- a. Providers of case management.
- b. Community mental health centers.
- c. Providers of supported community living.
- d. Providers of other mental health services.

**24.5(2)** Performance outcome evaluations system.

a. There are three major sections contained in these standards: policies and procedures, organizational activities, and services. The major sections are divided into standards, with a performance benchmark and performance indicators for each standard. Each of the standards for the three sections (policy and procedures, organizational activities, and services) as set forth in rules 441—24.2(225C), 24.3(225C), and 24.4(225C) shall be reviewed.

A performance compliance level shall be determined for each benchmark based on the number of indicators present for that benchmark. Each indicator under a benchmark is assigned a percentage weight arrived at by dividing 100 percent by the number of indicators for the benchmark. Benchmark rating totals shall be added and the sum divided by the number of benchmarks to determine the section's performance rating. The performance compliance level for the benchmarks of each section shall have a potential total rating of 100 percent.

In order for a total overall rating to be established, the performance rating for policy and procedures shall be counted as 25 percent of the total, organizational activities as 25 percent of the total, and services as 50 percent of the total.

b. When an organization is accredited for more than one service under this chapter, staff will conduct one survey for the organization. There shall be one accreditation award for all the services based upon the lowest score of the services surveyed. At the time of the recertification visit, staff shall review the services that did not receive three-year accreditation.

When an organization subcontracts with agencies to provide services, on-site reviews shall determine if each agency meets all the requirements in this division. When an organization subcontracts with more than one agency, the length of accreditation shall be determined individually.

**24.5(3)** Accreditation decisions.

a. Initial 270-day accreditation. This type of accreditation is granted to a new organization, or to an organization not previously accredited by the division. Staff may conduct a desk audit or on-site visit to review the organization's mission, policies, procedures, staff credentials, and program descriptions.

b. Three-year accreditation. An organization or service is eligible for this type of accreditation if it has achieved an 80 percent or higher percent average performance compliance level. The organization may be required to develop and submit a plan of corrective action and improvement that may be monitored either by written report or on-site review.

c. One-year accreditation. An organization is eligible for this type of accreditation when multiple and substantial deficiencies exist in specific areas causing compliance levels with performance benchmarks and indicators to fall between the averages of 70 percent and 79 percent, or when previously required corrective action plans have not been implemented or completed. The organization must submit a corrective action plan to correct and improve specific deficiencies and overall levels of functioning. This plan shall be monitored through on-site reviews, written reports and the provision of technical assistance.

d. Probational 180-day accreditation. An organization is eligible for this type of accreditation in lieu of denial when the overall compliance level is from 60 to 69 percent and pervasive and serious deficiencies exist; or when previously required corrective action plans as a result of a one-year accreditation have not been implemented or completed. All deficiencies must be corrected by the time of the follow-up on-site survey at the conclusion of the provisional time period. After this survey the organization shall either be accredited for at least one year, or accreditation shall be denied. Organizations with a one- or three-year accreditation may be downgraded to the probational 180-day accreditation when one or more complaints are founded at an on-site investigation visit conducted by division staff.

e. Denial of accreditation.

(1) When there are pervasive and serious deficiencies that put consumers at immediate risk or when the overall compliance level falls to 59 percent or below, the division administrator is authorized to temporarily deny accreditation, based upon that determination. The action of the division administrator shall be reviewed at the next regularly scheduled commission meeting and, if approved, accreditation shall be denied.

(2) When one or more complaints are received, an investigation shall be completed and a report submitted to the commission. If any of the complaints are founded and the commission determines there is a pervasive or serious deficiency, accreditation shall be denied.

**24.5(4)** Nonassignability. Accreditation shall not be assignable to any other organization or provider.

**24.5(5)** Discontinuation.

a. A discontinued organization is one that has terminated the service for which it has been accredited.

b. Accreditation is not transferable. Any person or other legal entity acquiring an accredited facility for the purpose of operating a service shall make an application as provided herein for a new certificate of accreditation. Similarly, any organization having acquired accreditation and desiring to fundamentally alter the service philosophy or transfer to different premises must notify the division 30 calendar days before said action in order for the division to review the change and to determine appropriate action.

c. An organization shall notify the division of any sale or change in the business status or transfer of ownership in the business or impending closure of the accredited or certified service at least 30 calendar days before closure. The organization shall be responsible for the referral and placement of consumers, as appropriate, and for the preservation of all records.

**24.5(6)** Application and renewal procedures. Applying for accreditation usually constitutes the beginning of the accreditation process and the process shall continue until the commission makes final determination of the organization's accreditation status. The division shall provide Form 470-3005, Application for Accreditation, to all applicants for accreditation or renewal. An applicant for accreditation shall submit the following information.

- a. The name and address of the applicant organization.
- b. The name and address of the chief executive officer of the applicant organization.
- c. The type of organization and specific services for which the organization is seeking accreditation.
- d. The targeted population groups for which services are to be provided, as applicable.
- e. The number of individuals in each targeted population group to be served, as applicable.

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f. Other information related to the standards as requested by division staff.

g. Form 470-3005, Application for Accreditation. The organization's chief executive officer and the chairperson of the governing body shall sign this form.

**24.5(7) Application review.** An organization seeking accreditation shall submit a completed application, Form 470-3005, to the division. The division shall review the application for completion and request any additional material as needed. Organizations applying for first-time accreditation may be granted initial accreditation for 270 days to operate until the division completes an on-site survey.

**24.5(8) Survey review of organizations.** The division shall review organizational services and activities as determined by the accreditation category. This review may include on-site case record audits, administrative procedures, clinical practices, personnel records, performance improvement systems and documentation, and interviews with staff, consumers, boards of directors, or others deemed appropriate, consistent with the confidentiality safeguards of state and federal laws.

a. An on-site visit shall be made with the organization. The division shall not be required to provide advance notice to the provider of the on-site visit for accreditation.

b. The on-site survey team shall consist of designated members of the division staff. The team may include provider staff, consumers, and others deemed appropriate.

c. The team shall survey the organization that has applied for accreditation or that is being reviewed as determined by accreditation category and the services indicated on the accreditation application in order to verify information contained in the application and ensure compliance with all applicable laws, rules and regulations.

d. The accreditation survey team leader shall send a written report of the findings to the organization within 30 working days after completion of the accreditation survey.

e. Organizations applying for first-time accreditation shall be offered technical assistance. Following accreditation, any organization may request technical assistance from the division to bring into conformity those areas found in noncompliance with this chapter's requirements. The commission may also require that technical assistance be provided to an organization if multiple deficiencies are noted during a survey to assist in implementation of the organization's corrective action plan. Renewal applicants may be provided technical assistance as needed.

f. Organizations required to develop a corrective action and improvement plan shall submit it to the division within 30 working days after the receipt of a report issued as a result of the division's survey review. The corrective action plan shall include: specific problem areas cited, corrective actions to be implemented by the organization, dates by which each corrective measure shall be completed, and quality assurance and improvement activities to measure and ensure continued compliance.

g. The division shall prepare all documents with a final recommendation regarding accreditation to be presented at the commission meeting. The division shall mail summary reports of the on-site service review or desk review and a final recommendation concerning accreditation to all commission members on each application to be processed at the next commission meeting. If the commission approves accreditation, Form 470-3006, Notice of Action-Approval, shall be issued which states the duration of the accreditation and the services which the organization is accredited to provide. If the commission denies or revokes accreditation,

Form 470-3008, Notice of Action-Denial, shall be issued which states the reasons for the denial.

h. The division may grant an extension to the period of accreditation for an organization if there has been a delay in the accreditation process which is beyond the control of the organization, division, or commission; or the organization has requested an extension to permit the organization to prepare and obtain approval of a corrective action plan. The division shall establish the length of the extension on a case-by-case basis.

**441—24.6(225C) Deemed status.** The commission may grant deemed status to organizations accredited by a recognized, national, not-for-profit accrediting body when the commission determines the accreditation is for similar services. Deemed status for supported community living services will also be granted to organizations that are certified under 441—subrule 77.37(14).

**24.6(1) National accrediting bodies.** The national accrediting bodies currently recognized as meeting division criteria for possible deeming are:

a. Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

b. The Commission on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Quality and Leadership in Supports for People with Disabilities (The Council).

d. Council on Accreditation of Services for Families and Children (COA).

The accreditation credentials of these national bodies must specify the type of organization, programs, and services that they accredit, and include targeted population groups, if appropriate.

Deemed status means that the division is accepting an outside body's review, assessment, and accreditation of an organization's functioning and services. Therefore, the accrediting body doing the review must be assessing categories of organizations and types of programs and services corresponding to those described under this chapter.

An organization that has received accreditation by deemed status is still held responsible for meeting all requirements under this chapter and all applicable state laws and regulations. When an organization that is nationally accredited requests deemed status for services not covered by the national body's standards but covered under this chapter, the accreditation for those services shall be done by the division. Technical assistance by division staff shall be provided to deemed status organizations as time permits; however, the assistance will be focused on this chapter's requirements.

**24.6(2) Reservations.** When deemed status is granted, the commission and the division reserve the following:

a. To have division staff conduct on-site focused reviews for those organizations applying for deemed status that the division has not previously accredited.

b. To have division staff do joint site visits with the accrediting body, attend exit conferences, or conduct focused follow-behind visits as determined to be appropriate in consultation with the national accrediting organization and the provider organization.

c. To be informed of and to investigate all complaints that fall under this chapter's jurisdiction and to make findings as a result of the investigation. Complaints and findings shall be reported to the national accrediting body. The complaint process outlined in this chapter shall be followed.

d. To review and act upon deemed status under the following circumstances: when complaints have been founded, when focused reviews find instances of noncompliance with

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this chapter's requirements, when the national accreditation status of the provider expires without renewal, or when the organization's status is downgraded or withdrawn by the national accrediting body.

e. To have division staff conduct either focused or full surveys in instances in which the national body has accredited the organization for less than the maximum time period.

**24.6(3)** Application for deemed status. To apply for deemed status, the organization shall:

a. Submit Form 470-3331, Application for Deemed Accreditation, and copies of the latest survey report and accreditation certificate, documentation of specific programming policies and procedures for populations being served, and credentials for staff providing services to populations served.

b. Sign Form 470-3332, Letter of Agreement, and submit it to the division.

**24.6(4)** Requirements for deemed status. To be eligible for deemed status, the organization shall:

a. Be currently accredited by a recognized national accrediting body for services that are defined under this chapter, or

b. Be currently accredited under 441—subrule 77.37(14) for supported community living under the home- and community-based waiver. If consumers with mental illness are served, the provider must submit verification of the training and credentials of the staff to show that the staff can meet the needs of the consumers they serve.

c. Require the supported community living staff to have the same supervisor as the HCBS/MR program.

d. Require staff for the program being deemed to have the training and credentials needed to meet the needs of the person served.

**24.6(5)** Granting of deemed status. When the commission grants deemed status, the accreditation period shall coincide with the time period awarded by the national accrediting body or the certification for home- and community-based services. Under no circumstances shall accreditation be made for longer than three years.

**24.6(6)** Continuation of deemed status. The following documentation shall be submitted to the division to continue deemed status:

a. A copy of the application for renewal shall be sent to the division at the same time as application is made to a national accrediting body.

b. For organizations deemed for supported community living under the home- and community-based services (HCBS) waiver, HCBS staff shall furnish the division copies of the letter notifying a provider of a forthcoming recertification.

c. Following the on-site review by a national accrediting body, the organization shall send the division a copy of the cover sheet and national accrediting body report within 30 calendar days from the date that the organization receives the documents. If a corrective action plan is required, the organization shall send the division a copy of all correspondence and documentation related to the corrective action.

d. HCBS staff shall furnish the division with copies of HCBS certification reports and any corrective action required by HCBS within 30 calendar days after HCBS staff complete the report or the organization completes required corrective action.

**441—24.7(225C) Complaint process.** The division shall receive and record complaints by consumers, employees, any interested persons, and the public relating to or alleging

violations of applicable requirements of the Iowa Code or rules adopted pursuant to the Code.

**24.7(1)** Submittal of complaint. The complaint may be delivered personally or by mail to the MH/DD Division, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, or by telephone at (515)281-5874.

a. Consumers shall be assisted as needed or requested in making a complaint.

b. The information received should specifically state the basis of the complaint.

**24.7(2)** Review of complaint. Upon receipt of a complaint, the division shall make a preliminary review of the complaint. If the division concludes that the complaint is reasonable, has merit, and is based on a violation of rules in this chapter, it may make an on-site review of the organization (with approval of either the division administrator or designee or the commission) which is subject to the complaint. The on-site review does not require advance notice to the organization.

**24.7(3)** Decision of division. The division shall determine an appropriate response which may include, when approved by the administrator or designee, an on-site investigation. The decision and action shall be made in a timely fashion to preserve the availability of witnesses and avoid beginning an investigation under conditions which may have been significantly altered since the period with which the complaint is concerned. If a decision is made to conduct an on-site investigation, the chief executive officer and board chairperson of the organization involved shall, before or at the commencement of the on-site investigation, be notified that the division has received a complaint.

a. The organization shall be given an opportunity to informally present a position regarding allegations in the complaint. The position may be submitted in writing or presented in a personal conference with division staff.

b. A written report shall be submitted by certified mail to the chief administrative officer of the organization and the chairperson of the board of directors within 20 working days after completion of the investigation.

c. The report shall indicate whether the complaint was or was not substantiated, the basis for the substantiation or nonsubstantiation, the specific rules violated, and a recommendation for corrective action with time lines specified in the report.

d. The date of delivery shown by the certified mail stub shall constitute date of official notice.

**24.7(4)** Review by commission. To the extent allowed by Iowa Code section 21.5, the commission may review the complaint and investigation report in a closed meeting.

a. If the complaint is founded, the commission may take actions deemed appropriate, which may include downgrading or suspending or revoking an organization's accreditation status, depending on the severity of the substantiated complaint.

b. The action taken by the commission shall be voted upon in the reconvened public meeting part and entered into the official record of commission minutes.

c. The complainant and the organization shall be informed of the findings and actions taken by the commission.

**24.7(5)** Corrective action plan. If the complaint is substantiated, the organization may be expected to submit a corrective action plan to the division within 20 calendar days after receiving the commission's decision. This plan must respond to violations cited and commission requirements, and include time lines, internal monitoring systems, and perfor-

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mance improvement planning. Failure of the organization to respond to the report may of itself constitute the basis for revocation or suspension of accreditation. The organization shall be notified if any action is taken.

**441—24.8(225C) Appeal of survey report.**

**24.8(1)** Review by the department. When an organization does not agree with the results or content of an accreditation report, it may request a review of the report. This request shall be made in writing within 30 calendar days from the date of the report to MH/DD Division, Bureau Chief of Quality Assurance and Support, Department of Human Services, Hoover State Office Building, Fifth Floor, Des Moines, Iowa 50319-0114. A meeting shall be set up between organization staff and the division for clarification of the report findings within 30 calendar days of the date of the organization's letter requesting a review of the report.

a. The division shall send a letter to the organization within 15 calendar days from the date of the meeting notifying the organization if any changes were made in the report or corrective action plan.

b. Services to the consumers shall continue in accordance with 441—Chapter 24 until the review is completed.

**24.8(2)** Review by the commission. If the organization is not satisfied with the decision of the division, it may request a review of accreditation reports and accreditation recommendations by the commission. This request shall be made in writing within 30 calendar days from the date of the decision to the MH/DD Commission, MH/DD Division, Department of Human Services, Hoover State Office Building, Fifth Floor, Des Moines, Iowa 50319-0114.

a. The request must be received by the division a minimum of 15 calendar days before the next commission meeting to be put on the agenda. Requests received less than 15 calendar days before the next commission meeting will be put on the agenda for the next commission meeting. The division shall send the organization a copy of the agenda. The organization may choose to come to the commission meeting for a verbal presentation.

The commission shall make a formal motion on the request that will become part of the minutes. The division shall notify the organization of the commission's decision within five working days of the meeting.

b. Services to the consumers shall continue in accordance with 441—Chapter 24 until the review is completed.

**24.8(3)** Appeal procedure. If the organization completed all the review procedures set forth in subrules 24.8(1) and 24.8(2) and is dissatisfied with the decision of the commission, it may file an appeal with the department pursuant to 441—Chapter 7. Written request for an appeal shall be made to Appeals Section, Department of Human Services, Hoover State Office Building, Fifth Floor, Des Moines, Iowa 50319-0114, within 30 calendar days of the written decision from the division.

Appeals filed prior to completion of all review procedures will be deemed premature and denied hearing.

**441—24.9(225C) Exceptions to policy.** Exceptions to policy shall follow the policies and procedures in the department's general rule on exceptions to policy at rule 441—1.8(217). The mental health and developmental disabilities commission shall make a recommendation to the director on whether the exception shall be approved.

These rules are intended to implement Iowa Code chapter 225C.

[Filed 4/5/00, effective 7/1/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9797A**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments April 12, 2000. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on February 23, 2000, as **ARC 9691A**.

These amendments clarify procedures for billing for oxygen for Medicaid recipients in nursing facilities and remove Medicare limitations on services performed by independent laboratories.

Discrepancies in oxygen use documentation by oxygen providers and nursing facilities have created billing problems. Medicaid payment is only made to oxygen providers directly when a nursing facility resident needs oxygen for 12 or more hours per day for at least 30 days or more. When usage is less than that amount, the oxygen provider is to bill the nursing facility for the oxygen, and the nursing facility is to include the cost of the oxygen in its cost reports.

Department of Inspections and Appeals rules at 481—subrule 58.21(8) require nursing facility personnel to make an accurate written record of medications administered. Policy is being clarified to provide that payment will not be made to oxygen providers for oxygen that is not documented according to 481—subrule 58.21(8).

Recent Medicare reductions in payment to independent laboratories created discrepancies in Medicaid coverage between independent laboratories, hospital-based laboratories, and physician-office laboratories. These amendments provide that Medicaid will continue to reimburse independent laboratories for medically necessary laboratory services. It is cost-effective to provide medically necessary services, and coverage for all laboratory services will be consistent.

These amendments do not provide for waivers in specified situations because provision of oxygen should always be properly documented, and no waiver is needed because the amendment on independent laboratory services expands coverage.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective July 1, 2000. The following amendments are adopted.

ITEM 1. Amend subrule **78.10(2)**, paragraph "a," by adopting the following **new** subparagraph (6):

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(6) Payment will not be made for oxygen that is not documented according to department of inspections and appeals 481—subrule 58.21(8).

ITEM 2. Amend rule 441—78.20(249A) as follows:

**441—78.20(249A) Independent laboratories.** Payment will be made for ~~the same medically necessary laboratory services payable under the Medicare program (Title XVIII of the Social Security Act) provided by independent laboratories certified to participate in the Medicare program.~~

This rule is intended to implement Iowa Code section 249A.4.

[Filed 4/12/00, effective 7/1/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9798A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment April 12, 2000. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on February 9, 2000, as **ARC 9644A**.

This amendment increases the per day reimbursement for nursing facilities providing skilled care for Medicaid clients requiring a ventilator. A facility providing ventilator care for a Medicaid client will now receive the maximum allowable cost for the type of facility (\$346.20 per day for hospital-based facilities and \$163.41 per day for freestanding (non-hospital-based) facilities) plus an additional \$100 per day. In order for the facilities to receive payment for ventilator care, the clients must require at least six hours of ventilator care every day, be inappropriate for home care, and have failed attempts at weaning or be inappropriate for weaning.

This category of Medicaid client has complex and intensive service needs normally above the level of the capabilities of skilled nursing facility staff and above services ordinarily provided in a skilled nursing facility. As a result, Iowa Medicaid clients are often transferred to out-of-state facilities in Omaha and Lincoln, Nebraska, for their service needs. This change should enable Iowa facilities to provide ventilator care, thereby eliminating the need for costly out-of-state placements.

This amendment does not provide for waiver in specified situations because it confers a benefit in the form of increased compensation to nursing facilities.

The following revision was made to the Notice of Intended Action:

Subrule 79.1(9), paragraph "b," was revised to clarify the rate which shall be paid to disproportionate share facilities.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective July 1, 2000.

The following amendment is adopted.

Amend subrule **79.1(9)**, paragraph "b," as follows:

b. In-state facilities serving Medicaid ~~eligibles~~ *eligible patients* who require a ventilator at least six hours every day, are inappropriate for home care, have a failed attempt at weaning or are inappropriate for weaning, and have medical needs that require skilled care as determined by the Iowa Foundation for Medical Care shall receive *reimbursement for the care of these patients equal to the maximum allowable cost for the type of facility (or, for disproportionate share facilities, the rate paid pursuant to paragraph "e") plus a \$50 \$100 per day incentive factor. For ventilator care a facility may not receive a rate that exceeds the ceiling rate for its facility classification plus \$50 per day. The facility Facilities may continue to receive the payment reimbursement at these rates for 30 days for any person weaned from a respirator who continues to reside in the facility and continues to meet skilled criteria for those 30 days.*

[Filed 4/12/00, effective 7/1/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9799A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment April 12, 2000. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on March 8, 2000, as **ARC 9710A**.

This amendment modifies a factor used to determine the Medicaid reimbursement rate for non-state-owned nursing facilities. The base reimbursement rate for those facilities is arrived at by dividing allowable reported expenses by total patient days during the reporting period or by 80 percent of the licensed capacity of the facility, whichever is greater, subject to the maximum reimbursement rates. Using 80 percent of the licensed capacity as a floor on total patient days effectively lowers the reimbursement rate for facilities that are below 80 percent occupancy.

This amendment provides that the 80 percent of licensed capacity floor on total patient days does not apply to patient care service expenses. Patient care service expenses are those that are tied to direct patient care. They do not include those fixed costs tied to administrative, building maintenance and property expenses but do include expenses such as nursing, activities, social services, rehabilitation, dietary, pharmacy, x-ray, laboratory, and associated supplies.

Patient care service costs are not fixed costs. Removing the 80 percent floor on total patient days for these costs allows a facility to be reimbursed for these actual costs and not be penalized for lower occupancy with respect to patient care service expenses.

This amendment is being implemented for a period of one year as part of the nursing facility transition payment strategy. During this transition period the Department will pro-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

mulgate rules to implement a "case-mix" reimbursement system, pending legislative approval.

This amendment does not provide for waivers in specified situations because this change will confer a benefit to affected providers.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective July 1, 2000.

The following amendment is adopted.

Amend subrule **81.6(16)**, paragraph "**d**," as follows:

d. For non-state-owned nursing facilities, an additional factor in determining the reimbursement rate shall be arrived at by dividing total reported patient expenses by total patient days during the reporting period. ~~Total patient~~ *Patient days for purposes of the computation of patient care service expenses shall be inpatient days as determined by subrule 81.6(7).* Patient days for purposes of ~~this the~~ computation of *all other expenses* shall be inpatient days as determined in subrule 81.6(7) or 80 percent of the licensed capacity of the facility, whichever is greater.

[Filed 4/12/00, effective 7/1/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9795A****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, subsection 2, and Iowa Code Supplement section 514J.14, the Insurance Division amends Chapter 35, "Accident and Health Insurance," Chapter 71, "Small Group Health Benefit Plans," Chapter 75, "Iowa Individual Health Benefit Plans," and Chapter 76, "External Review," and rescinds Chapter 100, "Community Health Management Information System," Iowa Administrative Code.

The amendments to Chapter 35, 71, and 75 provide for required reconstructive surgery following a mastectomy as passed in Public Law 105-277, the Omnibus Appropriations Bill for Fiscal Year 1999 (Women's Health and Cancer Rights Act of 1998). The amendment to Chapter 76 clarifies the licensing requirement for a health care professional who is not a medical professional. Chapter 100 is rescinded as it was intended to implement Iowa Code chapter 144C, which was repealed effective February 28, 1999.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 12, 2000, as **ARC 9594A**. No written comments were received. There are no changes to the amendments as published under the Notice of Intended Action.

The Division of Insurance adopted these amendments on February 16, 2000.

These amendments are intended to implement H.R. 4328, Public Law 105-277, Iowa Code Supplement chapter 514J, and 1998 Iowa Acts, chapter 1119, section 5.

These amendments shall become effective June 7, 2000.

The following amendments are adopted.

ITEM 1. Amend 191—Chapter 35 by adopting the following **new** rule:

**191—35.35(509) Reconstructive surgery.**

**35.35(1)** A carrier or organized delivery system that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

a. Reconstruction of the breast on which the mastectomy has been performed;

b. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

c. Prostheses and coverage of physical complications at all stages of a mastectomy including lymphedemas.

**35.35(2)** The benefits under this rule shall be provided in a manner determined in consultation with the attending physician and the enrollee. The coverage may be subject to annual deductibles and coinsurance provisions that are consistent with other benefits under the plan or coverage.

**35.35(3)** Written notice of the availability of coverage in this rule shall be provided to the enrollee upon enrollment and then annually.

**35.35(4)** A carrier or organized delivery system shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier or organized delivery system shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 2. Amend 191—Chapter 71 by adopting the following **new** rule:

**191—71.23(513B) Reconstructive surgery.**

**71.23(1)** A carrier or organized delivery system that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

a. Reconstruction of the breast on which the mastectomy has been performed;

b. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

c. Prostheses and coverage of physical complications at all stages of a mastectomy including lymphedemas.

**71.23(2)** The benefits under this rule shall be provided in a manner determined in consultation with the attending physician and the enrollee. The coverage may be subject to annual deductibles and coinsurance provisions that are consistent with other benefits under the plan or coverage.

**71.23(3)** Written notice of the availability of coverage in this rule shall be provided to the enrollee upon enrollment and then annually.

**71.23(4)** A carrier or organized delivery system shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier or organized delivery system shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 3. Amend 191—Chapter 75 by the adopting the following **new** rule:



INSURANCE DIVISION[191](cont'd)

**191—75.17(513C) Reconstructive surgery.**

**75.17(1)** A carrier or organized delivery system that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

- a. Reconstruction of the breast on which the mastectomy has been performed;
- b. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and
- c. Prostheses and coverage of physical complications at all stages of a mastectomy including lymphedemas.

**75.17(2)** The benefits under this rule shall be provided in a manner determined in consultation with the attending physician and the enrollee. The coverage may be subject to annual deductibles and coinsurance provisions that are consistent with other benefits under the plan or coverage.

**75.17(3)** Written notice of the availability of coverage in this rule shall be provided to the enrollee upon enrollment and then annually.

**75.17(4)** A carrier or organized delivery system shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier or organized delivery system shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 4. Amend paragraph **76.9(1)“c”** as follows:

- c. A health care professional who is not a *medical* physician shall also hold a current certification by the professional's respective *licensing or* specialty board if applicable.

ITEM 5. Rescind **191—Chapter 100.**

[Filed 4/10/00, effective 6/7/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

## ARC 9803A

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

The purpose of amending Chapter 73 is to update the language and definitions for consistency with the federal guidelines for the Special Supplemental Nutrition Program for Women, Infants, and Children. The amendments include changes in terminology, clarification of the process for selecting approved WIC foods, and tougher penalties for vendor abuse and fraud.

Due to rapidly changing technology, there are now many alternatives to the WIC checks currently being utilized by the Iowa WIC Program to supply food and formula to participants. The United States Department of Agriculture (USDA) now uses the term "food instrument" to describe all

devices used to obtain supplemental foods. Chapter 73 has been modified to reflect this change in terminology.

The process for determining whether a vendor has been overcharging WIC participants has also been clarified in this revision of Chapter 73, partly by defining the term "peer group" and explaining its use. The use of the term "peer group" is not a change in policy; it is simply a clarification of existing policy.

There has also been a change in the terminology used by dietitians to describe certain juice products. "Single-strength" is now used to describe what was previously known as "fluid" juice, and "frozen" juice is now called "concentrated" juice. Chapter 73 has been modified to reflect this change.

Another change in Chapter 73 regards formula and infant cereal stocking requirements for vendors. Due to a desire to improve participant services, grocery vendors will now be required to have the capability to supply participants with requested rebate contract formula within 48 hours, or 72 hours if a holiday is involved. This is a change from the previous policy, which did not specify how much time a vendor had to stock formula after a participant request was received. Also, the new policy, which is expected to attract more small-town vendors that previously could not meet the formula stocking requirements, will not require vendors to keep rare, expensive formulas in stock indefinitely.

Chapter 73 is also being revised to clarify the process of choosing brands of cereal for inclusion in the list of approved foods. The total number of approved brands remains at 19, and the selection process is not being modified. The proposed amendments simply specify the steps in the existing process.

Chapter 73 is also being modified to reflect changes in the way juices are chosen for inclusion in the approved foods list. The number of approved brands for each type of juice has been decreased in order to eliminate confusion at the grocery store, both for the vendors and the participants. This will also assist staff in the administration of the program. Chapter 73 has been modified to reflect this policy change.

The USDA has also recently recognized that tougher sanctions are needed for vendors who commit violations of WIC Program rules. The implementation of mandatory sanctions by the USDA is intended to curb vendor fraud in the WIC Program and to promote WIC and Food Stamp Program coordination in the disqualification of vendors who violate program rules. Chapter 73 is being modified to implement the mandatory sanctions required by the USDA.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9623A**. A public hearing was held on February 15, 2000, using 13 Iowa Communications Network (ICN) sites. Two managers for Dahl's stores and a representative for Nash Finch wholesalers were present. No comments were received at the public hearing. Written comments were received via electronic mail by Jeanette Montano of the USDA. The Department had previously provided a copy of the proposed changes to Chapter 73 to the Iowa Grocery Industry Association. The Department also provided an opportunity for its local contractors, Medicaid staff of the Department of Human Services, and internal staff of the Department of Public Health to review the revised chapter prior to filing the Notice of Intended Action.

These amendments are subject to waiver pursuant to the Department's variance and waiver provisions contained at 641—Chapter 178.

The changes from the Notice of Intended Action occur in Items 3, 5, and 14. The local WIC coordinators recom-

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mended an improvement to better accommodate WIC participants. At the time of WIC certification at the clinic site, the WIC client shall sign a WIC identification card or blue ID folder containing the food instrument. The food instrument is to be signed in front of an authorized WIC vendor at which time the vendor shall ensure that the signature matches the signature on the WIC identification card or blue ID folder. This minimal change, eliminating a second signature by the WIC participant, will be more efficient for the WIC participant.

The State Board of Health adopted these amendments at their regular board meeting on March 8, 2000.

These amendments will become effective on June 7, 2000.

These amendments are intended to implement Iowa Code section 135.11.

The following amendments are adopted.

ITEM 1. Amend rule 641—73.5(135) by adopting the following new definitions in alphabetical order:

“Food instrument” means a voucher, check, coupon, electronic benefits transfer (EBT) card or any other document used to obtain supplemental foods.

“Peer group” means a system of grouping WIC vendors according to structure, type, and number of cash registers. Peer groups are used to establish statistical norms that an individual store may be compared against and provide the numeric baselines for the process of determining what may be fraudulent behavior.

ITEM 2. Amend rule 641—73.8(135), introductory paragraph, as follows:

**641—73.8(135) Food delivery.** Food delivery refers to all aspects of the method by which WIC participants receive food benefits, i.e., printing, distribution, and processing of computerized personal food ~~checks instruments~~ redeemable through retail food markets and the statewide banking system. Food delivery shall be uniform throughout the state as provided for by these rules.

ITEM 3. Amend subrule 73.8(1) as follows:

**73.8(1) Responsibilities of WIC participants.**

a. Prompt redemption of food ~~checks instruments~~. A WIC participant has 30 days from the date of issue in which to cash any WIC ~~check food instrument~~ through a vendor. The ~~check food instrument~~ becomes invalid after this time.

b. Claiming food ~~checks instruments~~. Enrolled participants are required to appear in person to claim ~~checks food instruments~~ when they have appointments to certify or have nutrition education contacts. Missed attendance may entitle contract agencies to deny that month's benefit. If a written statement is provided to the contract agency, a proxy may pick up ~~checks food instruments~~ not more than twice during a single certification period. Under limited circumstances, a permanent proxy may be approved by the contract agency.

c. Adherence to standards for use of the food ~~check instrument~~. The WIC participant in using the WIC ~~check food instrument~~ to obtain the specified foods shall:

(1) Sign each ~~check food instrument and WIC identification card~~ at the time of receipt in the clinic.

(2) Present the ~~blue ID folder WIC identification card~~ to the vendor at point of purchase.

(3) Sign each ~~check food instrument a second time~~ in the appropriate box in the presence of the vendor.

(4) Write in the total amount of the purchase in the designated space.

(5) Not accept money in exchange for unused ~~checks food instruments~~ or portions of the food allotment.

(6) Attempt to redeem ~~checks food instruments~~ only with a WIC-contracted vendor.

ITEM 4. Amend subrule 73.8(2) as follows:

**73.8(2) Responsibilities of contract agencies.**

a. Loss or theft of ~~checks food instruments~~. The contract agency is responsible for any financial loss due to theft or other loss of food ~~checks instruments~~ from clinics. Steps for minimizing the chances of theft or loss are followed in accord with the Iowa WIC Policy and Procedure Manual.

b. Mailing of WIC ~~checks food instruments~~. Mailing of ~~checks food instruments~~ to participants is allowed when inclement weather prevents participants from coming to a distribution site. Any mailing of WIC ~~checks food instruments~~ on a clinicwide basis must have prior approval from the state.

c. Use of manual ~~checks food instruments~~. Manually written ~~checks food instruments~~ shall be issued only when:

(1) Computer ~~checks food instruments~~ arrive damaged or mutilated, or are lost or stolen after being issued to participant.

(2) Computer ~~checks food instruments~~ are not available due to error in entering participant data, delay or loss in shipping, or a need to change the food package.

d. Training/monitoring of WIC vendors. The contract agency shall communicate information regarding the Iowa WIC program to vendors, as instructed by the department. Monitoring and training of vendors and ~~annual biennial~~ securement of contracts shall be carried out in accord with department directives outlined in the WIC Policy and Procedure Manual.

e. ~~Check Food instrument~~ distribution on nonclinic days. It is the policy of the Iowa WIC program to ensure maximum accessibility to program benefits by establishing alternate procedures for distributing WIC ~~checks food instruments~~ to participants on days other than regularly scheduled clinic days when the participant notified the contract agency on or before the clinic day of the participant's inability to appear at the clinic. Each contract agency shall establish written guidelines for assessing the adequacy of reasons presented for inability to appear and shall establish written procedures for alternative means of ~~check food instrument~~ distribution when a participant timely presents adequate reasons for inability to appear on a regularly scheduled clinic day. These written guidelines and procedures shall be subject to review and approval by the department.

ITEM 5. Amend subrule 73.8(4) as follows:

**73.8(4) Responsibilities of WIC vendors.** A potential vendor shall make application to the Iowa department of public health WIC program and shall accept the obligations imposed by signing of a WIC Vendor Agreement prior to acceptance of any WIC ~~check food instrument~~. The two categories for which any potential vendor may apply are grocery vendors and special purpose vendors.

a. Grocery vendor agreement. To qualify for a grocery vendor agreement with the Iowa WIC program, a retail outlet shall meet all of the following criteria:

(1) The vendor must be primarily a retailer of groceries rather than of other merchandise such as gasoline, beverages, or snack foods. A grocery retailer is defined as a business which stocks at least four of the following categories of items: fresh produce (e.g., raw fruits and vegetables), fresh or frozen meats and poultry (prepackaged luncheon meats do not qualify), canned and frozen vegetables, dairy products, cereals and breadstuffs.

(2) The vendor must maintain regular business hours. This shall include a minimum of two 4-hour blocks of time

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on each of five days per week. Daily operating hours shall be consistent from week to week, and shall be posted.

(3) The vendor must stock the following varieties and minimum quantities of WIC approved foods:

1. A minimum of two boxes of each of six varieties of cold, ready-to-eat cereals and two boxes of one variety of hot cereal from the current WIC approved food list.

2. A minimum of fifteen 46-ounce containers of 100 percent fruit or vegetable juice and ten 12-ounce containers of ~~frozen concentrated~~ 100 percent fruit or vegetable juice from the current WIC approved food list. This shall include an assortment of at least three approved canned or bottled (plastic only) varieties of orange, pineapple, grapefruit, apple, grape, vegetable, or tomato, and two ~~frozen concentrated~~ varieties of orange, pineapple, grapefruit, grape or apple.

3. A minimum of four gallons of whole fluid milk and four gallons of either low-fat, reduced fat, or fat-free fluid milk, and ~~two 1-pound packages each of two approved varieties of cheese~~ *two pounds each of at least two different varieties of approved cheese in packages weighing one pound or less.*

4. A minimum of two 1-pound bags of edible dried beans or peas, any variety.

5. A minimum of two containers, 18-ounce size or less, of 100 percent peanut butter.

6. A minimum of five dozen large fresh eggs, white or brown.

7. A minimum of four pounds of raw full-size or baby carrots.

8. A minimum of eight cans of tuna, 6-ounce minimum size.

~~9. Upon request by a participant, a minimum of 31 cans of 13-ounce concentrated infant formula as specified, or the equivalent amount of powdered formula, plus 24 ounces of dry infant cereal.~~

*9. A minimum of six cans of any current rebate contract powdered formula.*

*10. A minimum of twenty-four 13-ounce cans of any current rebate contract concentrated formula.*

*11. A minimum of 24 ounces of WIC approved dry infant cereal.*

The specific brands of products that are included on the WIC approved food list shall be made available to the vendor at the time of application and prior to renewal of each agreement.

The variety and quantity in stock are defined as including both inventory on display and in on-premises storage, but not inventory on order from suppliers.

(4) A vendor shall charge a price to WIC participants that is equal to or less than the price charged to all other customers. The prices charged to WIC participants for the average of all WIC items, as reported on the application, at the time of on-site review, and throughout the agreement period, shall not exceed 105 percent of the average prices of all other WIC vendors in the same ~~city or metropolitan area~~. ~~For purposes of the comparison, a metropolitan area is defined as including the principal city or cities and all contiguous incorporated areas peer group.~~ The vendor's average price for any category of WIC items, as reported on the application, at the time of the on-site review, and throughout the agreement period, shall not exceed 115 percent of the average for the same category by all other WIC vendors in the ~~city or metropolitan area same peer group~~. Categories refer to the groupings of items identified in subparagraph (3) above, "1" to "9 ~~II.~~" For purposes of making the price comparisons, the average

price for all other WIC vendors in the ~~area~~ *peer group* shall be computed from the most recent Price Assessment Reports on file from those vendors. If a vendor intends to comply with this provision by charging WIC participants a lower price than the price charged to other customers, the WIC price for each approved item must be identified on the package or shelf front.

(5) There must be a minimum of five current WIC participants residing in the same ZIP code area as the vendor.

(6) The vendor must not have had a food stamp program disqualification or civil monetary penalty imposed within the 12 months preceding the date of the application or reauthorization.

(7) The vendor must not have had a WIC program suspension imposed or a WIC application denied within the six-month period preceding the date of the application.

(8) The vendor must accept training on WIC program regulations prior to signing an agreement and must agree to provide training to all employees who will handle WIC food ~~checks instruments~~ prior to accepting any ~~checks food instruments~~.

(9) The vendor must agree to adhere to all provisions of the WIC ~~Grocery Vendor Instructions and Agreement and Instruction Booklet~~.

b. Special purpose vendor. To qualify as a special purpose vendor, a retail outlet shall meet all of the following criteria:

(1) The vendor may be primarily a retailer of any type of merchandise but shall be authorized to provide only specified infant formula in exchange for WIC food ~~checks instruments~~.

(2) The vendor must be able to provide the specified formula within 48 hours; 72 hours if a weekend or holiday is involved.

(3) The prices charged WIC participants must be equal to or less than the prices charged all other customers. The average price of each brand of infant formula sold to WIC participants as reported must not exceed the average price of the same brands of infant formula charged by all authorized WIC grocery vendors in the same ~~city or metropolitan area, as defined above peer group~~.

(4) The vendor shall meet the criteria in *paragraph "a,"* subparagraphs (2), (5), (6), (7), and (8), for grocery vendors as specified above.

(5) The vendor must agree to adhere to all provisions of the WIC ~~Special Purpose Vendor Instructions and Agreement and Instruction Booklet~~.

The department shall review each vendor application within five working days of receipt and determine if the information provided indicates that the retail outlet meets the selection criteria. If the application shows that the vendor does not meet one or more of the criteria, the department shall deny the application. If the vendor's application indicates that the vendor would qualify, the department or contract agency shall make an on-site visit to verify that the information provided in the application is correct, to provide training, and sign the agreement. *If the department or contract agency finds that the vendor has two or more types of out-of-date, stale, or moldy WIC foods in stock during the on-site visit, the vendor's application may be denied.* If the contract agency or department determines during the on-site visit that the vendor does not qualify, the contract agency or department shall not sign the agreement. Within five working days of disapproving an application or agreement, the department will advise the vendor in writing of the reasons for denial of the application and the procedure for appeal. Dur-

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ing the on-site visit, the contract agency representative is acting as an agent of the department and has the authority to approve or deny an application.

A vendor that is denied an agreement, either at the application review level or at the on-site review, is required to wait six months prior to submitting a new application. The department may, at its discretion, request a vendor to resubmit an application prior to completing its review if the application has not been completed to the extent that a determination of eligibility can be made.

c. Reauthorization. If ownership of an authorized vendor changes during the agreement period, the agreement becomes void. The new owner must file an application and be approved prior to accepting WIC ~~checks food instruments~~. Vendor agreements are valid only for the period of time specified, and a vendor may not continue accepting ~~checks food instruments~~ past the expiration date unless a new agreement is signed. When a currently authorized vendor makes application for a subsequent agreement, an agreement shall be signed only if the vendor has a score of at least 40 review points. ~~A vendor that meets the minimum qualifications for new vendors is awarded 100 review points. Points assessed during the previous 24 months for administrative and procedural violations under 73.19(2) "b" are then subtracted to determine the final score. has been assessed less than 60 violation points under paragraph 73.19(2) "b" within the previous 24 months.~~

Vendors with a current WIC agreement are not required to complete a new written application each year if the information in their original application is substantially unchanged. The department may request a new application from any vendor prior to offering a new agreement if it has reason to believe the information in the original is no longer correct or the vendor may no longer be eligible for an agreement.

The department shall send the vendor written notice at least 30 days prior to the expiration of the agreement that it does not intend to offer the vendor a new agreement if the minimum review points are not met or if any of the following conditions are in effect:

1. The vendor has failed to submit any of the preceding year's Price Assessment Reports by the specified dates.
2. The vendor has not cashed any WIC ~~checks food instruments~~ for at least two consecutive months. This provision does not apply to special purpose vendors.
3. Any of the selection criteria listed in 73.8(4) "a" and "b" above are no longer met.

Expiration of a WIC agreement is not subject to appeal. A vendor who is not offered a new agreement by the department has the right to file a new application. If that application is denied, the vendor has the right to appeal.

Contract agencies are responsible for providing training regarding all changes in program regulations and determining that all of the selection criteria are still met prior to signing a new agreement. If the contract agency denies a new agreement, the vendor has the right to appeal without first submitting an application.

d. Training. Vendors shall accept training in program policies and procedures at the on-site review prior to becoming an authorized vendor and shall be responsible for training all employees who will be handling WIC ~~checks food instruments~~. The manager and person responsible for staff training must allow time at this visit for training; the agreement will not be signed until training is completed. Vendors shall be responsible for all actions of their employees in conducting WIC transactions.

If violations of program policies and procedures are documented, either through on-site monitoring or other indirect means, the vendor shall implement a corrective action training plan developed jointly by the vendor and the department or contract agency.

e. Validity of ~~checks food instruments~~. The WIC vendor shall be responsible for ensuring that:

- (1) The participant ~~countersignature~~ signature required on the food ~~check instrument~~ is completed in the vendor's presence; ~~and that both signatures on the food check match;~~
  - (2) The participant presents a WIC identification card prior to redeeming ~~checks food instruments for food~~. A signature on the WIC identification card must match the food instrument signature;
  - (3) The type and quantity of food to be purchased is as indicated on the ~~checks food instrument~~;
  - (4) The amount of money written onto the ~~check food instrument~~ for repayment does not exceed the maximum amount as designated by the department and printed on the ~~check food instrument~~;
  - (5) The expiration date is present on the ~~check food instrument~~ and is equal to or no later than the date of usage;
  - (6) WIC ~~checks food instruments~~ are never exchanged for cash or credit;
  - (7) Substitutions of foods different from those listed on the ~~check food instrument~~ in type or amount are not made;
  - (8) ~~Checks Food instruments~~ are presented to the state's agent (bank) for payment within 15 days of the date of receipt;
  - (9) The costs of foods purchased by WIC participants do not exceed charges to other customers for the same foods;
  - (10) The vendor's authorizing number is stamped with the state-issued vendor stamp on the face of the ~~check food instrument~~ prior to its being presented for payment.
- f. and g. No change.

ITEM 6. Amend subrule 73.8(5) as follows:

**73.8(5) Vendor monitoring.** To maintain program integrity and accountability for federal or state program funds, the department and contract agencies shall conduct ongoing monitoring of authorized vendors, both through on-site visits and through indirect means. A random sample of 10 percent of *currently authorized* vendors receives on-site monitoring every year. Vendors that change ownership during the year, or apply during the contract period, receive an on-site visit prior to signing an agreement. The types of on-site monitoring are defined as follows:

a. Routine or representative monitoring is used for vendors for which there is no record of violations or complaints or other indication of problems. It may include any or all of the following: use of a ~~check food instrument~~ or observation of a participant, educational buys, review of inventory levels, examination of redeemed WIC food ~~checks instruments~~ on hand, review of store policies on return items, and review of employee training procedures. The results of the monitoring are reviewed with the owner or manager on duty, and a follow-up letter confirming the findings is sent from the department. Routine monitoring may be performed by the department or by contract agency staff under the direction of the department. Depending on the nature and severity of violations noted, the department may schedule additional visits, initiate a compliance investigation, or apply sanctions.

Educational buy monitoring is a specialized type of routine monitoring and may include gathering the same information. In addition, department or contract agency staff attempt to use a WIC ~~check food instrument~~ to purchase unauthorized types or brands of foods to test the level of training

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of store employees. At the conclusion of the transaction, the results of the buy are discussed with the store owner or manager on duty. The transaction is then voided, and the merchandise returned to the shelves. Educational buys are used on authorized vendors selected by the department. If unauthorized items are allowed to be purchased, the vendor shall agree to a corrective action training plan. A follow-up educational buy is scheduled within 30 to 90 days. A letter is sent from the department documenting the violation. By signing a WIC agreement, a vendor gives consent for educational buys by the department or contract agency. Vendors are not notified in advance that an educational buy is scheduled. The protocol for educational buys, including procedures, appropriate items to purchase, and forms to be used, is specified in the Iowa WIC Policy and Procedure Manual.

b. No change.

c. High-risk monitoring is used for vendors that have a ~~documented record of problems such as previous violations, participant complaints, or high volume of WIC food check redemption~~ *been identified as high-risk according to the Iowa WIC Policy and Procedure Manual.* It includes, but is not limited to, any or all of the following: review of inventory levels, examination of redeemed WIC food ~~checks~~ *instruments* on hand, examination of electronic monitoring indicators, volume of WIC redemptions, number of identified errors, participant complaints, and review of store policies on returned items. High-risk monitoring may be performed by the department or by contract agency staff under the direction of the department. Educational buying shall be included whenever possible.

d. Compliance buys may be used for any vendors. Compliance buys include covert activities used to document grounds for suspension from the program and may include ~~purchase attempted purchases~~ of unauthorized items. Compliance buys may be performed by the department or another state agency or private company under contract with the department. The department is responsible for identifying the vendors to be investigated and for approving the protocol to be used ~~by the other agency or company~~ *during the investigation.* Upon completion of a compliance buy documenting program violations, the department shall issue the vendor a notice of violation points assessed or suspension.

The department also monitors vendor performance through in-office review of information. Such information, specifically the total amount of WIC redemptions, is confidential as provided for in Iowa Code section 22.7(6). This business information could provide an advantage to competitors and would serve no public purpose if made available.

ITEM 7. Amend subparagraph 73.9(2)“c”(1) as follows:

(1) Administrative adjustments. No sliced, shredded, or grated, ~~or string~~ cheese is provided due to cost *and possible confusion with imitation or processed cheese products.* Approved ~~fluid single-strength~~ *fluid single-strength* juice shall be packaged in a 46-ounce container. Approved ~~frozen concentrated~~ *frozen concentrated* juice shall be packaged in a ~~11.5- or 12-ounce container~~ *11.5- or 12-ounce container*.

The food package is adjusted to accommodate the special needs of homeless and transient participants. Nonrefrigerated orange or grapefruit juice in small serving containers may be provided. The reason for providing single-serving containers must be documented in the nutrition care plan. No tuna in cans containing less than six ounces is allowed due to cost. No frozen or canned carrots will be allowed in the enhanced food package for breast-feeding women. Fresh carrots will be provided due to their widespread availability and acceptability.

ITEM 8. Amend subrule 73.9(3), paragraph “c,” as follows:

c. Changes to the approved food list are made ~~once a year~~ *biennially*, taking effect on October 1 *in years when new vendor contracts are signed.* Inquiries from food companies about new and continuing products must be received ~~annually between November 1 and~~ *prior to* February 1 *of the year vendor contracts expire* to be guaranteed consideration.

ITEM 9. Amend paragraph 73.9(3)“d,” subparagraph (4), as follows:

(4) Ready-to-eat cold cereals are ranked by the six major distributors to Iowa WIC vendors based on volume of total sales. Hot cereals are ranked in the same way. Multiple varieties of a single brand of cereal shall be considered as one brand for the purposes of constructing this ranking. The state office compiles data from all distributors to develop an overall ranking or ranked list. The top ~~19~~ *16 name-brand* cold cereals, *the top 3 varieties of private-label (store) brand cold cereals,* and the top 2 hot cereals that qualify are selected. ~~This process includes both name-brand and private-label cereals.~~

ITEM 10. Amend paragraph 73.9(3)“e” as follows:

e. Juices shall meet the federal guidelines for vitamin C content and all of the following conditions:

(1) Juices shall be 100 percent juice and contain no added sugar, sweeteners or artificial sweeteners.

(2) ~~Fluid~~ *Single-strength* juice shall be packaged in a 46-ounce container. ~~Frozen Concentrated~~ juice shall be marketed in *11.5- or 12-ounce* containers.

(3) The brand shall be carried by one of the six largest distributors in the state. *Juices are ranked by the six major distributors to Iowa WIC vendors based on volume of total sales. The top two name brands of each flavor of juice (e.g., tomato, orange, grapefruit, grape, apple, or blended) and form of juice (single-strength or concentrated) that meet the selection criteria will be approved. Any private-label (store) brands from the six major distributors that meet the selection criteria will also be approved.*

(4) The product form and marketing approach shall be consistent with the promotion of good nutrition and education.

(5) If a group of juices from one manufacturer have similar names and package designs and some do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants. ~~Canned Single-strength and frozen concentrated~~ varieties of juice with the same brand name will be evaluated separately.

(6) Calcium-fortified juices shall not be approved.

(7) Product shall have been available in retail stores in Iowa for one year prior to the effective date of inclusion in the approved food list.

(8) ~~Frozen Concentrated~~ juices must be single flavors of juice.

ITEM 11. Amend paragraph 73.9(3)“f,” subparagraph (3), as follows:

(3) All brands of natural cheese qualify. The cheese shall be in block *or string* form (not shredded, sliced, *or grated or string*) and shall have no added flavors (e.g., smoke flavoring, peppers, wine).

ITEM 12. Amend subrule 73.12(1) as follows:

73.12(1) Right of appeal. ~~A local agency or a vendor shall have a right to appeal when a local agency's or vendor's application to participate is denied. The right to appeal shall~~

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be granted when a local agency's or a vendor's application to participate is denied. The right to appeal shall also be granted when, during the course of the contract or agreement period, a local agency or vendor is disqualified or any other action which affects participation is taken. For participating vendors, a minimum of 30 days' advance notice will be given before the effective date of the action. For participating contract agencies, a minimum of 60 days' advance notice will be given before the effective date of the action. The right to appeal shall not be granted in the following circumstances:

- a. When a vendor's contract expires.
- b. When the department makes a determination regarding participant access.
- c. When a vendor is disqualified from the WIC program as a result of a food stamp program disqualification.

ITEM 13. Amend subrule 73.19(1) by replacing the word "check" or "checks" with "food instrument" or "food instruments," respectively.

ITEM 14. Amend subrule 73.19(2) as follows:  
73.19(2) Vendor violations. There are three types of sanctions that are applied to vendors for violations of program regulations: nonpayment of checks food instruments, issuance of violation points, and suspensions.

a. Nonpayment of checks food instruments.  
(1) As a result of prepayment reviews conducted by the state's bank, improperly completed food items are refused payment and returned to the vendor. Items screened during prepayment are authorized vendor stamp not present or legible in the "Pay to the Order of:" box on face of check food instrument, missing or mismatched signature and countersignature, price exceeds maximum printed on face of check food instrument.

(2) If the violation can be corrected by applying the authorized stamp, obtaining the proper countersignature signature, or reducing the price, the item may be resubmitted for payment. Federal banking regulations prohibit a financial instrument from being sent through the federal reserve system more than twice. If an improperly completed WIC check food instrument is received by the state's bank a second time, it is voided and may not be redeposited.

b. Administrative and procedural violation points. Administrative and procedural violations are offenses to the provisions of the WIC vendor agreement that do not rise to the level of fraud against the program or its participants.

These violations are an indication of a vendor's inattention to or disregard of the requirements of a WIC vendor agreement. It is in the department's interest to record and consider these violations when considering whether to continue its contractual relationship with the vendor.

Vendors are assessed violation points, which are applied as demerits against the vendor's score in the subsequent procurement for WIC vendor agreements in the vendor's area.

In addition, the accumulation of 45 violation points within the first year or 90 violation points within a single agreement period is a major violation subject to a one-year suspension of the WIC agreement for that vendor.

The assignment of violation points does not limit the department's right to effect stronger penalties and sanctions in cases in which there is evidence of an intentional or systematic practice of abusing or defrauding the Iowa WIC program.

Violation	Points Per Event
1. Accepting five checks food instruments over 30 days old within the agreement period.	5
2. Redeeming five checks food instruments more than 15 days after receipt within the agreement period.	5
3. Accepting five checks food instruments with no date stamp within the agreement period.	5
4. Refusal to accept valid WIC checks food instruments from participants.	10
5. Abusive or discriminatory treatment of WIC participants, such as requiring WIC participants to use special checkout lanes or provide extra identification.	10
6. Insufficient number of brands or types in a single food group.	5
7. Insufficient quantity of a single food group.	5
8. No stock in a single food group.	5
9. Insufficient number of brands or types in two food groups.	10
10. Insufficient quantity in two food groups.	10
11. No stock in two or more food groups.	10
12. Insufficient number of brands or types in three or more food groups.	10
13. Insufficient quantity in three or more food groups.	15
14. No stock in three or more food groups. (For 6 to 14, food groups are as defined in 73.8(4)"a"(3).)	15
15. Failure to carry out corrective action plan developed as a result of monitoring visit.	10
16. Allowing the purchase of similar but not approved foods.	10
17. Failure to reimburse department for potentially overpaid check food instrument or provide reasonable explanation for the cost of the check food instrument.	5
18. Accepting the return of food purchased with WIC checks food instruments for cash or credit toward other purchases.	10
19. Using a WIC vendor stamp other than the one issued by the Iowa WIC program.	5
20. Providing a brand of formula other than the one specified on the check food instrument.	10
21. Issuing "rain checks" or credit in exchange for WIC checks food instruments.	10
22. Stocking out-of-date, stale, or moldy WIC foods, per type.	10
23. Failure to submit vendor price assessment reports as requested.	10

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- 24. For vendors that have special WIC prices, failure to post WIC prices on the shelf or on the package. 15
- 25. Failure to complete *check food instrument* properly, including filling in correct amount and date of purchase, and verifying matching signatures. 15
- 26. Contacting WIC participants in an attempt to recover funds not paid by WIC. 15
- 27. Charging prices to WIC participants that are more than 105 percent of the average prices of all other WIC vendors in the same city or metropolitan area *peer group*. 15
- 28. Providing false information on the price assessment report. 15
- 29. Failure to train all employees and ensure their knowledge regarding WIC program procedures set forth in the vendor's current agreement and in the current publication of the Iowa WIC program's vendor instruction booklet. 10
- 30. Requiring WIC participants to purchase a particular brand when other WIC approved brands are available. 10
- 31. Not allowing WIC participants to use discount coupons or promotional specials to reduce the *WIC check food instrument* amount. 10
- 32. Requiring other cash purchases to redeem *WIC checks food instruments*. 15
- 33. Failure to allow purchase of up to the full amount of WIC foods authorized on the *check food instrument* if such foods are available and desired by the WIC participant. 20

c. Suspensions for chronic violations, fraud, or abuse. With an administrative finding of the following violations, the vendor will be suspended for one year.

Items 1 to 6 are Class I offenses and result in a one-year suspension. Items 7 to 14 are Class II offenses and result in a two-year suspension. Items 15 to 17 are Class III offenses and result in a three-year suspension.

- 1. Accumulation of 45 or more violation points within the first year or 90 or more violation points within a single agreement period.
- 2. Allowing purchase of nonapproved and nonsimilar food items in exchange for *WIC checks food instruments*.
- 3. Failure to provide access to store premises or in any manner to hinder, impede or misinform authorized WIC personnel in the act of conducting an on-site education, monitoring or investigation visit.
- 4. Loss of Iowa department of inspections and appeals license.
- 5. Violation of the rules and provisions of the USDA Food Stamp Program or other state WIC program, resulting in a loss of vendor authorization or in a civil monetary penalty. The suspension period for such offenses shall equal the time period of disqualification from the other USDA program or one full year, whichever is greater.

- 6. Submitting for payment a *WIC check food instrument* redeemed by another authorized vendor.
- 7. Charging WIC participants more than non-WIC customers or charging WIC participants more than the current shelf price.
- 8. Charging for items not received by the WIC participant or for foods provided in excess of those listed on the check.
- 9. Allowing purchase of nonfood items with a WIC check.
- 10. Receiving, transacting or redeeming WIC checks outside of authorized channels.
- 11. Claiming reimbursement for the sale of a quantity of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time.
- 12. Accepting WIC food checks from unauthorized persons.
- 13. Threatening or verbally abusing WIC participants or authorized WIC program personnel in the conduct of legitimate WIC program transactions.
- 14. Two or more incidents of Class I violations within a single agreement period (whether or not the first instance resulted in a sanction).
- 15. Trafficking or exchanging cash or credit for WIC checks.
- 16. Submission for payment of WIC checks known to have been lost or stolen.
- 17. Participation with other individuals including but not limited to WIC employees, vendors, and participants, in systematic efforts to submit false claims for reimbursement of improper WIC checks.
  - d. With an administrative finding of the following violations, the vendor will be suspended for three years.
    - 1. A pattern of charging WIC participants more than non-WIC customers or charging WIC participants more than the current shelf price.
    - 2. A pattern of charging for items not received by the WIC participant or for foods provided in excess of those listed on the WIC food instrument.
    - 3. A pattern of providing credit or nonfood items, except for alcohol, alcoholic beverages, or tobacco products, in exchange for WIC food instruments.
    - 4. One incidence of allowing the purchase of alcohol, alcoholic beverages, or tobacco products with a WIC food instrument.
    - 5. A pattern of receiving, transacting, or redeeming WIC food instruments outside authorized channels, including through unauthorized vendors or persons.
    - 6. A pattern of claiming reimbursement for the sale of a quantity of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time.
    - 7. Submission for payment of WIC food instruments known by the vendor to have been lost or stolen.
  - e. With an administrative finding of the following violations, the vendor will be suspended for six years.
    - 1. One incidence of buying or selling food instruments for cash (trafficking).
    - 2. Participating with other individuals including but not limited to WIC employees, vendors, and participants, in systematic efforts to submit false claims for reimbursement of improper WIC food instruments.
    - 3. One incidence of selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for WIC food instruments.

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f. With a conviction in a criminal court of law for trafficking in WIC food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for WIC food instruments, the vendor will be permanently disqualified from the Iowa WIC program. The department may impose a civil money penalty (CMP) in lieu of a disqualification when it determines, in its sole discretion, that:

1. Disqualification of the vendor would result in inadequate participant access; or

2. The vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

g. The following items do not have a point value, but shall result in or extend a suspension period:

1. Failure to return WIC vendor stamp(s) to the WIC program within ten days of effective date of suspension, or expiration of agreement following denial of subsequent application, shall result in a 30-day extension of a suspension period.

2. Failure to submit a WIC price assessment report after the second request will result in termination of the agreement.

3. For each month in which a vendor accepts WIC checks food instruments during a suspension period, the suspension period shall be extended by 30 days.

h. The above sanctions notwithstanding, the state of Iowa reserves the right to seek civil and criminal prosecution of WIC vendors for any and all instances of dealing in stolen or lost checks food instruments, trading cash and other inappropriate commodities for checks food instruments, or cases in which there exists evidence of a clear business practice to improperly obtain WIC funds, or other practices meeting the definition of fraud as defined in 7 CFR 246 or the Iowa Code.

i. A vendor shall not be entitled to receive any compensation for revenues lost as a result of any suspension or permanent disqualification.

j. A minimum of 15 days' notice is provided prior to all suspensions, except for permanent disqualifications assessed under paragraph 73.19(2) "f," which are effective on the date of receipt of the notice of administrative action. When the department determines that a Class I, II, or III offense has occurred, a suspension letter with supporting documentation is prepared for the WIC director's signature. The suspension letter identifies the specific offense offenses from paragraph "e" of this subrule that the vendor is charged with and the procedures for filing an appeal.

k. The department is responsible for issuing all warning and suspension letters. Contract agencies are informed of all vendor correspondence regarding violations. In situations where participant violations are also involved, the contract agency is responsible for follow-up, as detailed in subrule 73.19(1).

l. Federal food stamp regulations require automatic disqualification from the food stamp program for vendors suspended by the WIC program for certain types of violations. When a vendor is suspended from the WIC program, the suspension letter to the vendor will include the following statement: "This disqualification from WIC may result in disqualification as a retailer in the food stamp program. Such disqualification may not be subject to administrative or judicial review under the food stamp program." For offenses numbered 7, 8, 9, 10, 11, 12, and 15 in paragraph "e" above, all vendor disqualifications from the WIC program, notice

will be sent to the United States Department of Agriculture for appropriate action.

m. The department shall disqualify a vendor who has been disqualified from the food stamp program. The disqualification shall be for the same length of time as the food stamp program disqualification, may begin at a later date than the food stamp program disqualification, and shall not be subject to administrative or judicial review under the WIC program. If the department determines that disqualification of a vendor would result in inadequate participant access, it will impose a civil money penalty (CMP) in lieu of disqualification.

n. The department shall permanently disqualify a vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments. A vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation. The department may impose a civil money penalty (CMP) in lieu of a disqualification for this violation when it determines, in its sole discretion, and documents in accordance with the Federal Register, Volume 64, Number 52, Thursday, March 8, 1999, paragraph 246.12(k)(8) that:

(1) Disqualification of the vendor would result in inadequate participant access; or

(2) The vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

o. Civil money penalties.

(1) The department When the department determines that a civil money penalty (CMP) shall be imposed in lieu of disqualification for reasons specified under paragraph 73.19(2) "f" or 73.19(2) "m," it shall use the civil money penalty formula in accordance with the Federal Register, Volume 64, Number 52, Thursday, March 8, 1999, paragraph 246.12(k)(8) Title 7 CFR Subpart 246.12(k)(1)(x) to determine the CMP.

(2) If a vendor does not pay, only partially pays, or fails to timely pay a CMP, the department will disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed. "Failure to timely pay a CMP" includes the failure to pay a CMP in accordance with an installment plan approved by the department.

(3) Money received by the state WIC agency as a result of civil money penalties or fines assessed against a vendor and any interest charged in the collection of these penalties and fines shall be considered as program income.

ITEM 15. Amend rule 641—73.20(135) as follows:

**641—73.20(135) Data processing.** All contract agencies shall comply with the instructions outlined in the Iowa WIC Policy and Procedure Manual for use of the automated data processing system in provision of WIC checks food instruments and monitoring of WIC services. No contract agency is exempted from adherence to any portion of these instructions.

[Filed 4/13/00, effective 6/7/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.



**ARC 9801A**  
**REVENUE AND FINANCE**  
**DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby adopts amendments to Chapter 7, "Practice and Procedure before the Department of Revenue and Finance," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 18, page 1356, on March 8, 2000, as **ARC 9718A**.

These amendments to rule 701—7.34(17A) provide that the Department will accept the use of a preparer's federal identification number on a power of attorney form submitted to the Department as an alternative to the social security number previously and exclusively allowed. These amendments also allow the Department to accept a federal Power of Attorney form that properly designates information regarding state tax issues. In addition, these amendments provide for a procedure for waiver of the application of this rule, in whole or in part, in certain circumstances.

Minor changes have been made for clarification. In subrules 7.34(6), 7.34(9), and 7.34(13), the phrases "tax type" and "tax period" now read "tax type(s)" and "tax period(s)." In subrule 7.34(6), Example B, the phrase "PTIN, SSN or FEIN" replaces "identification numbers."

These amendments will become effective June 7, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 421.60.

The following amendments are adopted.

ITEM 1. Amend subrules 7.34(2), 7.34(6), 7.34(9), 7.34(11), 7.34(13) and 7.34(14) as follows:

**7.34(2)** A power of attorney or any supplemental notification intended to be utilized as a power of attorney must contain the following information to be valid ~~must contain all of the following information:~~

- a. Name and address of the taxpayer;
- b. Identification number of the taxpayer (i.e., social security number, and/or federal identification number, or any state-issued tax identification number relative to matters covered by the power of attorney);
- c. Name, mailing address, and PTIN (preparer's tax identification number), FEIN (federal employer identification number) or SSN and (social security number) of the representative; and
- d. Description of the matter(s) for which representation is authorized which, if applicable, must include:
  - (1) The type of tax(es) involved;
  - (2) The specific year(s) or period(s) involved; and
  - (3) In estate matters, decedent's date of death; and
- e. A clear expression of the taxpayer's intention concerning the scope of authority granted to the recognized representative(s) as provided in 7.34(1).

**7.34(6)** A new power of attorney for a particular tax type(s) and tax period(s) revokes a prior power of attorney for that tax type(s) and tax period(s), unless the taxpayer has indicated on the power of attorney form that a prior power of attorney is to remain in effect. For a previously designated representative to remain as the taxpayer's representative

when a subsequent power of attorney form is filed, a taxpayer must attach a copy of the previously submitted power of attorney form which designates the representative that the taxpayer wishes to retain. To revoke a designated power of attorney without appointing a new power of attorney, see 7.34(7).

**EXAMPLE A.** A taxpayer executes a power of attorney for the taxpayer's accountant to represent the taxpayer during an audit of the taxpayer's books and records. After the department issues a notice of assessment, the taxpayer wishes to have the taxpayer's attorney-at-law as an authorized representative in addition to the taxpayer's accountant. ~~The taxpayer must list both the taxpayer's accountant and attorney-at-law on the taxpayer's new power of attorney form.~~ The taxpayer may use one of two options to designate the accountant and the attorney-at-law as the taxpayer's representatives: (1) the taxpayer may complete and submit to the department a new power of attorney, Form IA2848 or federal Form 2848, designating both the accountant and the attorney-at-law as the taxpayer's authorized representatives. By submitting a new power of attorney form, the prior power of attorney designations are revoked, leaving only the subsequent new power of attorney form effective; or (2) the taxpayer may properly complete a new power of attorney form by including the designated attorney-at-law's name, address, PTIN, FEIN or SSN, tax type(s) and tax period(s) on the first page and checking the appropriate box on page 2 of Form IA2848 or page 2 of federal Form 2848. In addition, to retain the accountant as the taxpayer's representative, the taxpayer must also attach to the new completed power of attorney form a copy of the previously submitted power of attorney form designating the accountant as the taxpayer's representative.

**EXAMPLE B.** Same factual scenario as in Example A applies; however, the taxpayer seeks to use power of attorney Form IA14-101 (a form that preceded the current Form IA2848). In this situation, the taxpayer must attach a statement to the completed Form IA14-101. The statement must state that the previously designated accountant is to be retained and the attorney-at-law is to be added. Such notification must also include the names, PTIN, SSN or FEIN of all the parties, addresses, tax type(s) and tax period(s) of representation.

**EXAMPLE C.** A taxpayer wishes to designate an additional power of attorney and retain a prior power of attorney. However, the taxpayer does not wish to utilize an IA2848 or federal 2848 form. In this situation, the taxpayer must send written notification to the department designating the new power of attorney's name, address, PTIN, SSN or FEIN, the tax type(s), the tax period(s) of representation and the name, address, and PTIN, SSN or FEIN of the previously designated power of attorney that the taxpayer seeks to retain for that tax period.

In each of the foregoing examples, the original power of attorney will continue to automatically receive the notices concerning the specified tax matter, unless such authority is explicitly revoked by the taxpayer. Also see subrule 7.34(13) regarding notices.

**7.34(9)** A properly completed Iowa power of attorney, Form IA14-101 or IA2848, State of Iowa Department of Revenue and Finance Power of Attorney Form, or properly designated federal form as described in this subrule, satisfies the requirements of this rule.

In addition to the Iowa power of attorney, Form IA2848 or IA14-101, the department cannot can accept Internal Revenue Service Form 2848, even if references to the "Inter-

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nal Revenue Service" are crossed out and "Iowa Department of Revenue and Finance" is inserted in lieu thereof, *as long as such a form contains specific designation by the taxpayer for the state-related taxes at issue. Designation must include, but is not limited to, name, address, PTIN, SSN or FEIN of the representative, the tax type(s) and tax period(s). In addition, the* The department will accept any other document which satisfies the requirements of this rule.

**7.34(11)** The department will accept either the original, *an electronically scanned and transmitted power of attorney form*, or a copy of a power of attorney. A copy of a power of attorney received by facsimile transmission (fax) will be accepted. *All copies, facsimiles and electronically scanned and transmitted power of attorney forms must include a valid signature of the taxpayer to be represented.*

**7.34(13)** Any notice or other written communication (or copy thereof) required or permitted to be given to the taxpayer in any matter before the department must be given to the taxpayer and, unless restricted by the taxpayer, to the taxpayer's *first designated power of attorney who is representative-representing the taxpayer for the tax type(s) and tax period(s) contained in the notice. Due to limitations of the department's automated systems, it is the general practice of the department to limit distribution of copies of documents by the department to the taxpayer's first designated power of attorney. Determination of the first designated power of attorney will be based on the earliest execution date of the power of attorney and the first name designated on a power of attorney form listing more than one designated representative. If the taxpayer designates more than one recognized representative to receive notices and other written communications, it will be the practice to give copies to the individuals so designated.*

**7.34(14)** Information from ~~powers~~ *power* of attorney forms, including the representative's ~~social security number,~~ *PTIN, SSN or FEIN*, is utilized by department personnel to:

- a. Determine whether a representative is authorized to receive or inspect confidential tax information;
- b. Determine whether the representative is authorized to perform the acts set forth in subrule 7.34(1);
- c. Send copies of computer-generated notices and communications to the representative as authorized by the taxpayer; and
- d. Ensure that the taxpayer's representative receives all notices and communications authorized by the taxpayer, but notices and communications are not sent to a representative with the same or similar name.

ITEM 2. Amend rule 701—7.34(421) by adopting the following new subrule:

**7.34(15)** Procedure for waiver. Any person who believes that the application of this rule would result in hardship or injustice to that person may petition the department for a waiver in the manner set out in Section II of the governor's Executive Order Number 11, issued September 13, 1999, until superseded by a uniform departmental waiver rule.

[Filed 4/13/00, effective 6/7/00]

[Published 5/3/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

**ARC 9809A**

## UTILITIES DIVISION[199]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4, 474.5, 476.1, 476.2(1), 476.9, and 476.31 (1999), the Utilities Board (Board) gives notice that on April 12, 2000, the Board issued an order in Docket No. RMU-00-3, In re: Annual Reports, "Order Adopting Rules."

Subrule 23.2(8) contains some of the requirements for the annual reports filed by rate-regulated gas and electric utilities. The amendment eliminates the requirements contained in parts (c) and (d) of the subrule.

On January 31, 2000, the Board issued an order to consider adopting an amendment to subrule 23.2(8). The proposed rule making was published in IAB Vol. XXII, No. 17 (2/23/00) p. 1330, as **ARC 9700A**. Written statements of position were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), IES Utilities Inc., and Interstate Power Company. The written statements supported adoption of the proposed amendment. An oral presentation was not requested or scheduled. This amendment is identical to that published under Notice of Intended Action.

The adopted amendment is intended to implement the Board's changes to the annual report forms. The Board has undertaken a complete review of its annual report forms and requirements and eliminated pages of required information no longer useful or relevant or duplicated elsewhere in the reports. Most of these changes could be implemented without changes to the rules. However, the adopted amendment is necessary to eliminate the reporting requirements contained in parts (c) and (d) of 199 IAC 23.2(8) regarding aggregate measures of service quality and cost efficiency and reports identifying the value of those measures. The listing of aggregate measures has not proved useful and, if necessary, such information can be obtained by the Board or the Consumer Advocate.

This amendment is intended to implement Iowa Code sections 476.1, 476.2(1), 476.9, and 476.31.

This amendment will become effective June 7, 2000.

The following amendment is adopted.

Amend subrule 23.2(8) as follows:

**23.2(8)** The respondent shall file as part of its annual report filed with the board (a) a list (by title, author, and date) of any financial, statistical, technical or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, utility organizations or associations or other interested parties, *and* (b) a list (by form number and title) of all financial, statistical, technical and operational review-related documents filed with an agency of the federal government, ~~(c) a list identifying the aggregate measures of service quality and cost efficiency utilized by the president or chief operating officer for the utility's Iowa operations, and (d) a list identifying the report(s) utilized by the president or chief operating officer for the utility's Iowa operations containing the most recent value for each measure identified in "c".~~

[Filed 4/14/00, effective 6/7/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/00.

## ARC 9810A

### UTILITIES DIVISION[199]

#### Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 477C.4, the Utilities Board (Board) gives notice that on April 12, 2000, the Board issued an order in Docket No. RMU-00-2, In re: Equipment Distribution Program, "Order Adopting Rules," that adopted amendments to the equipment distribution program rules.

On January 20, 2000, the Board issued an order commencing rule making that invited public comment on proposed amendments to the following equipment distribution program rules: 199 IAC 37.2(1)"b," 37.2(3), 37.3(1), 37.3(5), 37.3(6), 37.3(8), 37.4(477C), and 37.5(1). Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2000, as **ARC 9663A**. Written comments were due on or before March 10, 2000.

The Equipment Distribution Program (EDP) provides assistive telecommunications devices for hearing and speech impaired individuals. The amendments will add a hardship provision, allow individuals in the same household with different disabilities to get different equipment, conform Iowa's replacement period to better reflect the life of the equipment, update the income limits for eligibility, update the types of equipment referred to in the rules, streamline the process for applicants and the administrator, and conform the complaint process to the regular complaint process of the Board.

On February 3, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a written statement of position in support of the proposed amendments to the rules.

On February 25, 2000, Telecommunications Access Iowa (TAI) filed written public comment on the proposed amendments. TAI commented that the proposed changes were most appropriate, especially from a practical and programmatic perspective. TAI stated that two changes in particular would result in more efficient operation of the equipment distribution program: (1) the discretion that would be given to the program administrator to consider special circumstances in which parties in the same household have differing communications needs for telephone usage; and (2) the proposed changes to the income guidelines. TAI also expressed support for the involvement of the Dual Party Relay Council in the proposed changes in the rules.

The Iowa Telephone Association orally requested an estimate of the increase in number of persons served and cost to the program due to two changes in the rules. The first proposed change would establish a hardship provision, so that if a person demonstrated to the program administrator that the person was unable to pay the required 5 percent copayment for equipment, the person could receive a voucher for 100 percent of the cost of the equipment. However, since the voucher is based on the average retail cost of similar types of equipment, the program administrator could require the person to choose a cheaper model of the equipment instead of receiving a 100 percent voucher. The second proposed change would allow individuals in the same household that have different communication impairments requiring different types of equipment to be able to obtain the needed equipment.

Staff estimated seven additional people per year would be served by the program due to these two changes. The esti-

mated additional cost to the program due to these two changes is \$400 per year.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 477C.4.

These amendments will become effective June 7, 2000.

The following amendments are adopted.

ITEM 1. Amend paragraph 37.2(1)"b" as follows:

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. *The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.*

ITEM 2. Amend subrule 37.2(3) as follows:

**37.2(3) Term.** The vouchers shall provide for a 40-day period to present the voucher to the vendor. *The vendor, upon presentation of the voucher, 60-day period shall have 60 days to complete the purchase, sale and delivery of the equipment a 20-day period for the vendor to and to return the voucher to the program administrator, and a 20-day period for the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher.* Except for good cause shown, the vendor will not be reimbursed for a voucher issued more than 100 120 days before the voucher is returned to the board for payment.

ITEM 3. Amend subrule 37.3(1) as follows:

**37.3(1)** The applicant's need for the equipment must be verified by an appropriate professional, including but not limited to a licensed physician; certified teacher in the fields of hearing, speech, or ~~visually impaired~~ *visual impairment*; speech pathologist; audiologist; or an appropriate state or federal agency representative, as part of the *initial* application. *At the time of reapplication for equipment, the applicant must submit a statement certifying the applicant's condition has not changed to the extent that a different type of equipment is needed. If an applicant's condition has changed to the extent that a different type of equipment is needed from that originally received, the applicant's need must be verified by an appropriate professional.*

ITEM 4. Amend subrule 37.3(5) as follows:

**37.3(5)** The applicant will be limited to a voucher for one type of equipment or equipment package ~~per household~~. *If there are individuals in the same household who have different communication impairments that require different types of assistive telecommunications equipment, the individuals may make a joint or separate request to the equipment distribution program administrator. The administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.*

ITEM 5. Amend subrule 37.3(6) as follows:

**37.3(6)** Equipment may be replaced under the program by reapplication as appropriate. ~~but a change in the nature of the equipment for the repeat applicant will require board approval.~~ *Reapplication will be limited by a three five-year waiting period. The reapplication period will be subject to waiver may be shortened by the program administrator for good cause shown.*

## UTILITIES DIVISION[199](cont'd)

ITEM 6. Amend subrule 37.3(8) as follows:

**37.3(8)** An applicant's gross household income must be less than ~~\$45,000~~ \$57,000 for a family of four. Household numbers above or below four will increase or decrease that amount in ~~\$5,000~~ \$9,000 increments.

ITEM 7. Amend rule 199—37.4(477C) as follows:

**199—37.4(477C) Equipment.** The board will authorize the types of equipment to be distributed through the program, including but not limited to telecommunications devices for the deaf with printers, signalers, amplifiers, computer software, and a limited number of ~~telebrailers~~ *telecommunications devices for the deaf/blind*.

ITEM 8. Amend subrule 37.5(1) as follows:

**37.5(1)** The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

a. The administrator, after requiring interested persons to state *verbally or* in writing any complaint or dispute arising under the equipment distribution program, shall attempt to settle the matter informally *within 45 days*.

b. ~~Within 14 days of determining that~~ *Should the informal dispute resolution process fail, has failed, the program administrator shall serve a proposed resolution in writing on all interested persons and provide a copy to the board. the complaint may be submitted to the board by the complainant*

*and will be processed by the project manager as provided for utility customers in 199 IAC 6. The complaint will be directed to the program administrator with a copy to the consumer advocate. The board staff assigned to the equipment distribution program will then issue a proposed resolution as defined in 199 IAC 6.4(476).*

c. The proposed resolution shall include a description of the facts involved in the dispute and a clear statement of the proposed resolution.

d. The proposed resolution shall also give notice that any interested person dissatisfied with the proposed resolution has 14 days after the issuance of the proposed resolution to file a written request for formal complaint proceedings before the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution. The request for formal complaint proceedings shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made.

[Filed 4/14/00, effective 6/7/00]

[Published 5/3/00]

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AGENCY	RULE	DELAY
Educational Examiners Board[282]	282—Ch 11 [IAB 2/9/00, <b>ARC 9669A</b> ]	Effective date of March 15, 2000, delayed 45 days by the Administrative Rules Review Committee at its meeting held March 10, 2000; delay lifted by the Committee at its meeting held April 7, 2000, effective April 8, 2000. [Pursuant to §17A.4(5)]
Education Department[281]	281—63.18(4) [IAB 2/9/00, <b>ARC 9640A</b> ]	Effective date of March 15, 2000, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000; delay lifted by the Committee at its meeting held April 7, 2000, effective April 8, 2000. [Pursuant to §17A.4(5)]
Real Estate Commission[193E]	193E—1.1, definition of “Referral fee,” 1.41, introductory paragraph, 1.41(3), 1.41(7) [IAB 3/22/00, <b>ARC 9739A</b> ]	Effective date of April 26, 2000, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 7, 2000. [Pursuant to §17A.4(5)]





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**Department of General Services**  
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**Des Moines, Iowa 50319**

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