



# IOWA ADMINISTRATIVE BULLETIN

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July 6, 1994

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Pages 1 to 100

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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 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.

**The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.**

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to Iowa Code section 17A.6. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the Administrative Rules Coordinator and published in the Iowa Administrative Bulletin.

PHYLLIS BARRY, Administrative Code Editor  
KATHLEEN BATES, Deputy Editor

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(515)281-8157

## SUBSCRIPTION INFORMATION

### Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

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**Iowa Administrative Code Supplement** - \$350.00 plus \$17.50 sales tax  
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**All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:**

**Iowa State Printing Division  
Grimes State Office Building  
Des Moines, IA 50319  
Phone: (515)281-5231**

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## Schedule for Rule Making 1994

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. 3 '93	Dec. 22 '93	Jan. 11	Jan. 26	Jan. 28	Feb. 16	Mar. 23	June 20
Dec. 17 '93	Jan. 5	Jan. 25	Feb. 9	Feb. 11	Mar. 2	Apr. 6	July 4
Dec. 31 '93	Jan. 19	Feb. 8	Feb. 23	Feb. 25	Mar. 16	Apr. 20	July 18
Jan. 14	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	May 20	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	July 1	July 20	Aug. 24	Nov. 21
May 20	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '95
July 1	July 20	Aug. 9	Aug. 24	Aug. 26	Sept. 14	Oct. 19	Jan. 16 '95
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '95
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '95
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '95
Aug. 26	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '95
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '95
Sept. 23	Oct. 12	Nov. 1	Nov. 16	Nov. 18	Dec. 7	Jan. 11 '95	Apr. 10 '95
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '95	Apr. 24 '95
Oct. 21	Nov. 9	Nov. 29	Dec. 14	Dec. 16	Jan. 4 '95	Feb. 8 '95	May 8 '95
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '95	Feb. 22 '95	May 22 '95
Nov. 18	Dec. 7	Dec. 27	Jan. 11 '95	Jan. 13 '95	Feb. 1 '95	Mar. 8 '95	June 5 '95
Dec. 2	Dec. 21	Jan. 10 '95	Jan. 25 '95	Jan. 27 '95	Feb. 15 '95	Mar. 22 '95	June 19 '95
Dec. 16	Jan. 4 '95	Jan. 24 '95	Feb. 8 '95	Feb. 10 '95	Mar. 1 '95	Apr. 5 '95	July 3 '95
Dec. 30	Jan. 18 '95	Feb. 7 '95	Feb. 22 '95	Feb. 24 '95	Mar. 15 '95	Apr. 19 '95	July 17 '95

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

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<u>ISSUE NUMBER</u>	<u>PRINTING SCHEDULE FOR IAB</u> <u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 15, 1994	August 3, 1994
4	Friday, July 29, 1994	August 17, 1994
5	Friday, August 12, 1994	August 31, 1994

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**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.

# A T T E N T I O N

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
 FROM: Phyllis Barry, Iowa Administrative Code Editor  
 SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Iowa Administrative Code Division is using a PC system to assist in the printing of the Iowa Administrative Bulletin. In order to most effectively transfer rules from the various agencies sending their rules on a diskette, please note the following:

1. We use a Windows environment with Lotus Ami Professional 3.0 as our word processing system and can import directly from any of the following:

Ami Pro 1.2	Manuscript	Rich Text Format
Ami Pro Macro	Microsoft Word	Samna Word
dBase	Microsoft Word for Windows	SmartWare
DCA/FFT	1.x, 2.0**	SuperCalc
DCA/RFT	MultiMate	Symphony Document
DIF	Navy DIF	Windows Write
Display Write 4	Office Writer	Word for Windows 1.x, 2.0**
Enable	Paradox	WordPerfect 4.1, 4.2, 5.0, 5.1*
Excel 3.0, 4.0	Peach Text	WordStar
Exec MemoMaker	Professional Write	WordStar 2000 ver 1.0, 3.0

\* WordPerfect 6.0 filter is not yet available.

\*\* Microsoft Word for Windows 6.0 filter is not yet available.

2. If you do not have any of the above, a file in an ASCII format is helpful.

3. Submit only 3 1/2" or 5 1/4" high density MSDOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

4. **Deliver this diskette to the Administrative Code Division, 4th Floor, Lucas Building when documents are submitted to the Governor's Administrative Rules Coordinator.**

Diskettes from agencies will be returned **unchanged** by the Administrative Code Division. Please refer to the hard-copy document which is returned to your agency by the Governor's office. This document reflects any changes in the rules—update your diskettes accordingly.

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

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
<b>ALCOHOLIC BEVERAGES DIVISION[185]</b> Alcoholic beverages licenses and permits, 4.26, 10.1 IAB 6/22/94 ARC 4878A	Conference Room D 1918 S.E. Hulsizer Ave. Ankeny, Iowa	July 13, 1994 1:30 p.m.
<b>BANKING DIVISION[187]</b> Industrial loans, amendments to ch 16 IAB 6/8/94 ARC 4828A	Conference Room Suite 300 200 E. Grand Ave. Des Moines, Iowa	July 11, 1994 1:30 p.m.
<b>CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]</b> Juvenile crime prevention programs, ch 4 IAB 7/6/94 ARC 4931A	Conference Room — 3rd Floor Lucas State Office Bldg. Des Moines, Iowa	July 26, 1994 2 p.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b> Youth affairs, 14.3(9), 14.5 IAB 7/6/94 ARC 4925A	Room 136 Iowa Workforce Development Center 150 Des Moines St. Des Moines, Iowa	July 26, 1994 10 a.m.
CDBG program, 23.2, 23.6 to 23.8, 23.11, 23.13 IAB 7/6/94 ARC 4921A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	July 27, 1994 1:30 p.m.
Value-added agricultural products and processes financial assistance program, ch 29 IAB 7/6/94 ARC 4927A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	July 27, 1994 10 a.m.
<b>EDUCATION DEPARTMENT[281]</b> Gifted and talented programs, 59.3 IAB 7/6/94 ARC 4889A	State Board Room Second Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 1994 1 to 2 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b> Air quality, 20.2, 21.5, 22.5, 22.105(2), 23.1(2) IAB 6/22/94 ARC 4885A	Conference Room Fifth Floor East Wallace State Office Bldg. Des Moines, Iowa	July 22, 1994 9:30 a.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b> Medicaid provider policy, 78.1(14), 78.3(12), 78.18(7), 78.31, 79.1, 81.6(16) IAB 7/6/94 ARC 4907A (See also ARC 4908A herein)	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	July 28, 1994 1 p.m.
Managed mental health care system, 88.61 to 88.73 IAB 7/6/94 ARC 4911A (See also ARC 4912A herein)	Conference Room — 6th Floor Suite 600, Iowa Bldg. 411 Third St. S.E. Cedar Rapids, Iowa	July 29, 1994 10 a.m.

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

	Regional Office, Lower Level 417 E. Kanessville Blvd. Council Bluffs, Iowa	July 27, 1994 10 a.m.
	Conference Room 3 Fifth Floor Bicentennial Bldg. 428 Western Davenport, Iowa	July 28, 1994 10 a.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	July 27, 1994 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	July 28, 1994 10 a.m.
	Conference Room 120 E. Main Ottumwa, Iowa	July 27, 1994 10 a.m.
	Suite 624 507 7th St. Sioux City, Iowa	July 27, 1994 1 p.m.
	Conference Room 201 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	July 27, 1994 10 a.m.
<b>LABOR SERVICES DIVISION[347]</b>		
Occupational injuries and illnesses, 4.8, 4.19"2" IAB 7/6/94 ARC 4935A	Labor Services Division 1000 E. Grand Ave. Des Moines, Iowa	July 28, 1994 9 a.m. (If requested)
Minimum wage, amendments to chs 215 to 220 IAB 6/22/94 ARC 4876A	Labor Services Division 1000 E. Grand Ave. Des Moines, Iowa	July 15, 1994 1 p.m. (If requested)
<b>NATIONAL AND COMMUNITY SERVICE, COMMISSION ON[555]</b>		
Functions of newly created commission, chs 1 to 3, 5, 6 IAB 6/22/94 ARC 4879A	Workforce Development Administrative Center 150 Des Moines Street Des Moines, Iowa	July 12, 1994 10 a.m.
<b>NATURAL RESOURCE COMMISSION[571]</b>		
State parks and recreation areas — George Wyth, 61.2, 61.6(5) IAB 7/6/94 ARC 4933A	Hartman Reserve Nature Center 657 Reserve Drive Cedar Falls, Iowa	August 11, 1994 7 p.m.
Deer population management areas — Cedar Falls-Waterloo, Iowa Army Ammunitions Plant, 105.2 to 105.4 IAB 7/6/94 ARC 4932A	Hartman Reserve Nature Center 657 Reserve Drive Cedar Falls, Iowa	August 11, 1994 7 p.m.
<b>NURSING BOARD[655]</b>		
Advanced registered nurse practitioners, 7.1, 7.2(1)"a" to "k," 7.2(5)"b" IAB 7/6/94 ARC 4897A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	July 26, 1994 7 p.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Organized delivery systems,  
ch 201  
IAB 7/6/94 ARC 4924A  
(See also ARC 4923A herein)

Western Iowa Tech  
Community College  
Building D  
Room 126  
4647 Stone Ave.  
Sioux City, Iowa

August 17, 1994  
8:15 to 11 a.m.

**(Use of ICN)**

Iowa Western  
Community College  
Lee DeForest Hall  
Room B145  
2700 College Road  
Council Bluffs, Iowa

August 17, 1994  
8:15 to 11 a.m.

North Iowa Area  
Community College  
Activity Center  
Room 106  
500 College Drive  
Mason City, Iowa

August 17, 1994  
8:15 to 11 a.m.

Kirkwood Community College  
6301 Kirkwood Blvd. S.W.  
Linn Hall, Room 202  
Cedar Rapids, Iowa

August 17, 1994  
8:15 to 11 a.m.

Iowa Public Television  
6450 Corporate Drive  
Johnston, Iowa

August 17, 1994  
8:15 to 11 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Building code — energy efficiency in  
commercial construction,  
16.800 to 16.802  
IAB 7/6/94 ARC 4936A

Conference Room  
First Floor, North Half  
Wallace State Office Bldg.  
Des Moines, Iowa

August 4, 1994  
10:30 a.m.

**SOIL CONSERVATION DIVISION[27]**

Levee reconstruction and repair program,  
ch 14  
IAB 6/22/94 ARC 4869A  
(See also ARC 4868A)

Conference Room  
Second Floor, South Half  
Wallace State Office Bldg.  
Des Moines, Iowa

July 14, 1994  
1 p.m.

**STATUS OF BLACKS COMMISSION[434]**

Commission on the status of African-Americans,  
1.1 to 1.3  
IAB 6/22/94 ARC 4880A

DHR Conference Room  
Lucas State Office Bldg.  
Des Moines, Iowa

July 15, 1994  
3:30 p.m.

**UTILITIES DIVISION[199]**

Electric safety, service, and metering standards  
15.10(1), 20.5(2), 20.6(3), 25.2, 25.3(5)  
IAB 6/22/94 ARC 4875A

First Floor Hearing Room  
Lucas State Office Bldg.  
Des Moines, Iowa

August 3, 1994  
10 a.m.

## AGENCY IDENTIFICATION NUMBERS

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].

Implementation of reorganization is continuing and the following list will be updated as changes occur:

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]  
Soil Conservation Division[27]

### ATTORNEY GENERAL[61]

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Credit Union Division[189]  
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    Architectural Examining Board[193B]  
    Engineering and Land Surveying Examining Board[193C]  
    Landscape Architectural Examining Board[193D]  
    Real Estate Commission[193E]  
    Real Estate Appraiser Examining Board[193F]  
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## REORGANIZATION—NOT IMPLEMENTED

Agencies listed below are identified in the Iowa Administrative Code with WHITE TABS\*. These agencies have not yet implemented government reorganization.

Iowa Advance Funding Authority[515]

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\* It is recommended that all white tabs be moved to a separate binder rather than interspersed with the colored tabs, which implemented state government reorganization.

# NOTICE --- AVAILABILITY OF PUBLIC FUNDS

<u>Agency</u>	<u>Program</u>	<u>Service Delivery Area</u>	<u>Eligible Applicants</u>	<u>Application Services</u>	<u>Contract Due Date</u>	<u>Period</u>
Public Health	Substance Abuse	Statewide	Nonprofit volunteer community organizations	Community substance abuse prevention services	8/1/94	9/1/94 to 6/30/95

**Application forms may be obtained by contacting:**

Allen Vander Linden  
 Contracts Administrator  
 Iowa Department of Public Health  
 Division of Substance Abuse and Health Promotion  
 Lucas State Office Building  
 Des Moines, Iowa 50319-0075  
 (515)281-4636

## ARC 4886A

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 192A.28, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 23, "Dairy Trade Practices," Iowa Administrative Code.

These amendments propose to amend subparagraphs 23.4(2)"b"(9) and (10) by adding "except as provided in 23.4(2)"c"(3)". These amendments delete the last two sentences of 23.4(2)"c"(2) and add a new 23.4(2)"c"(3) that a processor or distributor may lend equipment to a retailer for up to two consecutive weeks during a month if equipment is mounted on wheels, is designed for consumer access on all sides and has a capacity of less than 15 cubic feet. Subparagraphs 23.4(2)"c"(3) and (4) are renumbered as 23.4(2)"c"(4) and (5). Subrule 23.5(2) is amended by deleting the sentence "However, such equipment may not be used by the retailer for storage or display for sale."

Any interested person may make written suggestions or comments on the proposed amendments on or before July 26, 1994. Written materials should be directed to Lillian M. Moore, Dairy Trade Practices Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319; fax (515)281-6236; or telephone (515)281-5961.

These amendments are intended to implement Iowa Code chapter 192A.

The following amendments are proposed.

ITEM 1. Amend subparagraph 23.4(2)"b"(9) as follows:

(9) Furnish equipment for a promotion which is predominantly commercial in nature, run at a retail store location and incidental to the retailer's course of business *except as provided in 23.4(2)"c"(3)*.

ITEM 2. Amend subparagraph 23.4(2)"b"(10) as follows:

(10) Furnish dispensers, freezers, etc., on the retail route without charge *except as provided in 23.4(2)"c"(3)*.

ITEM 3. Amend subparagraph 23.4(2)"c"(2) as follows:

(2) Hostesses or demonstrators at any retailer's location to promote the products of the wholesaler, processor or distributor may also use equipment incidental to the function of the hostesses or demonstrators, such as equipment used for storage or for display for sale. ~~However, the equipment must be used only by the hostesses or demonstrators. It may not be used by the retailer for any purposes.~~

ITEM 4. Add a **new** subparagraph 23.4(2)"c"(3) and renumber 23.4(2)"c"(3) and 23.4(2)"c"(4) as 23.4(2)"c"(4) and 23.4(2)"c"(5), respectively.

(3) The lending of equipment to a retailer for a period not longer than two consecutive weeks per month for display and sale of the processor's or distributor's products if the equipment is mounted on wheels and designed for consumer access on all sides and has a capacity of less than 15 cubic feet. As used in this subparagraph, "month" means any consecutive 30-day period.

ITEM 5. Amend subrule 23.5(2) as follows:

23.5(2) Iowa Code section 192A.15 is also interpreted to mean that a dairy may also use equipment incidental to giving away its products. ~~However, such equipment may not be used by the retailer for storage or display for sale.~~ The dairy must conspicuously display that the dairy—not the retailer—is giving away the product.

## NOTICE—AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

April 1, 1993 – April 30, 1993	4.85%
May 1, 1993 – May 31, 1993	4.75%
June 1, 1993 – June 30, 1993	4.80%
July 1, 1993 – July 31, 1993	4.90%
August 1, 1993 – August 31, 1993	4.80%
September 1, 1993 – September 30, 1993	4.80%
October 1, 1993 – October 31, 1993	4.70%
November 1, 1993 – November 30, 1993	4.65%
December 1, 1993 – December 31, 1993	4.85%
January 1, 1994 – January 31, 1994	4.85%
February 1, 1994 – February 28, 1994	4.80%
March 1, 1994 – March 31, 1994	4.65%
April 1, 1994 – April 30, 1994	5.00%
May 1, 1994 – May 31, 1994	5.15%
June 1, 1994 – June 30, 1994	6.21%

## BANKING DIVISION

### Notice of Application

In accordance with the provisions of Iowa Code section 524.1905, subsection 2, the Superintendent of Banking is publishing the following notice:

NOTICE OF APPLICATION BY FIRSTIER FINANCIAL, INC., OMAHA, NEBRASKA, TO ACQUIRE CORNERSTONE BANK GROUP, INC., COUNCIL BLUFFS, IOWA

On June 7, 1994, an application was filed with the Superintendent of Banking by FirstTier Financial Inc.,

## BANKING DIVISION(cont'd)

Omaha, Nebraska, for prior approval to acquire Cornerstone Bank Group, Inc., Council Bluffs, Iowa, a bank holding company which owns controlling interest in First National Bank, Council Bluffs, Iowa; Nevada National Bank, Nevada, Iowa; Valley State Bank, Rock Valley, Iowa; and Security Savings Bank, Williamsburg, Iowa. The application was accepted for processing by the Superintendent of Banking on June 10, 1994.

You are invited to submit comments in writing on this application to R. H. Buenneke, Superintendent of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Any comments should be submitted within 30 days of the date of this notice (August 5, 1994).

The Superintendent of Banking intends to schedule a public hearing on the application in which all interested parties shall have an opportunity to present evidence deemed necessary and proper to determine whether to approve or deny the application. Anyone interested in receiving notice of the date of the hearing should submit a request in writing to R. H. Buenneke, Superintendent of Banking at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309.

**ARC 4931A****CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 17A.3 and 1994 Iowa Acts, Senate File 2319, section 27, the Criminal and Juvenile Justice Planning Division hereby gives Notice of Intended Action to adopt Chapter 4, "Juvenile Crime Prevention Community Grant Fund," Iowa Administrative Code.

The purpose of this new chapter is to implement 1994 Iowa Acts, Senate File 2319, sections 27 and 70, regarding the control of certain appropriated funds and the awarding of grants for juvenile crime prevention programs to cities, counties and entities organized under Iowa Code chapter 28E.

Any interested person may make written or oral suggestions or comments on this proposed chapter on or before July 26, 1994. Comments should be directed to the Administrator, Criminal and Juvenile Justice Planning Division, Lucas State Office Building, Des Moines, Iowa 50319, telephone (515)242-5823.

Also, there will be a public hearing on July 26, 1994, at 2 p.m. in the Third Floor Conference Room of the Lucas State Office Building, East 12th and Walnut, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Administrator, Criminal and Juvenile Justice Planning Division, at least one day prior to the date of the public hearing.

These rules are intended to implement 1994 Iowa Acts, Senate File 2319, sections 27 and 70.

These rules were also Adopted and Filed Emergency and are published herein as ARC 4930A. The content of that submission is incorporated by reference.

**ARC 4925A****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 14, "Youth Affairs," Iowa Administrative Code.

The proposed amendments:

1. Increase maximum grant award for Summer Conservation projects from \$17,500 to \$22,000.
2. Change eligibility criteria for program participation.
3. Change application date for the Iowa Corps.
4. Allow the payment of fees under the Iowa Corps Program.

A hearing will be held on July 26, 1994, at 10 a.m. in Room 136, Iowa Workforce Development Center, 150 Des Moines Street, Des Moines, Iowa, to receive comments on the proposed amendments. Interested parties may submit written or oral comments until July 26, 1994, to: Duane Leitch, Iowa Department of Economic Development, 150 Des Moines Street, Des Moines, Iowa 50309, telephone (515)281-9020.

These amendments are intended to implement Iowa Code sections 15.225 to 15.230.

The following amendments are proposed.

ITEM 1. Amend subrule 14.3(9) as follows:

**14.3(9)** Grant awards. Projects may receive up to a maximum grant award of ~~\$17,500~~ 22,000. The number of grant awards each year shall be contingent upon the amount of state funds appropriated for the program.

ITEM 2. Amend subrule 14.5(2) as follows:

**14.5(2)** Youth served. To be eligible to apply for the Iowa corps, youth must be enrolled in a full-time educational program leading to a secondary degree, *be classified as a senior*, and be a resident of the state of Iowa. ~~Youth who are seniors on April 1 are eligible to apply if they have not earned four tuition grants and their project can be completed prior to starting their postsecondary education. Exceptions can be made for extenuating circumstances with the approval of the Iowa corps administrator.~~

ITEM 3. Amend paragraph 14.5(5)"c" as follows:

c. During state fiscal year 1990, the application deadlines will be December 31, 1989, and April 30, 1990. After state fiscal year 1990, the application deadline will be ~~April~~ November 1 annually.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 4. Amend subrule 14.5(7) as follows:

**14.5(7) Tuition and fees payments.**

a. For each approved and completed volunteer project, a \$500 tuition and fees payment in the participant's name will be escrowed at the state treasurer's office. The participant will have three years after completion of secondary education or graduation from high school in which to utilize the tuition and fees payment or forfeit the amount escrowed, which will then ~~revert to the Iowa community development loan fund~~ be granted to another participant.

b. All tuition and fees payments will be made directly to the postsecondary institution of the participant's choice.

c. Tuition and fees payments are limited to only Iowa postsecondary institutions.

## ARC 4921A

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 23, "Community Development Block Grant Non-entitlement Program," Iowa Administrative Code.

The proposed amendments revise the CDBG program guidelines in the following manner: (1) adds definitions to clarify meaning; (2) makes economic development and public facilities set-aside guidelines consistent with state CEBA policy; (3) deletes provisions for two applications under the competitive program for flood-related damages; (4) allows the period for application preparation to extend beyond 60 days for the competitive program; (5) revises amount allowed for program administration by recipients; (6) establishes criteria within the Housing Fund for period of affordability, amount of subsidy allowed per unit and per client served; (7) establishes project performance timelines for Housing Fund projects; (8) establishes audit performance standards; and (9) sets a minimum amount of \$500 per draw request.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on July 27, 1994. Interested persons may submit written or oral comments by contacting: Roselyn McKie Wazny, Division of Community and Rural Development, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)242-4822.

A public hearing to receive comments about the proposed amendments will be held on July 27, 1994, at 1:30 p.m. at the above address in the IDED main conference room. Individuals interested in providing comments at the hearing should contact Roselyn McKie Wazny by 4 p.m. on July 26, 1994, to be placed on the hearing agenda.

The following amendments are proposed.

ITEM 1. Amend subrule 261—23.2(15), by adding the following new definitions in alphabetical order:

"Affordable housing" means housing where the occupant is paying no more than 30 percent of gross income for gross housing costs.

"Annual gross income" means total income of the individual/family from all sources, including net income received from assets.

"Appraised value" means the value established by a State of Iowa certified appraiser.

"Average county wage scale" means the calculation of wages using the four most current quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa department of employment services, audit and analysis section. Agricultural/mining and government categories are deleted in the compiling of the wage information.

"Business start-up" means a business which has not been in operation for more than two years prior to the date of an application being submitted to the economic development set-aside program.

"Cost burden > 30%" means the extent to which gross housing costs exceed 30 percent of gross income.

"Cost burden > 50%" (Severe Cost Burden) means the extent to which gross housing costs exceed 50 percent of gross income.

"Total gross housing costs" means the monthly housing costs for:

1. Owner-occupied units are the cost of principal, interest, taxes and insurance (PITI) and

2. Renter-occupied units are the cost of rent payments plus the U.S. Department of Housing and Urban Development approved utility allowance for the area.

ITEM 2. Amend rule 261—23.6(15) as follows:

#### 261—23.6(15) Allocation of funds.

23.6(1) Funds for state administration. ~~Up to 2~~ Two percent of total program funds including program income plus \$100,000 as allowed by P.L. 93-383, as amended, may be used for state administration.

23.6(2) Funds for provision of technical assistance. ~~Up to 1~~ One percent of total program funds may be used for the provision of additional substantive technical assistance to grant recipients as may be determined necessary by the department.

23.6(3) Distribution of competitive funds. The funds remaining after deducting those used for state administration, public facilities set-aside funds, imminent threat funds, housing set-aside, and the economic development set-aside will be open to all eligible applicants on a competitive basis.

23.6(4) Economic development/public facilities set-aside. ~~Beginning with the award of FY 93 CDBG funds,~~ ~~up to 20~~ Twenty percent of total program funds will be reserved for projects funded under the economic development set-aside program and the public facilities set-aside program. If this allocation for the current fiscal year is not fully allocated, the excess will be reallocated to the general competitive program for the following year.

23.6(5) Funds reserved for the imminent threat program. ~~Up to~~ Five hundred thousand dollars may be used each year to fund projects that address an imminent threat to public health, safety or welfare which necessitates immediate corrective action. If this fund is not fully allocated in a program year, the excess will be reallocated to the general competitive fund.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**23.6(6)** Funds reserved for housing fund set-aside. ~~Up to 25~~ *Twenty-five* percent of the funds will be used for a housing fund set-aside to be used to improve the supply of affordable housing. If these moneys are not fully allocated in the initially funded program year, the remainder will be reallocated to the general competitive program for the following year.

ITEM 3. Amend subrule **23.6(9)**, paragraphs "b" and "c," as follows:

b. Economic development set-aside. The maximum grant award for individual applications from any city or county is \$500,000 per application. *Individual applications with proposed projects involving a business start-up shall be limited to a maximum grant award of \$100,000.*

c. Public facilities set-aside. The maximum grant award for individual applications from a city or county is \$500,000 per application. *Individual applications with proposed projects involving a business start-up shall be limited to a maximum grant award of \$100,000.*

ITEM 4. Amend subrule **23.7(1)**, paragraph "a," as follows:

a. No more than one application per community will be considered per year under the competitive program. ~~For FY94, a community may submit an additional application if necessary to address flood and weather related damages impacting public facilities and services.~~ An eligible applicant may also submit a separate application if involved in a joint application (but not as the lead applicant) when:

(1) The applicant is bound under a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application; and

(2) The project proposed in the joint application is not located in the applicant's jurisdiction.

ITEM 5. Amend subrule **23.7(2)** as follows:

**23.7(2)** Application procedure. Each year, prior to solicitation of general competitive applications, the department of economic development will, to the extent funds are available for this purpose, conduct a training program for all eligible applicants. All eligible applicants will be notified of the time, date, place and agenda by mail. Application instructions and all necessary forms will be available upon written request to the Department of Economic Development, Division of Community and Rural Development, 200 East Grand Avenue, Des Moines, Iowa 50309, or by telephone (515)242-4825. The training program will include a discussion of the program's purpose, eligible and ineligible program activities, and instructions regarding the preparation and submission of an application.

The deadline for submission of a general competitive application (one original) shall be *at least* two months following the last date of the training program. No applications will be accepted after the deadline for submission. Only data submitted by the established deadline will be considered in the selection process, unless additional data is specifically requested by DED in writing.

Review and ranking of general competitive applications will be performed by DED personnel after consultation, where appropriate, with other state agencies with program responsibility in CDBG-related areas. All applications meeting threshold requirements will be reviewed and ranked within 90 days of the final submission deadline.

Those applications with the highest rankings will be funded, to the extent that competitive program funding is

available. All successful applicants will be notified and invited to a conference with DED personnel to outline procedures to be followed as grant recipients.

ITEM 6. Amend subrule **23.8(1)** by adding the following new paragraphs:

d. The average starting wage of the jobs to be created or retained by the proposed project must meet or exceed 75 percent of the average county wage scale.

e. Proposed projects involving business start-ups may apply for no more than \$100,000.

ITEM 7. Amend subrule **23.11(1)**, paragraph "c," as follows:

c. Applicants for housing fund set-aside are limited to ~~10 percent of the CDBG amount and may not exceed 10 percent of the total contract amount for general administrative costs.~~ *Direct administrative ("carrying") costs used for the purpose of housing rehabilitation and relocation activities may be as high as 20 percent of the total CDBG activity amount and total activity amount project award for all administrative costs. General administrative costs are limited to 5 percent of the CDBG amount. The remaining portion of administrative funds must be used for direct administrative carrying costs to support housing activities.*

ITEM 8. Amend subrule **23.11(1)** by adding the following new paragraph:

e. Applicants with active housing fund projects must meet the following criteria in order to apply for additional assistance through the housing fund.

(1) Applicants that have received an award from the housing fund must have expended 25 percent of the total project award amount within 12 months of the effective date on the contract in order to be eligible to apply for further funding under the housing fund program.

(2) Applicants that have received an award from the housing fund allocation must have expended 85 percent of the total project award amount within 24 months of the effective date on the contract in order to be eligible to apply for further funding under the housing fund program.

(3) Applicants that have received an award from the housing fund allocation must have expended 100 percent of the total project award within 36 months of the effective date on the contract in order to be eligible to apply for further funding under the housing fund program.

ITEM 9. Amend subrule **23.11(4)** by adding new paragraphs "b" to "e" as follows:

b. Period of affordability.

(1) All housing units assisted with federal funds shall remain affordable housing units for the specified period of time based on the amount of federal assistance received per unit:

\$0	- \$14,999	5 years
\$15,000	- \$24,999	10 years
\$25,000	- \$39,999	15 years
over \$40,000		20 years

(2) New construction shall remain affordable for 20 years.

c. Restrictions of per unit assistance. For rehabilitation of a single-family detached unit and rental properties up to four units the federal assistance shall not exceed 150 percent of the appraised value of the structure.

d. Restrictions on direct assistance to individual/family recipients. Direct federal assistance will be provided only in an amount that will reduce the total gross housing

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

costs for an individual/family to 30 percent of their annual gross income.

e. Restrictions on rent. Rents charged for a rental unit assisted may not exceed 30 percent of 65 percent of median family income for the area.

ITEM 10. Amend subrule 23.11(5) as follows:

**23.11(5)** Application rating review. ~~The following system will be used to rate applications: Projects will be reviewed and awarded based on the following factors:~~

a. Magnitude of need identified by the applicant, 200 points possible, including, but not limited to, proportions of substandard housing concentration, population growth, constraints to affordability by lower-income households, presence or significance of unique factors which have prohibited the development of affordable housing.

b. Magnitude of impact, ~~200 points possible~~, including, but not limited to, the degree of CDBG and other federal funds in the overall project, documented local commitment, degree of low- and moderate-income direct benefit, degree to which the proposal substantially addresses needs identified in the DED CHAS, and magnitude of addressing the identified need.

c. Feasibility score, ~~100 points possible~~, including, but not limited to, administrative capacity, long-term affordability, the impact of the design in relationship to the identified need, the subsidy level proposed, and level of firm, documented commitment from other financial sources.

d. Certified community builder plan, ~~30 points possible~~, upon completion and certification by the DED of a plan prepared according to 261—Chapter 80.

ITEM 11. Amend subrule 23.13(1) as follows:

**23.13(1)** Contracts. Upon selection of a project(s) for funding, the department of economic development will issue a contract. In the absence of special circumstances in which there is a legal incapacity on the part of the community to accept funds for eligible activities, the contract shall be between the department of economic development and the community. The designation by the community of another public agency to undertake activities assisted under this program shall not relieve the community of its responsibilities in *ensuring* the administration of the program will be in accordance with all federal and state requirements, including these rules. The rules and applicable federal and state laws and regulations become a part of the contract.

a. CDBG recipients must execute and return the contract to the IDEED within 45 days of the transmittal date from IDEED (i.e., date on cover letter). Failure to do so will be cause for termination of the award.

b. Certain activities may require that permits or clearances be obtained from other state or federal agencies prior to proceeding with the project. Grant awards may be conditioned upon the timely completion of such requirements.

ITEM 12. Amend subrule **23.13(3)**, paragraph "c," add new paragraphs "d" and "e," and reletter existing "d" and "e" as "f" and "g" as follows:

c. All contracts made under these rules are subject to audit. Recipients shall be responsible for the procurement of audit services and for the payment of audit costs. Audits may be performed by the state auditor's office or by a qualified independent auditor.

(1) Recipients which receive more than \$100,000 in federal financial assistance (including a CDBG grant) in

any fiscal year must comply with the provisions of the Single Audit Act of 1984 (P.L. 98-502) and 24 CFR Part 44. In addition, recipients receiving between \$25,000 to \$100,000 in assistance may choose to comply with the Single Audit Act. In such cases, the local government must have an annual audit of all its financial statements. The Act should be consulted for additional compliance requirements.

*Recipients receiving less than \$25,000 in federal funds in a given fiscal year may have the option of a desk audit with prior approval from IDEED.*

(2) Recipients who determine that the Single Audit Act of 1984 does not apply to their situation shall have audits prepared in accordance with CDBG requirements and state laws and regulations. All audits shall commence within 60 days of the CDBG program's contract expiration date, and be issued within 150 days of the contract expiration date, unless the recipient conducted annual audits on a fiscal-year basis.

Variations of these time requirements shall only be allowed with prior approval from DED. Copies of the audit report shall be transmitted to IDEED and to other agencies as required.

d. All recipients are required to have a project completion statement included in the final audit of the project funds.

e. Audits done on a fiscal-year basis shall be submitted to IDEED within six months of the end of the audited fiscal year. Audits performed on the CDBG program only, shall be submitted to IDEED within six months of the expiration date of the CDBG contract. All audit reports must be submitted to the IDEED within 30 days after publication.

ITEM 13. Amend subrule 23.13(4) as follows:

**23.13(4)** Requests for funds. Grant recipients shall submit requests for funds in a manner and on forms prescribed by DED. *Individual requests for funds must be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.*

**ARC 4927A**

**ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to rescind Chapter 29, "Value-Added Agricultural Products and Processes Financial Assistance Program (VAAPPFAP)," Iowa Administrative Code, and adopt a new Chapter 29 with the same title.

The proposed chapter implements revisions to the Value-Added Agricultural Products and Processes Financial Assistance Program made by 1994 Iowa Acts, House

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

File 2337. The purpose of the program is to encourage the increased utilization of agricultural commodities produced in this state. The new chapter defines eligibility requirements, describes the application procedure, and outlines the approval and award process.

Public comments concerning the proposed chapter will be accepted until 4:30 p.m. on July 27, 1994. Interested persons may submit written or oral comments by contacting: Mike Miller, Division of Business Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)242-4827.

A public hearing to receive comments about the proposed chapter will be held on July 27, 1994, at 10 a.m. at the above address in the IDED Main Conference Room. Individuals interested in providing comments at the hearing should contact Mike Miller by 4 p.m. on July 26, 1994, to be placed on the hearing agenda.

These rules are intended to implement 1994 Iowa Acts, House File 2337, sections 5 and 6.

The following amendment is proposed.

Rescind **261—Chapter 29** and insert in lieu thereof the following new chapter:

## CHAPTER 29

## VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE PROGRAM (VAAPPFAP)

**261—29.1(15E) Purpose.** The purpose of this program is to encourage the increased utilization of agricultural commodities produced in this state. The program shall assist in efforts to revitalize rural regions of this state by committing resources to provide financial assistance to new or existing value-added production facilities.

**261—29.2(15E) Definitions.**

"Agricultural products advisory council" means the council composed of five members appointed by the secretary of agriculture and five members appointed by the director of the department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203.

"Agriculture" means the science, art, and business of cultivating the soil, producing crops and raising livestock.

"Committee" means the renewable fuels and coproducts advisory committee established pursuant to Iowa Code section 159A.4.

"Coordinator" means the administrative head of the office of renewable fuels and coproducts appointed by the department of agriculture and land stewardship as provided in Iowa Code section 159A.3.

"Coproduct" means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities and which may include corn gluten feed, distillers grain, solubles, a feed supplement, or can be used as livestock feed.

"Department" or "IDED" means the Iowa department of economic development.

"Fund" means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

"Innovative" means a new or different agricultural product or a method of processing agricultural products

which is an improvement over traditional methods in a new, different, or unusual way.

"Office" means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3.

"Renewable fuel" means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. A renewable fuel includes but is not limited to ethanol-blended or soydiesel fuel.

"Renewable fuels and coproducts activities" means either of the following:

a. The research, development, production, promotion, marketing, or consumption of renewable fuels and coproducts.

b. The research, development, transfer, or use of technologies which directly or indirectly increases the supply or demand of renewable fuels and coproducts.

"Soydiesel fuel" means a fuel which is a mixture of diesel fuel and processed soybean oil, if at least 20 percent of the mixed fuel by volume is processed soybean oil.

"VAAPPFAP" means the value-added agricultural products and processes financial assistance program.

"Value-added product" means a product which through a series of activities or processes, can be sold at a higher price than its original purchase price.

**261—29.3(15E) General eligibility.** A person is eligible to apply for assistance under this program if the following requirements are met:

1. The existing or proposed facility is located in this state.

2. The person applies to the department of economic development in a manner and according to procedures required by the department.

3. The person submits a business plan which demonstrates managerial and technical expertise.

**261—29.4(15E) Program components and eligibility requirements.**

**29.4(1) Program components.** There will be two components to the VAAPPFAP program. The first component relates to operations which are involved in the development of new and innovative products or processes related to agriculture and is referred to as the "Innovative Agricultural Products and Processes Component." The second component relates to renewable fuel production facilities and is referred to as the "Renewable Fuel Component."

**29.4(2) Innovative agricultural products and processes component.** An application based on this component shall be considered if either of the following apply:

a. The business will produce a product derived from an agricultural commodity, if the product is not commonly produced from an agricultural commodity; or

b. The business will utilize a process to produce a product derived from an agricultural commodity, if the process is not commonly used to produce the product.

**29.4(3) Renewable fuel production.** An application based on renewable fuel production shall be considered by the department if all of the following apply:

a. All fermentation, distillation, and dehydration of the ethanol occurs at the proposed facility.

b. The ethanol produced at the proposed facility is at least 190 proof and is denatured. However, if the facility markets the ethanol for further refining, the facility must demonstrate that the refiner produces 190 proof ethanol from the ethanol purchased from the facility.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

29.4(4) Feasibility studies. The department, at its discretion, may also provide funding for feasibility studies related to proposed projects under this program. These studies may be funded for the purpose of assisting in departmental evaluation of proposals or may be one of the eligible activities of a funded project.

261—29.5(15E) Ineligible projects.

29.5(1) The department shall not provide financial assistance to support a value-added production facility if the facility or a person owning a controlling interest in the facility has demonstrated a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of employment services pursuant to Iowa Code chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to Iowa Code chapter 455B.

29.5(2) The department shall not approve an application for assistance under this program to refinance an existing loan.

29.5(3) The department shall not directly award financial assistance to support an activity directly related to farming as defined in Iowa Code section 9H.1, including the establishment or operation of a livestock production operation, regardless of whether the activity is related to a renewable fuel production facility.

29.5(4) An applicant may not receive more than one award under this program for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project or for a new project.

261—29.6(15E) Awards.

29.6(1) Form. Financial assistance awarded under this program may be in the form of a loan, grant, production incentive payment, or a combination thereof. The department shall not award more than 25 percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any state fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to 50 percent of the total amount allocated to the fund for purposes of assisting persons requiring \$100,000 or less in financial assistance. The amount shall be reserved until the end of the third quarter of the state fiscal year and may then become available for other projects.

29.6(2) Amount.

a. Grants and loans shall generally be awarded on the basis of the following chart:

Total Amount of Award	Minimum Loan %	Maximum Grant %
\$0 - 99,999	None	100%
\$100 - 199,999	10%	90%
\$200 - 299,999	20%	80%
\$300 - 399,999	30%	70%
\$400 - 499,999	40%	60%
\$500 - 599,999	50%	50%
\$600 - 699,999	60%	40%
\$700 - 799,999	70%	30%
\$800 - 899,999	80%	20%

b. The department reserves the right to provide any project a higher percentage of loan than indicated above. A higher percentage of grant may be provided only with a waiver of the rules by the department director upon a finding that the company being assisted would not be viable without such extra consideration.

29.6(3) Loan rate and terms. The interest rate to be applied to the loans shall be equal to the current "prime rate" on the day of the award, as published in the Wall Street Journal under "prime rate" as established by large commercial lending institutions. The term of the loan shall not exceed 15 years. The initial repayment may be deferred no longer than six months from the date of the award, or three months after drawdown of funds, whichever is later.

261—29.7(15E) Application procedure. Application materials may be obtained from the IDED Bureau of Business Finance, 200 East Grand Avenue, Des Moines, Iowa 50309, telephone (515)242-4819. A comprehensive business plan must accompany the application and shall include at least the following:

1. Marketing plan for the project;
2. Project budget and status of alternative financing (if applicable);
3. Production operations;
4. Management structure;
5. Personnel needs;
6. Description of product, process or practice;
7. Status of product/service development; and
8. Patent status (if applicable).

261—29.8(15E) Review process. Subject to availability of funds, applications are reviewed and rated by IDED staff on an ongoing basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. The applicant shall then have three weeks from the date of the IDED letter to submit the requested information. Applications will also be reviewed by the agricultural products advisory council on a regular basis. Recommendations from the IDED staff will be submitted to the director of the department for final approval, denial or deferral. Applicants shall be notified in writing within one week following the department's final action.

The department reserves the right to informally consult with external resources to assist in the evaluation of projects or to contract with outside consultants for the same purpose in an amount not to exceed \$20,000 per project.

261—29.9(15E) Deferral process. If all additional information requested is received within the three-week time frame, the application will be considered as soon as practicable thereafter. If information is not received in a timely manner, consideration will be delayed. If the department's request for additional information is not answered within 60 days of the date of the request, the application will be denied.

261—29.10(15E) Evaluation and rating criteria. The IDED staff shall evaluate and rank applications based on the following criteria:

29.10(1) For the innovative products and processes component:

a. The feasibility of the existing or proposed facility, process, or operation to remain a viable enterprise (0-40 pts.). Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

budget, financial projections, marketing analysis, marketing plan, management team, and production plan.

b. The degree to which the facility will increase the utilization of agricultural commodities produced in this state (0-20 pts.).

c. The extent to which the existing or proposed facility is located in a rural region of the state (0-10 pts.). Points will be awarded based on population as follows:

unincorporated area	10 pts.
incorporated, under 5,000	8 pts.
5,001 - 9,999	6 pts.
10,000 - 19,999	4 pts.
20,000 - 49,999	2 pts.
Over 50,000, incorporated area	0 pts.

d. The proportion of local match to be contributed to the project (0-10 pts.).

e. The level of need of the region where the existing facility is or the proposed facility is to be located (0-10 pts.). More points are awarded to those projects which exhibit greater need as measured by factors including, but not limited to, the following: regional unemployment rate, poverty level, or other measures of regional fiscal distress.

f. The degree to which the facility produces a coproduct which is marketed in the same locality as the facility (0-10 pts.).

A minimum score of 65 points is needed for a project to be recommended for funding.

**29.10(2)** For the renewable fuels component, the department shall give priority to supporting proposed renewable fuel production facilities which directly support livestock production operations. The highest priority shall be provided to a renewable fuel production facility which produces coproducts which are used to produce livestock raised in the same locality as the production facility. If the department has several proposals having the highest priority, a preference shall be given to a proposal in which the livestock operation:

a. Is located in an agricultural area as provided in Iowa Code chapter 352.

b. Is located in close proximity to and is an integral part of the renewable fuel production facility. However, the owner of the facility is not required to hold an interest in the land on which the livestock are produced. The livestock may be produced under the terms of a contract, in which a person regularly engaged in livestock production provides for the care and feeding of the livestock on behalf of the facility's owner.

**261—29.11(15E) Negotiation and award.** The department reserves the right to negotiate the amount, term, interest rate, and other conditions of the loan or grant prior to the award, subject to rule 261—29.6(15E).

**261—29.12(15E) Award process.** Upon approval by the director, the applicant business will receive an award letter which shall state the amount of award, conditions of the award, any security agreements, and the amount of monthly loan repayments, if applicable.

**261—29.13(15E) Contract.** Following notification of award, a contract will be prepared for execution between the applicant business owner and IDED. Business owners are subject to credit checks at this time. If judgments, federal tax liens, or state liens are found and not remedied within the time period required by the department, funding may be denied. After execution of the contract, the

business owner may request disbursement of funds on the form(s) prescribed by IDED.

**261—29.14(15E) Administration.**

**29.14(1)** Access to records. The department, at any and all reasonable times, during the term of the agreement with the business may enter the business during the course of, or following, the completion of the project for any purpose arising from the performance of the contracted project. The business shall make all books, papers, records and accounts of the company open and available for inspection and audit by the department or its representatives at any and all reasonable times.

**29.14(2)** Waiver. The department may waive or vary particular provisions of these rules to conform to requirements of the federal government in connection with a loan with respect to which federal assistance, insurance, or guaranty is sought, provided the waiver does not conflict with applicable state laws.

**29.14(3)** Repayment of loans. Payments are due on the first day of each month that payments are due. Late fees may be charged for payments received after the tenth day following the due date.

**261—29.15(15E) Default.** When a loan is in default for a period of 60 days, the department may notify the office of the attorney general and recommend appropriate action or refer the account to other collection procedures deemed appropriate by the department.

## ARC 4889A

### EDUCATION DEPARTMENT[281]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 257.42, the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 59, "Gifted and Talented Programs," Iowa Administrative Code.

The proposed amendment defines good cause for which the Department of Education may allow a local education agency to submit a gifted and talented program plan after the November 1 deadline established in Iowa Code section 257.45. The amendment requires local education agency notice to the Department of Education as soon as the agency knows it will miss the deadline for good cause, provides for the Department to establish a new deadline, and explains that permission to submit a plan after the deadline is for one application cycle only.

Any interested person may submit written or oral comments on the proposed amendment by addressing those comments to Leland Wolf, Consultant, Iowa Department of Education, Grimes State Office Building, Des Moines, Iowa, 50319-0146, telephone (515)281-3198, fax (515)242-6025, by July 27, 1994.

A public hearing on the proposed amendment will be held on July 27, 1994, from 1 p.m. to 2 p.m. in the State

## EDUCATION DEPARTMENT[281](cont'd)

Board Room, Second Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 257.45 as amended by 1994 Iowa Acts, Senate File 2201, section 2(2).

The following amendment is proposed.

Amend rule 281—59.3(257) by adding the following new paragraph at the end thereof:

The department of education may upon request allow a local education agency to submit program plans after November 1 for good cause. Good cause shall include illness or death of a local education agency staff member, acts of God, or unforeseeable circumstances which in the opinion of the director of the department of education constitute sufficient cause for allowing submission of program plans after November 1. A local education agency desiring permission to submit a program plan after November 1 shall notify the department of education staff member responsible for receiving applications as soon as possible upon determining that it will not be able to meet the November 1 deadline. When an extension of the submission deadline is allowed, the department of education shall establish a date by which the local education agency shall submit the plan. Permission to submit a program plan after November 1 shall expire upon receipt of the program plan by the department of education, and shall not carry over into subsequent application years.

## ARC 4887A

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 239.18, the Department of Human Services proposes to amend Chapter 41, "Granting Assistance," Chapter 46, "Overpayment Recovery," and Chapter 60, "Refugee Cash Assistance," appearing in the Iowa Administrative Code.

These amendments incorporate changes in the standard of need test which were implemented March 1, 1994, as mandated by the General Assembly.

1994 Iowa Acts, Senate File 2034, section 1, subsections 1 and 2, mandated the Department to apply the standard of need test on all welfare reform Family Assistance Program (FIP) applications before allowing a 50 percent work incentive deduction if a federal waiver to do so was approved.

The standard of need test was implemented effective March 1, 1994, after approval of the waiver by the federal Department of Health and Human Services (DHHS) as mandated by 1994 Iowa Acts, Senate File 2034, section 1, subsections 3 and 4.

In accordance with the legislation, eligibility for applicants under the standard of need test is determined without application of the 50 percent work incentive

deduction. All other appropriate deductions and diversions are given. Only when the household passes the standard of need test for the eligible group is the 50 percent work incentive deduction applied for the payment standard test.

Implementation of this change corrected an inadvertent increase in Medicaid eligibles in which the income limits used for eligibility are greater than income limits used for FIP.

In addition to the above change, a date is corrected in subrule 41.26(1) and subrule 60.5(5) is corrected to reflect the intent of that subrule.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 239.5 and 1994 Iowa Acts, Senate File 2034, section 1, subsections 1 and 2.

The following amendments are proposed.

ITEM 1. Amend subrule 41.26(1), paragraph "d," as follows:

d. An equity not to exceed a value of \$3000 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in 41.26(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of \$3000 of any vehicle shall be counted toward the resource limitation in 41.26(1)"e." When a motor vehicle(s) is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle(s).

Beginning ~~October 1, 1994~~ July 1, 1994, and continuing in succeeding state fiscal years, the motor vehicle equity value to be disregarded shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

ITEM 2. Amend rule 441—41.27(239) as follows:

Amend subrule 41.27(2), paragraph "c," as follows:

c. After deducting the allowable work expenses as defined in 41.27(2)"a" and "b," and income diversions as defined in subrules 41.27(4) and 41.27(8), 50 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each individual whose income must be considered is deducted in determining eligibility and the amount of the assistance grant. The 50 percent work incentive deduction is not time-limited. *Initial eligibility is determined without the application of the 50 percent work incentive deduction as described at 41.27(9)"a"(2) and (3).*

Amend subrule 41.27(8), paragraph "b," subparagraph (6), as follows:

(6) The stepparent shall be allowed the 50 percent work incentive deduction from monthly earnings. The deduction shall be applied to earnings that remain after all other deductions in 41.27(8)"b"(1) through (5) have been subtracted from the earnings. *However, the 50 percent work incentive deduction is not allowed when determining initial eligibility as described at 41.27(9)"a"(2) and (3).*

Amend subrule 41.27(9), paragraph "a," subparagraphs (2) and (3), as follows:

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other

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

month after assistance is approved, exceeds 185 percent of the standard of need for the eligible group, the application shall be rejected or the assistance grant canceled. Countable gross income means nonexempt gross income, as defined in 41.27(239), without application of any disregards, deductions, or diversions. When the countable gross nonexempt earned and unearned income in the month of decision equals or is less than 185 percent of the standard of need for the eligible group, initial eligibility *under the standard of need* shall then be determined. Initial eligibility *under the standard of need* is determined without application of the earned income disregards as specified in 41.27(2)"c" and 41.27(2)"e." All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the standard of need for the eligible group. When countable net earned and unearned income in the month of decision equals or exceeds the standard of need for the eligible group, the application shall be ~~rejected~~ *denied*.

(3) When the countable net income in the month of decision is less than the standard of need for the eligible group, the earned income disregards in 41.27(2)"c" and 41.27(2)"e" shall be applied when there is eligibility for ~~this disregard these disregards~~. When countable net earned and unearned income in the month of decision, after application of the earned income ~~disregard~~ *disregards* in 41.27(2)"c" and 41.27(2)"e" and all other appropriate exemptions, deductions, and diversions, equals or exceeds the payment standard for the eligible group, the application shall be ~~rejected~~ *denied*.

When the countable net income in the month of decision is less than the payment standard for the eligible group, the application shall be approved. The amount of the family investment program grant shall be determined by subtracting countable net income in the month of decision from the payment standard for the eligible group, except as specified in 41.27(9)"a"(4).

ITEM 3. Amend subrule 46.24(3), paragraph "a," as follows:

a. An overpayment due to client error shall be computed as if the information had been reported and acted upon timely. Exception: When the client, without good cause, as defined in 41.27(2)"d"(2), fails to report income earned as specified in 41.27(2)"d"(2), the deductions in 41.27(2)"a" and "b" shall not be allowed. However, the work incentive deduction in 41.27(2)"c" shall be allowed *except as described in 41.27(9)"a."*

ITEM 4. Amend subrule 60.5(5) as follows:

60.5(5) Income. Income is defined in rules 441—40.21(239) and 441—41.27(239) ~~except that applicants or recipients are not entitled to the \$30 or \$30 and one third disregards defined in subrule 41.27(2), paragraph "e."~~

## ARC 4899A

HUMAN SERVICES  
DEPARTMENT[441]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 234.6 and 1994 Iowa Acts, Senate File 2313, section 6, subsection 4, paragraph "c," and section 35, the Department of Human Services proposes to amend Chapter 49, "Transitional Child Care Assistance Program," Chapter 109, "Child Care Centers," Chapter 110, "Family and Group Day Care Homes," Chapter 130, "General Provisions," and Chapter 170, "Child Day Care Services," appearing in the Iowa Administrative Code.

These amendments make the following changes in policy governing the child day care program:

1. The transitional child care program is no longer restricted to providers who are licensed and registered. Federal regulations require parental choice of providers. This change also provides a more seamless child care system. The parents who are using nonregistered providers will no longer be required to change providers as they move from the Family Investment Program to Transitional Child Care.

2. Chapters 109 and 110 are amended to comply with changes involving age and school status of the children in day care as mandated by the General Assembly. Children now in half-day kindergartens will be considered school-age for registration purposes. School-age children will not be prohibited by state law from bringing their own food to a day care program.

3. New waiting list priority groups are implemented when funds are unavailable to serve all new applicants.

4. The waiting list language is updated to be consistent with welfare reform language.

5. Federal poverty guidelines and corresponding fee schedules are updated.

6. The requirement for a case plan when a child is receiving services for 30 days due to a parent's hospitalization or death is removed.

7. The requirement that providers serving families eligible for transitional child care be checked for compliance with registration requirements is removed.

8. A rate appeal process is established.

9. A method is prescribed for calculating a half-day rate.

10. The formula is updated for allocating day care funds to regional offices for fiscal year 1995.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 4900A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State

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

Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 239.21, 1994 Iowa Acts, Senate File 2313, section 6, subsections 3 and 4, and subsection 7, paragraph "b," and 1994 Iowa Acts, House File 2003, section 4.

**ARC 4902A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 217.6 and 234.6 and 1994 Iowa Acts, Senate File 2330, section 40, the Department of Human Services hereby amends Chapter 52, "Payment," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

These amendments increase the maximum and flat State Supplementary Assistance (SSA) residential care facility (RCF) reimbursement rate and the maximum in-home health-related care reimbursement rate by 3 percent. The maximum RCF reimbursement rate will be increased from \$19.82 to \$20.41 per day. The flat RCF reimbursement rate for facilities electing not to file cost reports will be increased from \$14.17 to \$14.60 per day. The maximum in-home health-related care rate will increase from \$390.15 to \$401.85 per month.

The Seventy-fifth Iowa General Assembly in 1994 Iowa Acts, Senate File 2313, section 25, subsection 2, directed the Department to increase the flat and maximum RCF reimbursement rates by 1 percent. The in-home health-related care reimbursement rate was to remain at the current level.

Iowa is required to comply with a federal "Pass-Along" requirement (commonly referred to as "maintenance of fiscal effort") under the SSA program. Iowa complies with this requirement by ensuring that total SSA expenditures in a calendar year equal or exceed total expenditures in the previous calendar year. In order to comply with the pass-along requirement in calendar year 1994, Iowa's total SSA expenditures (in calendar year 1994) must be at least \$18,688,000. Based on current projections (which include the 1 percent RCF reimbursement rate increase mandated by the General Assembly) the Department projects that calendar year 1994 expenditures will be approximately \$18,300,000 and the Department will fall short of meeting this requirement by approximately \$400,000.

However, if the Department projects that the federal "Pass-Along" will not be met, the Seventy-fifth General Assembly also authorized the Department in 1994 Iowa Acts, Senate File 2330, section 40, to make adjustments including, but not limited to, reimbursement rate adjustments to ensure that federal requirements are met. The

Department was also given emergency rule-making authority to implement these changes. The Department currently projects that a 3 percent increase in both the RCF and in-home health-related care reimbursement rates beginning July 1, 1994, will allow the Department to meet the "Pass-Along" requirement in calendar year 1994 while not exceeding the state fiscal year 1995 appropriation.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 4903A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 249.3 and 1994 Iowa Acts, Senate File 2330, section 40.

**ARC 4907A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, section 25, subsection 6, and section 35, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

These amendments implement the changes in Medicaid provider policy mandated by the Seventy-fifth General Assembly. The changes are as follows:

1. Nutritional counseling services by a licensed dietitian for recipients aged 20 and under when WIC services cannot meet the medically necessary needs are added. The services will be covered for current providers only.

2. A 10 percent reimbursement increase for obstetrical services provided by physicians or certified nurse midwives is implemented.

3. A 5 percent reimbursement increase for Early, Periodic, Screening, Diagnosis, and Treatment (EPSDT) screening services is implemented.

4. Reimbursement for hospital inpatient services is increased by an average of 4.2 percent, and reimbursement for skilled nursing facility services is increased by 4.9 percent.

5. The basis for establishing the maximum reimbursement rate for nursing facilities is set at the seventieth per-

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

centile of facility costs as calculated from the June 30, 1994, unaudited compilation of cost and statistical data. It is estimated the maximum per diem rate will increase from \$54.99 to \$57.

6. A new reimbursement system for outpatient hospital services is established based on ambulatory patient groups (APG) with retrospective adjustments so that the reimbursement made is within a 5 percent deviation of the lower of cost or charges for the services provided during the fiscal year ending June 30, 1995, as adjusted to reflect actual changes in inflation, increased insureds, utilization per insured, and acuity of service.

Language in the Department's appropriations bill during the 1993 legislative session directed the Department to seek a contractor to design and develop an outpatient reimbursement system. The Division of Medical Services issued an RFP in fiscal year 1994 for the procurement of the contractor and associated system development. Two proposals were submitted, both of which recommended the ambulatory patient groups (APG) methodology be implemented as the outpatient system. APGs are similar to a DRG-based system, although not identical.

During the past years, an ever increasing number of procedures are being performed in an outpatient setting as opposed to an inpatient setting, resulting in an increasing shift of moneys to the outpatient setting. The development of the inpatient DRG system has proved effective in controlling and reducing costs and lengths of stays associated with that setting. The current cost-based, retrospective reimbursement system for outpatient services does not offer similar controls and does not provide adequate incentive to hospitals to reduce costs in an outpatient setting. By establishing APG payment rates, allowing hospitals to know exactly how much will be received for services provided, incentives which work well in the inpatient setting can be transferred to the outpatient setting.

No other states have adopted the APG reimbursement systems and Medicare has been slow in the development of its program. Iowa will be the first state to try this type of reimbursement. Since previous data collection methodology did not anticipate APGs, there have been difficulties in conforming and analyzing data to support APGs, which have been a concern to hospitals. Hospitals are also concerned about the short implementation time frames and costs of purchasing associated software to process claims.

7. Reimbursement policy is revised for payment of emergency room services. All visits to hospital emergency rooms by Medicaid beneficiaries which do not result in inpatient admission shall result in the hospital receiving a payment, at a level to be determined by the department, for patient assessment. All treatment conducted in the emergency room for either a regular Medicaid recipient or a Medipass participant, for conditions defined as emergent in accord with diagnoses codes found in the provider manual, shall receive the appropriate APG payment plus the assessment payment. If a regular Medicaid patient is treated in the emergency room but does not have an emergency diagnosis, the hospital shall receive the assessment payment plus 50 percent of the APG payment. If the patient is assessed in the emergency room, found to be non-emergent and referred for further treatment to a hospital-based clinic, regular clinic, physician's office, or other similar site, only the assessment payment shall be made to the hospital for the emergency room. The responsible clinic or physician's office shall subsequently bill for any additional services provided.

For Medicaid beneficiaries participating in the Medipass Program, an assessment payment plus 50 percent of the full APG payment shall be paid for treatment of non-emergent conditions contingent upon documentation in the claim and medical record of permission or referral from the recipient's primary care physician. Should treatment for nonemergent conditions be provided to Medipass participants without this documentation, payment shall consist only of the assessment payment. When a Medipass patient is treated in a hospital-based clinic and that clinic is the Medipass patient manager, only the full APG payment will be made. When the patient is treated in a hospital-based clinic, the clinic is not the patient manager and has not obtained the permission of the recipient's patient manager to perform the treatment, no payment shall be made to the clinic.

The substance of these amendments is also Adopted and Filed Emergency herein as **ARC 4908A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

Oral presentations may be made by appearing at the following meeting. Written comments will also be accepted at that time.

Des Moines—July 28, 1994

1 p.m.

Des Moines Regional Office

City View Plaza, Conference Room 104

1200 University

Des Moines, Iowa 50314

These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, and section 25, subsection 1, paragraphs "b," "c," "d," "f," and "i."

## ARC 4909A

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b"; section 29, subsection 3; and section 35, the Department of Human Services proposes to amend Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," appearing in the Iowa Administrative Code.

These amendments provide that a person seeking admission to an intermediate care facility for the mentally

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

retarded (ICF/MR) shall be referred through an approved case management program and establish the conditions under which the Department will support new ICF/MR conversion or construction.

The General Assembly mandated that prior to placement in an ICF/MR, all persons shall be referred through an approved case management program. The case management program shall identify any appropriate alternatives to the placement and shall inform the persons of the alternatives. This change will provide more effective control of ICF/MR utilization and will ensure that persons are not referred to institutional placement unless appropriate alternatives are considered.

The General Assembly also added some flexibility to the current moratorium on new ICF/MR conversion or construction by adding two conditions under which the Department of Public Health and the Health Facilities Council could process applications and consider certificates of need as long as the new or changed bed does not result in an increase in the total number of Medicaid-certified ICF/MR beds in the state as of July 1, 1994, and a letter of support is provided by the director of the Department of Human Services and the county board of supervisors in the county in which the beds would be located.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 4910A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "c," and section 29.

**ARC 4911A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 6, and section 35, the Department of Human Services proposes to amend Chapter 88, "Managed Health Care Providers," appearing in the Iowa Administrative Code.

These amendments implement a managed mental health care system for most Medicaid recipients in Iowa. Policy is established for selecting and regulating a statewide

managed mental health care contractor for the Medicaid program.

Managed health care is the provision of specified health services through a contract with a company specializing in the management and delivery of these services. The contractor is responsible for assembling a panel of service providers to ensure that the specified health services are available to enrolled recipients. Payment to the contractor is made on a capitation basis. Enrollment in a managed health care program provides a single point of access for the enrolled recipient and provides coordinated quality care which emphasizes efficient use of services and preventive care.

Medicaid currently pays for mental health services to Family Investment Program (FIP) and FIP-related and Supplemental Security Income (SSI) and SSI-related eligible persons. FIP and FIP-related eligible persons in 14 Iowa counties have the option of receiving managed health care through Health Management Organizations (HMOs). This choice includes the management of Medicaid mental health services.

Although some Medicaid-eligible persons are currently receiving managed mental health care through an HMO, these are persons (nonSSI-eligibles) who traditionally need less frequent and less intensive mental health services. The philosophy of specialized mental health care managers differs in that efficiencies for a more acute population are realized by the development of a more comprehensive continuum of community-based service alternatives as a preventive strategy as well as an alternative to the more expensive inpatient acute services which are frequently used.

These amendments provide that most of the 220,000 Medicaid-eligible adults and children will be covered by the managed mental health care contract except Medically Needy recipients with a spenddown and persons who choose to enroll in an HMO; reside in a psychiatric medical institution for children or intermediate care facility for persons with mental retardation; are committed to a state mental health institute; or are 65 years of age or older. HMOs have the option of subcontracting with the managed mental health care contractor to provide mental health services to their enrollees.

Current Medicaid mental health services include inpatient and outpatient psychiatric services, outpatient psychotherapy services, day treatment, partial hospitalization and targeted case management services. Managed mental health care services will include the current services in addition to outpatient substance abuse counseling, crisis residential services, outpatient medication management, and supported living services. Supported living services include 24-hour crisis services, community skill training, social rehabilitation services, development of personal support networks, and supportive counseling services.

Currently, Medicaid providers bill the Department when a service is provided to a Medicaid client. Under this program, the MMHCP contractor will be responsible for the specified set of mental health-related services to the targeted Medicaid population, and will be responsible for arranging a network of service providers to deliver these services. These providers enter into agreements with the MMHCP contractor and bill the contractor directly for services provided. Current mental health providers do not have to become a member of the MMHCP's provider network, but Medicaid will no longer pay for these services to the targeted Medicaid population except through the MMHCP. Becoming a member of the

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

MMHCP network will be much like being a participating provider in an HMO, but only for mental health services.

Some services traditionally funded in part by counties will now be paid by state and federal funds. This will include services such as community mental health center community support programs, Medicaid case management for persons with chronic mental illness and day treatment and partial hospitalization for adults. Counties will retain the authority to choose the Medicaid-targeted case management provider. Managed mental health care providers manage Medicaid-funded mental health services but have no authority to authorize admissions to county-funded, community-based services which have traditionally been authorized by county boards or their representatives. Counties will have the option of negotiating a separate contract with the MMHCP contractor to manage their own mental health programs.

The state will contract for mental health service with a single contractor who will be responsible for statewide services. The contract will be between \$50 and \$60 million. Savings to be realized through the MMHCP have been estimated at \$2 million in state funds, \$4 million in federal funds, and at least \$750,000 in county funds in the first contract year. Actual savings will depend upon the bid submitted by the selected contractor.

The substance of these amendments is Adopted and Filed Emergency herein as **ARC 4912A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

Oral presentations may be made by appearing at the following meetings. Written comments will also be accepted at these times.

- |   |         |
|---|---------|
| Cedar Rapids—July 29, 1994<br>Cedar Rapids Regional Office<br>Sixth Floor Conference Room<br>Iowa Building - Suite 600<br>411 Third Street, S. E.<br>Cedar Rapids, Iowa 52401 | 10 a.m. |
| Council Bluffs—July 27, 1994<br>Council Bluffs Regional Office, Lower Level<br>417 E. Kanessville Boulevard<br>Council Bluffs, Iowa 51501                                     | 10 a.m. |
| Davenport—July 28, 1994<br>Davenport Area Office<br>Bicentennial Building - Fifth Floor<br>Conference Room 3<br>428 Western<br>Davenport, Iowa 52801                          | 10 a.m. |
| Des Moines—July 27, 1994<br>Des Moines Regional Office<br>City View Plaza, Conference Room 104<br>1200 University<br>Des Moines, Iowa 50314                                   | 10 a.m. |
| Mason City—July 28, 1994<br>Mason City Area Office<br>Mohawk Square, Liberty Room<br>22 North Georgia Avenue<br>Mason City, Iowa 50401  | 10 a.m. |

Ottumwa—July 27, 1994 Ottumwa Area Office Conference Room 120 East Main Ottumwa, Iowa 52501	10 a.m.
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Sioux City—July 27, 1994 Sioux City Regional Office Suite 624 507 7th Street Sioux City, Iowa 51101	1 p.m.
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Waterloo—July 27, 1994 Waterloo Regional Office Pinecrest Office Building, Conference Room 201 1407 Independence Avenue Waterloo, Iowa 50703	10 a.m.
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These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 6.

**ARC 4914A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 234.6 and 1994 Iowa Acts, Senate File 2313, section 25, subsection 6, and section 35, the Department of Human Services proposes to amend Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

These amendments specify when a social service provider will be considered to be offering a new service. Language in the Department's appropriation bill provides that rates for social service providers shall be the same as the rates in effect on June 30, 1994, unless a new service was added after June 30, 1994, or if a social service provider loses a source of income used to determine the reimbursement rate for the provider. The purpose of this amendment is to provide guidance to providers and Departmental staff in determining what constitutes a new service. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

For adoption, the only time a provider shall be considered to be offering a new service is if the provider adds the adoptive home study, the adoptive home study update, placement services and postplacement services for the first time.

For local purchase services, a provider shall be considered to be offering a new service when adding a service not currently purchased under the social services contract. For example, the contract currently is for adult support, and the provider adds a residential service.

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

For shelter care, if the provider is currently offering shelter care under social services contract, the only time the provider shall be considered to be offering a new service is if the provider adds a service other than shelter care.

For family planning, the only time the provider shall be considered to be offering a new service is when a new unit of service is added by administrative rule.

For independent living, the only time a provider shall be considered to be offering a new service is if it is an independent living arrangement, either a cluster site or a scattered site, which was not previously offered.

If the Department defines, in administrative rule, a new service as a social service that may be purchased, this shall constitute a new service for purposes of establishment of a rate. Once the rate for the new service is established, the rate will be subject to any limitations established by administrative rule or law.

The substance of these amendments is Adopted and Filed Emergency herein as **ARC 4915A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 25, subsection 5.

2. The maximum start-up allowance for children in independent living is increased from \$250 to \$400.

3. The state funds available for reimbursement of shelter care are decreased from \$6,889,756 to \$6,710,720 for fiscal year 1995.

4. Policy is added to provide that the Department shall not certify any additional enhanced residential treatment beds except those beds for which applications for certification were received on or before February 1, 1994, unless the director approves the beds as necessary, based on the type of children to be served and the location of the enhanced residential treatment beds.

5. The formula for allocating a portion of the state-wide target for the average number of children placed in group foster care services to each of the Department's regions is revised.

In addition these amendments allow the area administrator, rather than the regional administrator, to approve the placement of a child in independent living and rescind the requirement for having regional out-of-state placement committees.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 4917A**.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code sections 232.143, 234.6, and 234.38, 1993 Iowa Acts, Chapter 172, sections 37 and 48, and 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, and section 25, subsection 4.

**ARC 4916A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 234.6 and 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, section 25, subsections 4 and 6, and section 35, the Department of Human Services proposes to amend Chapter 156, "Payments for Foster Care and Foster Parent Training," Chapter 185, "Rehabilitative Treatment Services," Chapter 201, "Subsidized Adoptions," and Chapter 202, "Foster Care Services," appearing in the Iowa Administrative Code.

These amendments implement the following changes mandated by the General Assembly:

1. The maximum foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children aged 0 through 5 years is increased to maintain 67.75 percent of the United States Department of Agriculture's estimate of the cost to raise a child in 1994.

**ARC 4918A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 234.6 and 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2, and section 35, the Department of Human Services proposes to amend Chapter 163, "Adolescent Pregnancy Prevention and Services to Pregnant and Parenting Adolescents Program," appearing in the Iowa Administrative Code.

These amendments revise the grant programs for adolescent pregnancy prevention as mandated by the General Assembly. Existing grant categories are revised and two new grant categories, a statewide adolescent pregnancy prevention campaign and a statewide assessment or evaluation, are added. The General Assembly appropriated \$652,451 to be used for the adolescent pregnancy pre-

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

vention grants, including not more than \$152,451 for programs to be used to prevent second or subsequent pregnancies during the adolescent years and to provide support services for pregnant or parenting adolescents.

These amendments also add a new community adolescent pregnancy prevention program as mandated by the General Assembly. An additional \$300,000 was appropriated to be used for grants to community or regional groups to provide programs focusing on the prevention of initial pregnancies during the adolescent years by emphasizing sexual abstinence as the only completely safe and effective means of avoiding pregnancy and sexually transmitted diseases and by providing information regarding the comparative failure rates of contraceptives, and by emphasizing responsible decision making in relationships, managing of peer and social pressures, development of self-esteem, the costs and responsibilities of parenting, and information regarding the alternative of adoption for placement of a child.

These amendments reduce the funding for services to pregnant and parenting adolescents and increase funding for prevention.

Projects selected for the adolescent pregnancy prevention, services to pregnant and parenting adolescents, adolescent pregnancy prevention statewide campaign, and adolescent pregnancy evaluation grants will be eligible for noncompetitive funding for three years, pending availability of funds and satisfactory progress toward program goals. After three years, projects must competitively bid for refunding. Projects funded under the community adolescent pregnancy prevention grants are eligible for funding for up to nine years. An increasing grantee match will be required. A 10 percent grantee match will be required year one and the match will increase by 10 percent each year up to year nine. In-kind matches may be applied toward the grantee match.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 4919A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before July 27, 1994.

These amendments are intended to implement Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2.

**ARC 4935A****LABOR SERVICES DIVISION[347]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 88.5 and 17A.3(1), the Labor Commissioner hereby gives No-

tice of Intended Action to amend Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code.

The amendments relate to reporting fatalities and catastrophes and a technical correction.

If requested by July 26, 1994, a public hearing will be held on July 28, 1994, at 9 a.m. in the Office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed amendments. Written data or arguments to be considered in adoption may be submitted by interested persons no later than July 28, 1994, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

The Division has determined that this Notice of Intended Action may have an impact on small business. These amendments will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

The Division will issue a regulatory flexibility analysis as provided by Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than July 27, 1994, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

These amendments are intended to implement Iowa Code section 88.5.

The following amendments are proposed.

ITEM 1. Rescind rule 347—4.8(88) and insert the following **new** rule in lieu thereof:

**347—4.8(88) Reporting of fatality or multiple hospitalization incidents.**

**4.8(1)** Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the employer of any employees so affected shall orally report the fatality/multiple hospitalization by telephone or in person to the IOSH Administrator, Iowa Division of Labor, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209, 1-800-JOB-IOWA. After working hours, reports may be reported to a message center at 1-515-281-----.

**4.8(2)** This rule applies to each fatality or hospitalization of three or more employees which occurs within 30 days of an incident.

**4.8(3)** Each report required by this section shall relate the following information: establishment name, location of incident, time of incident, number of fatalities or hospitalized employees, contact person, telephone number, and a brief description of the incident.

**4.8(4)** Exception: If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under subrules 4.8(1) and 4.8(2), the employer shall make the report within eight hours of the time the incident is reported to any agent or employee of the employer.

ITEM 2. Amend rule 347—4.19(88), paragraph "2," to read:

## LABOR SERVICES DIVISION[347(cont'd)]

2. Obligation to maintain a log of occupational injuries and illnesses under 347—4.14(88), upon being notified in writing by the ~~division of labor services~~ *United States Bureau of Labor Statistics* that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses; and

**ARC 4933A****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

The proposed amendments:

1. Establish George Wyth as a recreation area.
2. Provide special restrictions and conditions for the hunting of deer with bow and arrow in George Wyth.

Any interested person may make written suggestions or comments on the proposed amendments prior to August 11, 1994. Such written material 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; TDD (515)242-5967. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at its office on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 11, 1994, at 7 p.m. in the Hartman Reserve Nature Center, 657 Reserve Drive, Cedar Falls, Iowa. 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 amendments.

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.

These amendments are intended to implement Iowa Code sections 455A.4, 461A.3, 461A.35, 461A.38, 461A.43, 461A.45 to 461A.51 and 461A.57.

The following amendments are proposed.

ITEM 1. Amend 571—61.2(461A), definition of "recreation areas," as follows:

"Recreation areas" means the following areas that have been designated by action of the natural resource commission: Badger Creek Recreation Area, Madison County; Brushy Creek Recreation Area, Webster County; *George Wyth Recreation Area, Black Hawk County*; Lake Darling

*Recreation Area, Washington County*; Mines of Spain Recreation Area, Dubuque County; Pleasant Creek Recreation Area, Linn County; Volga River Recreation Area, Fayette County; and Wilson Island Recreation Area, Harrison County.

ITEM 2. Amend 571—61.6(461A) by adding a **new** subrule as follows:

**61.6(5)** George Wyth Recreation Area, Black Hawk County. Except for use of bow and arrow for the taking of deer as provided in 571—Chapter 105, all conditions and limitations on use, hours and prohibited acts set forth in Iowa Code chapter 461A and elsewhere in this chapter shall apply to George Wyth Recreation Area. During the dates of deer hunting provided for in 571—105.4(2)"f," persons engaged in deer hunting shall use only the area open to deer hunting as described in 571—105.4(2)"h."

**ARC 4932A****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 105, "Deer Population Management Areas," Iowa Administrative Code.

The proposed amendments:

1. Establish a deer management unit in the Cedar Falls/Waterloo area.
2. Establish the Iowa Army Ammunitions Plant as a deer management unit.
3. Provide special restrictions and conditions on hunting in the two new areas.

Any interested person may make written suggestions or comments on the proposed amendments prior to August 11, 1994. Such written material 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; TDD (515)242-5967. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at its office on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 11, 1994, at 7 p.m. in the Hartman Reserve Nature Center, 657 Reserve Drive, Cedar Falls, Iowa. 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 amendments.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility im-

## NATURAL RESOURCE COMMISSION[571](cont'd)

pairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.7, 481A.39, 461A.3, and 455A.4.

The following amendments are proposed:

ITEM 1. Amend 571—Chapter 105 by striking "(109)" and inserting "(481A)" wherever it appears.

ITEM 2. Amend 571—Chapter 105 by striking "(111)" and inserting "(461A)" wherever it appears.

ITEM 3. Amend 571—105.2(481A) as follows:

**571—105.2(481A) Definitions.**

"Area" means recreation areas as designated in 571—61.2(461A).

"Department" means department of natural resources.

"Special deer management unit" means defined units of public and private land.

ITEM 4. Amend 571—105.3(481A) by adding the following new subrules:

**105.3(2)** Cedar Falls/Waterloo Deer Management Unit.

**105.3(3)** Iowa Army Ammunition Plant Deer Management Unit.

ITEM 5. Amend 571—105.4(481A) by adding the following new subrules:

**105.4(2)** Cedar Falls/Waterloo Deer Management Unit.

a. Defined as public and private land within the area beginning at the intersection of U.S. Highway 63 and Dunkerton Road; west on Dunkerton Road to Waverly Road; north on said road to West Cedar Wapsie Road; west on said road to Union Road; south on said road to U.S. Highway 20; east on said road to Iowa Highway 58; south on said road to Shaulis Road; east on said road to U.S. 63; north on said road to U.S. Highway 20; east on said road to the Cedar River; north and west along the Cedar River to U.S. Highway 63; north on said road to Dunkerton Road.

b. A maximum of 100 antlerless-archery licenses to be issued by the conservation officer and Cedar Falls and Waterloo city policy departments on a first-come, first-served basis.

c. Every hunter must have in possession a current paid special antlerless-archery-only deer license for the Cedar Falls/Waterloo Deer Management Unit only.

d. Special antlerless-archery-only deer license for Cedar Falls/Waterloo shall cost \$25, shall be limited to one person, and shall be issued to Iowa residents only.

e. All state archery regulations as provided in 571—106.3(1) and 571—106.7(1) shall apply, except deer hunting season in George Wyth Recreation Area shall be November 1 through December 2, 1994, and December 19, 1994, through January 10, 1995.

f. All bow hunters must demonstrate archery proficiency and be approved by the appropriate police department and conservation officer.

g. Deer hunting in George Wyth Recreation Area shall be in that portion of the area 50 yards south of the paved recreation trail as posted.

**105.4(3)** Iowa Army Ammunition Plant (IAAP) Deer Management Unit.

a. Defined as all federal land administered by the IAAP.

b. A maximum of 500 antlerless licenses to be issued by the IAAP on a first-come, first-served basis.

c. Every hunter must have in possession a current paid special antlerless deer license for the IAAP only.

d. Special antlerless deer licenses will be valid for the IAAP only and must comply with all applicable regulations provided in 571—Chapter 106.

e. Special antlerless-only deer licenses for the IAAP deer management unit shall cost \$25, shall be limited to one person and shall be issued to Iowa residents only.

f. All hunters must comply with IAAP requirements.

## ARC 4896A

### NURSING BOARD[655]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 147.80, the Iowa Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments eliminate the requirement for a money order or certified check and allow the submission of a personal check for licensure verification. The amendments provide consistency in application requirements for nurses educated in another country with applicants educated in the United States.

Any interested person may make written comments or suggestions on or before July 26, 1994. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 1223 East Court Avenue, by appointment.

These amendments are intended to implement Iowa Code sections 147.80 and 152.7.

The following amendments are proposed.

ITEM 1. Amend rule 655—3.1(17A,147,152,272C), definition of "Fees," paragraph "4," to read as follows:

4. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state, \$12. This fee shall be paid by certified check, *personal check*, money order or commercial check; if paid in person in the board office, the fee may be paid in cash. ~~No personal checks shall be accepted as payment.~~

ITEM 2. Amend subrule 3.2(2), paragraph "d," to read as follows:

d. A nurse who holds an active license in ~~another~~ any state or who has completed a nursing education course of study in another country, ~~who is providing~~ provides nursing services incidental to a course of study while enrolled in an approved nursing education program.

## NURSING BOARD[655](cont'd)

ITEM 3. Rescind subrule 3.4(6) and adopt the following **new** subrule in lieu thereof:

**3.4(6) Application**—individuals educated in another country. Application for examination as a registered nurse/licensed practical nurse in Iowa shall be made according to the following process:

a. The board is responsible for the following:

(1) Upon request, the board shall send to the applicant a "Request to Apply for Iowa Licensure by Examination for Individuals Educated in Another Country" and filing instructions.

(2) Evaluation of credentials to determine that the applicant has met all qualifications for licensure by examination.

(3) The board shall confirm or deny the eligibility of each applicant for licensure upon receipt of the following materials:

Completed application form (submitted by the applicant).

Original license fee (submitted by the applicant).

Notification of completion of the NCLEX registration process (confirmed by NCLEX).

Official nursing transcript denoting date of entry and date of graduation (submitted by the Commission on Graduates of Foreign Nursing Schools [CGFNS]). The board, if it determines a waiver is warranted because of circumstances beyond the applicant's control, shall issue a waiver and designate conditions which must be met.

Validation of licensure/registration in the native country (submitted by CGFNS).

Official verification of certificate status for individuals applying for registered nurse licensure (submitted by CGFNS).

A Nursing and Science Course by Course Report for individuals applying for practical nurse licensure who have not earned CGFNS certificate status (submitted by CGFNS).

Verification of the ability to read, write, speak, and understand the English language as determined by the results of the Test of English as a Foreign Language (TOEFL) for individuals applying for practical nurse licensure who have not earned CGFNS certificate status. The TOEFL passing standard shall be determined by the board.

(4) Board of nursing approval shall be required prior to confirmation or denial of eligibility by the board office for individuals applying for practical nurse licensure who have not earned CGFNS certificate status.

b. The applicant educated in another country is responsible for the following:

(1) Submission of a completed licensure application form.

(2) Submission of the original license fee, made payable to the Iowa Board of Nursing. The fee, as outlined in rule 3.1(17A, 147, 152, 272C), is not refundable.

(3) Submission to NCLEX of a completed NCLEX registration and registration fee.

(4) Submission of an official nursing transcript as outlined in 3.4(6)"a"(3). The transcript shall be submitted by CGFNS for individuals applying for licensure after July 1, 1995.

(5) Validation of licensure/registration in the native country. Validation shall be submitted by CGFNS for individuals applying for licensure after July 1, 1995.

(6) Official verification of CGFNS certificate status for individuals applying for registered nurse licensure.

(7) Submission of a Nursing and Science Course by Course Report issued by the CGFNS Credentials Evalu-

ation Service (CES) for individuals applying for practical nurse licensure after July 1, 1995, who have not earned CGFNS certificate status.

(8) Verification of the ability to read, write, speak, and understand the English language as determined by the TOEFL for individuals applying for practical nurse licensure after July 1, 1995, who have not earned CGFNS certificate status.

(9) Informing the board of the applicant's current mailing address.

(10) Self-scheduling the NCLEX examination at an approved testing center within 60 days of NCLEX authorization to test.

**ARC 4897A**

## NURSING BOARD[655]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 147.76, the Iowa Board of Nursing hereby gives Notice of Intended Action to amend Chapter 7, "Advanced Registered Nurse Practitioners," Iowa Administrative Code.

These amendments implement 1994 Iowa Acts, Senate File 2053, to provide for the advanced registered nurse practitioner to direct, order, or discharge the use of prescriptive drugs and devices including controlled substances. The amendments reduce the number of advanced registered nurse categories from 11 specific to 4 broad inclusive categories.

Any interested person may make written comments or suggestions on or before July 26, 1994. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515)281-3256 or in the Board office at 1223 East Court Avenue, by appointment.

Also, there will be a public hearing held at 7 p.m. on July 26, 1994, in the auditorium of the Wallace State Office Building, East 9th and Grand Avenue, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 147.107(6) and 1994 Iowa Acts, Senate File 2053.

The following amendments are proposed.

ITEM 1. Amend **655—Chapter 7** by striking "258A" wherever it appears and inserting "272C" in its place to conform with renumbering of the 1993 Iowa Code.

ITEM 2. Rescind rule 655—7.1(152) and adopt the following **new** rule in lieu thereof:

#### **655—7.1(152) Definitions.**

"Advanced registered nurse practitioner" (ARNP) is a nurse with current licensure as a registered nurse in Iowa

## NURSING BOARD[655](cont'd)

who is registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through an organized postbasic program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings which provide for consultation, collaborative management, or referral.

"Basic nursing education" as used in this chapter is a nursing program that prepares a person for initial licensure to practice nursing as a registered nurse.

"Board" as used in this chapter means Iowa board of nursing.

"Certified clinical nurse specialist" is an ARNP prepared at the master's level who possesses evidence of current certification as a clinical specialist in an area of nursing practice by a national professional nursing association as approved by the board.

"Certified nurse-midwife" is an ARNP educated in the disciplines of nursing and midwifery who possesses evidence of current certification by a national professional nursing association approved by the board. The certified nurse-midwife is authorized to manage the care of normal newborns and women, antepartally, intrapartally, postpartally or gynecologically.

"Certified nurse practitioner" is an ARNP educated in the disciplines of nursing who has advanced knowledge of nursing, physical and psychosocial assessment, appropriate interventions, and management of health care, and who possesses evidence of current certification by a national professional nursing association approved by the board.

"Certified registered nurse anesthetist" is an ARNP educated in the disciplines of nursing and anesthesia who possesses evidence of current certification by a national professional nursing association approved by the board.

"Controlled substance" is a drug, substance, or immediate precursor in Schedules I through V of division II, Iowa Code chapter 124.

"Fees" means those fees collected which are based upon the cost of sustaining the board. The fees set by the board are as follows:

1. For a license registration or renewal to practice as an ARNP, \$16 per year or any period thereof.
2. For a duplicate registration card/original certificate to practice as an ARNP, \$15.
3. For ARNP late renewal, \$10 plus the renewal fee.
4. For ARNP delinquent registration fee, \$50 plus all renewal fees to date due.
5. For a check returned for any reason, \$10.

"National professional nursing association" is a professional nursing organization which meets the standards of the American Nurses Credentialing Center or other agency approved by the board. Agencies approved by the board include, but are not limited to, the American College of Nurse-Midwives, Council on Certification of Nurse Anesthetists, National Certification Board of Pediatric Nurse Practitioners and Nurses, and the National Certification Corporation for the Obstetric, Gynecologic, and Neonatal Nursing Specialties.

"Prescriptive authority" is the authority granted to an ARNP registered in Iowa in a recognized nursing specialty to direct, order, or discharge the use of prescription drugs and devices, when the nurse is engaged in the practice of that nursing specialty. Registration with the Feder-

al Drug Enforcement Administration and the Iowa board of pharmacy examiners extends this authority to controlled substances.

ITEM 3. Amend subrule 7.2(1) by striking paragraphs "a" to "k" and inserting in lieu thereof the following new paragraphs, "a" to "d":

- a. Certified clinical nurse specialist.
- b. Certified nurse-midwife.
- c. Certified nurse practitioner.
- d. Certified registered nurse anesthetist.

ITEM 4. Amend subrule 7.2(5) by striking paragraph "b," including subparagraphs (1) and (2), and inserting in lieu thereof the following new paragraph "b":

b. The registered nurse shall be issued a registration card and a certificate to practice as an ARNP which clearly denotes the name, title, specialty area(s) of nursing practice, and expiration date of registration. The expiration date shall be based on the same period of license to practice as a registered nurse.

## ARC 4924A

PUBLIC HEALTH  
DEPARTMENT[641]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 1993 Iowa Acts, chapter 158, section 3, the Department of Public Health hereby gives Notice of Intended Action to adopt a new Chapter 201, "Organized Delivery Systems," Iowa Administrative Code.

The purpose of this new chapter is to implement 1993 Iowa Acts, chapter 158, section 3, as passed by the Seventy-fifth General Assembly. This chapter provides for a licensing procedure for organized delivery systems and provides for state action immunity for those arrangements which may be a violation of antitrust laws.

1993 Iowa Acts, chapter 158, directed the Department to draft these rules in consultation with the health care reform project. The Health Care Reform Council finished their work in December 1993 at which time the Department invited the subcommittee on Accountable Health Plans to serve as an advisory group to the department in the drafting of these rules. A smaller work group was also formed to assist in the drafting of these rules. These two groups have met a total of seven times and have provided valuable comment during the drafting of these rules.

Any interested person may make written suggestions or comments on this proposed chapter prior to August 18, 1994. Comments should be directed to Barb Nervig, Organized Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

Also, there will be a public hearing on August 17, 1994, from 8:15 to 11 a.m. The public hearing will be

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

held over the Iowa Communication Network (ICN), accessing several sites around the state at the same time. Individuals wishing to make oral presentations may do so at any of the following locations:

Western Iowa Tech Community College, Building D, Room 126, 4647 Stone Avenue, Sioux City;

Iowa Western Community College, Lee DeForest Hall, Room B145, 2700 College Road, Council Bluffs;

North Iowa Area Community College, Activity Center, Room 106, 500 College Drive, Mason City;

Kirkwood Community College, 6301 Kirkwood Blvd. S.W., Linn Hall, Room 202, Cedar Rapids;

Iowa Public Television, 6450 Corporate Drive, Johnston.

These rules are intended to implement 1993 Iowa Acts, chapter 158, section 3.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 4923A**. The content of that submission is incorporated by reference.

**ARC 4936A****PUBLIC SAFETY  
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby gives Notice of Intended Action to amend Chapter 16, "State of Iowa Building Code, Iowa Administrative Code.

These amendments include the addition of language to the State of Iowa Building Code which would bring the State of Iowa into compliance with a federal requirement regarding energy efficiency in commercial construction. The federal requirement, which is contained in the Energy Policy Act of 1992 (P.L. 102-486) and which takes effect October 24, 1994, requires states to require that new commercial construction meet or exceed the requirements of Standard 90.1-1989 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). This standard establishes minimum requirements for energy efficiency in the design and construction of new buildings except for low-rise residential buildings. Adoption of this language has been recommended to the Building Code Commissioner by the Energy Bureau of the Iowa Department of Natural Resources and the Iowa Building Energy Standards and Codes Advisory Committee to the Energy Bureau. Additional amendments organize the energy conservation division (Division VIII) of the State of Iowa Building Code to enhance its ease of use by those responsible for complying with or enforcing its provisions.

A public hearing on these proposed amendments will be held on August 4, 1994, at 10:30 a.m., in the First

Floor Conference Room (north half) of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Building Code Bureau, State Fire Marshal Division, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, or by telephone at (515)281-5132, at least one day prior to the public hearing. Any written comments or information regarding these rules should be directed to the Building Code Bureau at the address indicated. Persons who wish to convey their views orally may contact the Building Code Bureau by telephone or in person at the Bureau office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code section 103A.7 and Public Law 102-486.

The following amendments are proposed.

ITEM 1. Amend rule 661—16.800(103A) as follows:

Rescind subrule 16.800(1) and insert in lieu thereof the following **new** subrule:

**16.800(1)** Scope. Rules 661—16.800(103A) to 661—16.802(103A) establish thermal and lighting efficiency standards for the design of new buildings and structures or portions thereof and additions to existing buildings which provide facilities or shelter intended primarily for human occupancy or use by regulating their exterior envelopes and selection of their heating, ventilation, and air-conditioning systems, service water heating, electrical distribution and illuminating systems and equipment for the efficient use of energy.

Rescind subrule 16.800(2) and insert in lieu thereof the following **new** subrule:

**16.800(2)** Applicability. Rules 661—16.800(103A) to 661—16.802(103A) apply to design and construction of buildings which provide facilities or shelter intended primarily for human occupancy or use throughout the state of Iowa. Rule 661—16.801(103A) establishes standards for design and construction of low-rise residential buildings. Rule 661—16.802(103A) establishes standards for nonresidential and high-rise residential design and construction.

NOTE: In any case in which the language of a code adopted herein by reference is in conflict with these rules or the Code of Iowa, the language of these rules or the Code of Iowa shall prevail.

Amend subrule 16.800(3) as follows:

~~**16.800(3)** Adoption.~~

**661—16.801(103A) Adoption of residential energy code.** The Model Energy Code, 1992 edition, chapters 1 through 7 and including all charts, figures, and appendices, as published by the Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041, is adopted by reference as ~~herein amended as Division VIII~~ **the residential energy code** of the Iowa state building code, *applicable to low-rise residential construction after October 15, 1994, with the following amendments:* ~~The provisions of these rules or state statutes shall prevail when they differ from the referenced code.~~

Amend subrule **16.800(4)** by rescinding the subrule number, catchwords, and introductory paragraph and by renumbering paragraphs "a" to "n" as subrules **16.801(1)** to **16.801(14)**.

Amend renumbered subrules 16.801(4) and 16.801(8) as follows:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**16.801(4)** Add to section 103 the following:

Procedures for *obtaining approval* of alternate materials and methods of construction acceptance are *specified* in rule 680 661—16.3(103A) of the Iowa Administrative Code.

**16.801(8)** Delete the exception to section 402.5 and replace it with the following:

EXCEPTION: Except for a comparison of energy consumption between the alternative design and the standard design, single and multifamily dwellings are exempt. ~~Commercial and industrial structure having a volume of heated or cooled space of less than one hundred thousand cubic feet and the indoor temperature is controlled from a single point are exempt from the full year energy analysis described in paragraph 402.3; however, a comparison of energy consumption between the alternative design and the standard design shall be provided.~~

ITEM 2. Amend 661—Chapter 16 by adding the following new rule:

**661—16.802(103A) Adoption of nonresidential energy code.** The 1993 codified version of "ASHRAE/IES 90.1-1989, Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings," including appendices a, b, c, and d, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle N.E., Atlanta, Georgia 30329-2398, is adopted by reference as the nonresidential energy code of the state of Iowa building code, applicable to nonresidential or high-rise residential construction within the state of Iowa after October 15, 1994, with the following amendments:

**16.802(1)** Article 101 is amended by adding the following exception:

(4) Exemptions to applicability of the nonresidential and high-rise residential energy code to other buildings or classes of buildings shall be requested from the commissioner in writing. Exemptions will be granted if the commissioner determines that the requirements are unreasonable as they apply to a particular building or class of buildings based upon the data supplied with the written request or additional data requested by the commissioner.

**16.802(2)** Article 101 is further amended by adding the following new section 101.1:

101.1 Application to Existing Buildings.

101.1.1 Additions to existing buildings. Additions to existing buildings may be made without requiring the entire building or structure to comply. Additions to buildings or structures shall be constructed in conformance with the provisions of this standard which apply to new construction.

101.1.2 Historic buildings. Historic buildings are exempt from the provisions of this standard. For purposes of this rule, a "historic building" is a building which has been specifically designated as historic pursuant to Iowa Code section 103A.42 or which has been included in the National Register of Historic Places or has been determined to be eligible for such a listing.

101.1.3 Change of occupancy. A change of occupancy or use of an existing building or structure constructed under this code which would result in an increase in demand for either fossil fuels or electrical energy supply shall not be permitted unless the building or structure complies with the provisions of this code.

101.1.4 Mixed occupancy. When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein.

EXCEPTION: When minor accessory uses occupy no more than 10 percent of the area of any floor of a building, the major use shall be considered the building occupancy.

101.1.5 Occupancy. The occupancies and uses of all buildings shall follow the definitions established in the Uniform Building Code, 1988 edition, published by the International Conference of Building Officials.

**16.802(3)** Article 102 is amended by adding the following unnumbered paragraph at the end of the article:

Alternate materials and methods of construction. Procedures for the approval of alternate materials and methods of construction are established in rule 661—16.3(103A).

**16.802(4)** Article 105 is amended by adding the following unnumbered paragraph at the end of the article:

Code compliance. All materials and equipment used to comply with the requirements of this standard shall meet the minimum requirements established in this chapter or other applicable building codes.

**16.802(5)** Article 106 is amended by omitting the introductory paragraph and inserting the following new sections in lieu thereof:

106.1 General requirements. Nothing in these rules shall be interpreted to alter the requirements established in Iowa Code chapters 542B and 544A, pertaining to registered architects and engineers.

106.1.1 Review by architect or engineer. The plans and specifications for any building constructed after January 1, 1978, which exceeds 100,000 cubic feet of enclosed space shall be reviewed by a registered architect or engineer for compliance with applicable energy efficiency standards.

106.1.2 Statement of review. A statement that a review for compliance with applicable energy efficiency standards and that the design is in compliance within these standards shall be signed and sealed by the responsible registered architect or registered engineer. The statement shall be filed with the commissioner on a form prescribed and provided by the commissioner prior to construction or the issuance of any local building permits.

106.1.2.1 Submission fee. Included with the statement of review shall be a remittance of \$15. Checks should be made payable to "Treasurer, State of Iowa."

106.1.3 Additional buildings. If plans and specifications related to energy efficiency have been approved for a specific structure, additional buildings may be constructed from those same plans and specifications, without need of further approval regarding compliance with energy efficiency standards, if construction of any additional structure commences within five years of the date of approval of the plans and specifications. Alterations of a structure for which the design has been previously approved shall not require review or further approval, provided that the basic structure of the building remains unchanged and that the alterations do not result in increased energy usage for heating, cooling, or lighting.

106.1.4 Changes to approved plans. No changes shall be made in approved plans which would result in either decreased or increased demand for energy used for heating, cooling, or lighting, unless the changes are approved

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

by the responsible registered architect or registered engineer in writing and notice of the changes has been filed with the commissioner.

106.1.5 Local plan review. The review of plans and specifications for buildings of less than 100,000 cubic feet of enclosed space shall be conducted in accordance with local or other building code requirements for plan reviews established pursuant to Iowa Code section 103A.19.

106.2 Details. The plans and specifications shall show all pertinent data and features of the building and equipment and systems governed by this standard including, but not limited to, design criteria, exterior envelope component materials, "U" values of the envelope system, "R" values of insulating materials, size and type of apparatus and equipment, equipment and systems controls and other pertinent data to indicate conformance with the requirements of this standard.

106.3 Retention of plans and specifications. The building owner or the registered architect or registered engineer who signs the approval statement shall maintain a copy of the approved plans and specifications for a period of five years following substantial completion of the construction.

**16.802(6)** Article 107 is amended by omitting the introductory paragraph and inserting in lieu thereof the following:

Inspections and review of construction regarding this standard shall be performed in the same manner as inspections and reviews of construction related to other portions of this chapter.

**16.802(7)** Section 301.1 Exterior Design Conditions is amended by adding the following ASHRAE Alternative Component Package Tables: Burlington, IA #35; Des Moines, IA #63; Mason City, IA #130; Moline, IL #144; Omaha, NE #159; and Sioux City, IA #202.

**16.802(8)** Section 403.1 is amended by inserting the following new subsections:

403.1.1 Vent dampers. Automatic vent dampers may be added to gas-fired mechanical equipment, not otherwise equipped, if all of the following conditions are met:

403.1.1.1 The unit and installation method must be approved by the American Gas Association.

403.1.1.2 The installation must be made in accordance with approved installation procedures.

403.1.1.3 The installation does not affect the operation or warranty provisions of the equipment to which the vent damper is attached.

**16.802(9)** Section 403.2.4 is amended by adopting ASHRAE Standard 62-1989 as the minimum ventilation requirement, with the addition of the following subsection:

403.2.4.1 The minimum column value in Table 2 for each type of occupancy shall be used for design. The ventilation quantities specified in section 6 are for 100 percent outdoor air ventilating systems.

EXCEPTION: If outdoor air qualities other than those specified and used or required because of special occupancy or process requirements, source control of air contamination, health and safety or other standards, the required outdoor air quantities shall be used as the basis for calculating the heating and cooling design loads.

**16.802(10)** Subsection 403.2.9.3 is amended by adding the following unnumbered paragraph at the end of the subsection:

Provisions of the duct requirements of the Uniform Mechanical Code, 1988 edition, published by the Interna-

tional Conference of Building Officials and the International Association of Plumbing and Mechanical Officials shall apply.

## 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:

May 1, 1993 — May 31, 1993	8.00%
June 1, 1993 — June 30, 1993	8.00%
July 1, 1993 — July 31, 1993	8.00%
August 1, 1993 — August 31, 1993	8.00%
September 1, 1993 — September 30, 1993	7.75%
October 1, 1993 — October 31, 1993	7.75%
November 1, 1993 — November 30, 1993	7.25%
December 1, 1993 — December 31, 1993	7.25%
January 1, 1994 — January 31, 1994	7.75%
February 1, 1994 — February 28, 1994	7.75%
March 1, 1994 — March 31, 1994	7.75%
April 1, 1994 — April 30, 1994	8.00%
May 1, 1994 — May 31, 1994	8.50%
June 1, 1994 — June 30, 1994	9.00%
July 1, 1994 — July 31, 1994	9.25%

ARC 4890A

VETERINARY MEDICINE  
BOARD[811]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 and 169.5, the Iowa Board of Veterinary Medicine hereby proposes to amend Chapter 6, "Application for Licensure," Iowa Administrative Code.

The amendments were proposed by the Iowa Board of Veterinary Medicine. The proposed rules amend the procedures for taking the veterinary medical licensing test and the certified veterinary technician test, add two new fees, and modify the timing of the continuing education requirements.

Any interested person may make suggestions or comments on the proposed rules on or before July 26, 1994. Such written materials should be directed to Dr. Walter Felker, State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, fax (515)281-6236.

The proposed amendments are intended to implement Iowa Code sections 169.5, 169.8, 169.9, and 169.12.

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 1. Amend subrule 6.1(1), introductory paragraph, as follows:

6.1(1) Application to take examination. Any person desiring to take the National Board Examination (NBE), the Clinical Competency Test (CCT), or the state board examination for a license to practice veterinary medicine shall make application 30 60 days before the date set for the beginning of the examination to: Bureau of Animal Industry, Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319, on forms to be provided by the board. The application form shall be completely filled out. *The completed application shall include two current passport size and quality photographs of the applicant.* Incomplete applications shall be returned to applicant along with the tendered fee and a written statement setting forth the reasons for such rejections.

ITEM 2. Amend subrule 6.1(2) by adding the following new unnumbered paragraph after paragraph "e."

Upon payment of the prorated license fee a license issued upon completion of these requirements is valid through June 30 of the next triennium year.

ITEM 3. Amend the fee schedule as set out in rule 811-6.2(169) by adding the following new fees:

Certification of licensure .....	\$10.00
Charge for returned checks .....	\$10.00

ITEM 4. Amend subrule 6.5(2) as follows:

6.5(2) If the non-Iowa license of an applicant under Iowa Code section 169.10(1) was issued after January 1, 1965, the applicant shall have successfully completed the NBE. If the applicant's non-Iowa license was issued after January 1, 1980, the applicant shall have successfully completed the NBE and CCT *according to rule 811-7.1(169).* *The board, on a case-by-case basis, may*

*require an applicant to successfully complete the state board examination. An applicant under Iowa Code section 169.10(1) may be required to apply for and pass the NBE or the CCT if the applicant does not initially pass the state board examination.*

ITEM 5. Amend subrule 7.2(4) as follows:

If the examinee fails the examination and desires to take a subsequent examination, the examinee shall notify the board at least 30 60 days prior to the first day of the next examination, shall certify that the material statements contained in the original applications are currently true and correct, shall supplement that information as necessary, and shall pay the requisite fee.

ITEM 6. Amend rule 811-8.3(169) as follows:

**811-8.3(169) Examination.** An application fee of \$25 shall accompany the application to take the examination; and both must be received by the board at least 30 60 days before the examination. An additional fee shall be submitted for the national board written examination as provided by the professional examination service, when utilized by the board as part of their examination process, which shall be the fees charged for the examination by the professional examination service plus \$10 for the costs of administration. Examinations shall be given annually in June at a site to be designated by the board at least 30 days before the date of the examination.

ITEM 7. Amend subrule 8.10(3) as follows:

**8.10(3)** Completion of the continuing education will be reported to the secretary of the board of veterinary medicine on forms provided by the board ~~within 30 days after the end of the registrant's triennial period~~ *by December 31 of the triennial anniversary year.* The reporting form must be signed by the registrant and accompanied by an administration fee of \$15.

## ARC 4930A

CRIMINAL AND JUVENILE  
JUSTICE PLANNING DIVISION[428]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 17A.3 and 1994 Iowa Acts, Senate File 2319, section 27, the Criminal and Juvenile Justice Planning Division hereby adopts a new Chapter 4, "Juvenile Crime Prevention Community Grant Fund," Iowa Administrative Code.

The purpose of this new chapter is to implement 1994 Iowa Acts, Senate File 2319, sections 27 and 70, regarding the control of certain appropriated funds and the awarding of grants for juvenile crime prevention programs to cities, counties and entities organized under Iowa Code chapter 28E.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are impracticable and contrary to the public interest in that adherence to the process prescribed by Iowa Code section 17A.4(1) would significantly delay the awarding of funds available to local governments for their use during the limited time period of the state fiscal year 1995 and thus place restrictions on the implementation of those community services and activities that this program was created to support.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing with the Administrative Rules Coordinator on June 17, 1994, as it confers a benefit upon the public to receive funds for juvenile crime prevention programs.

Following a positive review by the Criminal and Juvenile Justice Planning Advisory Council and the Iowa Juvenile Justice Advisory Council, the Criminal and Juvenile Justice Planning Division adopted these rules on June 17, 1994.

These rules are also published herein under Notice of Intended Action as ARC 4931A to allow for public comment. This emergency filing permits the Division to immediately begin the process to make funding available to cities, counties and entities organized under Iowa Code chapter 28E.

These rules are intended to implement 1994 Iowa Acts, Senate File 2319, sections 27 and 70.

The following new chapter is adopted.

## CHAPTER 4

JUVENILE CRIME PREVENTION  
COMMUNITY GRANT FUND

## 428—4.1(75GA,SF2319) Purpose, goals, and objectives.

4.1(1) The purpose of the program is to provide communities in Iowa with grants from funding available through the state community grant fund and the federal Title V Delinquency Prevention Program to establish and operate juvenile crime prevention programs.

4.1(2) The goal of the program is to reduce truancy, youth involvement in criminal gangs, youth violence and other delinquent behavior by supporting communities in providing their children, families, neighborhoods, and institutions with the knowledge, skills, and opportunities necessary to foster a healthy and nurturing environment

which supports the growth and development of productive and responsible citizens.

4.1(3) The objectives of the program are:

a. To form coalitions within communities to mobilize the community and direct delinquency prevention efforts;

b. To identify those known delinquency risk factors which are present in communities;

c. To identify protective factors which will counteract identified risk factors, and develop local comprehensive delinquency prevention plans to strengthen those protective factors;

d. To develop local comprehensive delinquency prevention strategies which use and coordinate federal, state, local and private resources for establishing a client-centered, flexibly delivered continuum of services for at-risk children and their families;

e. To implement delinquency prevention strategies, monitor and evaluate their progress, and modify the strategies as needed.

428—4.2(75GA,SF2319) Definitions. As used in this chapter:

"Administrator" means the administrator of the division of criminal and juvenile justice planning within the department of human rights.

"Applicant" means a city, county or other eligible entity preparing and submitting an application for funding through this program.

"Application" means a request for funding from the juvenile crime prevention community grant fund which complies with federal and state requirements.

"Criminal and juvenile justice planning advisory council (CJJAC)" means the advisory council established in Iowa Code section 216A.132.

"Division" means the criminal and juvenile justice planning division.

"Grant review committee" means a committee convened by the chairs of the criminal and juvenile justice planning advisory council and the juvenile justice advisory council to review and rank applications for funding through this program.

"Juvenile justice advisory council (JJAC)" means the federally mandated board assigned to the division of criminal and juvenile justice planning to administer federal grant funds and to improve the juvenile justice system in Iowa.

"Office of Juvenile Justice and Delinquency Prevention (OJJDP)" means the federal office within the U.S. Department of Justice that administers the Juvenile Justice and Delinquency Prevention Act.

"Subgrantee" means any applicant receiving funds under this program.

"Title V Delinquency Prevention Program" means Title V, Sections 501-506, "Incentive Grants for Local Delinquency Prevention Programs Act" of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended in 1992.

## 428—4.3(75GA,SF2319) Funding of grants.

4.3(1) Availability of funds. In any year in which funds are provided for this program, the division shall make such funds available through a request for proposal process, and grants will be awarded on a competitive basis.

4.3(2) Grant award amounts. The division may set minimum and maximum grant award amounts and shall publish any such limitations in the request for proposals.

## CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428](cont'd)

**4.3(3) Population-based grant award considerations.**

a. Funds designated for middle- and low-population communities. Of the funding available for grants through this program, portions may be designated by the division for awards to applicants from cities and counties with populations under 10,000 and also for awards to applicants from cities and counties with populations between 10,000 and 50,000. The sum of the two population-based designated portions shall not exceed 30 percent of the total amount of funding available. County and city population figures shall be reported by the applicant in the application according to the most recent findings of the U.S. Bureau of the Census.

b. Grant review consideration. In the request for proposals, the division shall announce the amount of funding, if any, separately designated for applicants in cities and counties with populations under 10,000 and for applicants in cities and counties with populations between 10,000 and 50,000. The request for proposals shall describe the manner in which applications from such communities will be ranked separately from other applications, notwithstanding paragraph 4.4(3)"c."

c. Other consideration. The division reserves the right to award grants to applicants from cities and counties with populations under 50,000 from funding available for this program that is not designated in the request for proposals specifically for the applicant or applicants.

d. Response to insufficient applications. The division reserves the right to award grants to cities and counties with populations greater than 50,000 from funds designated for applicants from cities and counties with populations under 50,000 if the grant review committee determines that the quality of the applications or the collective funding requested from the latter is not sufficient to award the total amount of funds specially designated.

**4.3(4) Matching funds requirements.**

a. Allowable sources of matching funds. All grants awarded through this program shall be on a matching basis. The match may come from funds provided to the applicant from local, private, state, or federal sources.

b. Amount of matching funds. Subgrantees shall provide matching funds in an amount not less than 25 percent of the amount of funds requested from the division. The applicant's proposed budget shall clearly document the program costs that will be supported with the matching funds.

c. Accounting for match and grant funds. Subgrantees must be able to account for all program funds (match and grant award) via a separate budget or program-designated line items within an existing management system. Also, subgrantees must be able to demonstrate that program funds were used only for program services and activities.

**4.3(5) Continuation funding.** Subject to the availability of funding, applicants receiving initial grant awards may reapply for two subsequent annual grant awards for a total of three years of funding. During any year when it is anticipated that the request for proposal process will involve requests for both initial and continuation applications, the request for proposals may identify criteria that accords greater priority to continuation proposals.

**428—4.4(75GA,SF2319) Request for proposal process.**

**4.4(1) Time frames.** The administrator of the division will announce through public notice the opening of the competitive grant application process. The announcement shall provide potential applicants with information to

describe the purposes for which the program funding will be available, the application procedures, and all relevant time frames established for proposal submittal and review, grant awards, and grant expenditure periods.

**4.4(2) Content of applications.** Required elements of the applications will be published in the request for proposals and will be based on a point system established by the department of human services and according to the requirements of the Title V Delinquency Prevention Program. Required inclusions may include, but not be limited to:

a. Documentation of the designation or formation of a local prevention policy board and a description of its makeup and current and planned activities related to the applicant's proposed prevention strategy.

b. Evidence of commitment of community leaders to support a comprehensive, communitywide delinquency prevention effort.

c. Definition of the boundaries of the program's neighborhood or community.

d. An assessment of the readiness of the community or neighborhood to adopt a comprehensive delinquency prevention strategy.

e. An assessment of the prevalence of specific, identified risk factors in the community that results in a list of priority risk factors to be addressed.

f. Identification of available resources and promising approaches to address identified risk factors, an assessment of gaps in needed resources and a description of how to address them.

g. A three-year strategy, including goals, objectives, and a timetable, for mobilizing the community to assume responsibility for delinquency prevention and for obtaining and coordinating identified resources with which to implement the promising approaches that address the priority risk factors.

h. A proposed budget, including a description of how awarded funds and matching funds will be used to accomplish stated goals and objectives by the purchasing of services and goods and leveraging other resources.

i. A description of the extent to which the services and activities to be supported with awarded and matching funds will be provided in coordination with other prevention services and activities supported with local, state, federal and private funding.

j. A description of the extent to which the community prevention strategy addresses the needs of minority children, youth and families.

k. A description of the role of the prevention policy board in the ongoing implementation and evaluation of the community's delinquency prevention strategy.

i. A plan for collecting data for the monitoring and evaluation of the community's delinquency prevention strategy.

m. Match documentation and assurances, and a description of the extent to which the nature and amount of the proposed matching funds demonstrate evidence of the applicant communities' commitment to establish and enhance communitywide, comprehensive prevention services and activities, and the extent to which communities sought to obtain additional public and private funding sources for all or parts of their program.

n. Demonstrated collaboration or consolidation with other relevant, existing communitywide, multiagency planning efforts, including but not limited to substance abuse free environment committees, decategorization oversight committees, disproportionate minority juvenile

## CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428](cont'd)

confinement task forces, school-based youth services planning groups, enterprise zone planning groups, and violence reduction or gang prevention task forces.

**4.4(3) Application review and selection process.**

a. The division shall conduct a preliminary review of each application to ensure that the applicant is eligible and the application is complete. Except as provided for in subrule 4.5(3), all applications which are submitted in a timely manner by eligible applicants and which contain the necessary information will be presented to the grant review committee.

b. Members of the grant review committee shall review each application and shall assign numerical scores to each proposal using criteria and point values established by the department of human services and listed in the request for proposals. The rank order of scores assigned to the applications by the review committee shall be the basis of funding recommendations to be made by the grant review committee for each application reviewed.

c. The grant review committee shall forward their funding recommendations to the administrator for approval. Decisions to make final awards shall not be inconsistent with Title V Delinquency Prevention Program requirements.

**4.4(4) Appeals.**

a. Applicants choosing to appeal the program's funding decisions must file a written appeal with the administrator within ten working days of the date of the written notification of the program's funding decisions.

b. All letters of appeal must clearly state the reasons for the appeal and evidence of the reasons stated. Reasons for appeal must be based on a contention that the rules and procedures governing the grant selection process have not been applied properly. All appeals must clearly state in what manner the division failed in following the rules of the grant selection process as governed by these administrative rules or procedures outlined in the application materials provided to all applicants by the division. The letter of appeal must also describe the remedy being sought.

c. The division shall not enter into a contract with any applicant for a period of ten working days following the written notice of the program's funding decisions. If an appeal is filed within the ten working days, the division shall not enter into a contract with any applicant until the administrator has reviewed and decided on all appeals received in accordance with paragraphs "a" and "b" of this subrule. The review shall be conducted as expeditiously as possible so that all funds can be distributed in a timely manner.

d. The procedure described in this rule shall represent the final division action for the purpose of implementing Iowa Code chapter 17A.

**428—4.5(75GA,SF2319) Eligible applicants.**

**4.5(1)** Any city, county, or entity organized under Iowa Code chapter 28E may apply for a grant through this program.

**4.5(2)** Prevention policy board. To be considered eligible for a grant through this program, the applicant must demonstrate that the applicant's communitywide prevention strategy was developed and approved by a local prevention policy board designated or convened by the applicant.

a. The prevention policy board shall consist of no fewer than 15 and no more than 21 members from the community to be served through this grant program,

representing a balance of public agencies, private non-profit organizations serving children, youth and families, and business and industry.

b. The applicant must demonstrate that it, or another specific local agency or entity, has responsibility for support of the prevention policy board.

**4.5(3)** Multiple applications prohibited. Multiple applications from a city, county or entity organized under Iowa Code chapter 28E will not be accepted. If the division receives more than one application from an applicant, all applications from that applicant will be considered ineligible.

**428—4.6(75GA,SF2319) Allowable costs and cost restrictions.**

**4.6(1)** Allowable costs. Grant funds from this program shall be used to support only those activities and services specified and agreed to in the contract between the subgrantee and the division. The request for proposals shall identify specific cost categories against which all allowable costs must be consistently charged.

**4.6(2)** Cost restrictions. State and federal funds appropriated for this program shall not be expended for construction, land acquisition, or supplantation of federal, state or local funds supporting existing programs or activities. The request for proposals may specify other cost limitations including, but not limited to, costs related to political activities, interest costs, fines, penalties, lawsuits or legal fees, and certain fixed assets and program equipment.

**428—4.7(75GA,SF2319) Compliance with state and federal laws.** In acceptance of a grant through this program, the subgrantee shall agree to comply with all applicable state and federal rules and laws including, but not limited to, the Juvenile Justice and Delinquency Prevention Act of 1974 as amended in 1992 and its mandates prohibiting the commingling of juveniles with adults in secure facilities, the placement of juveniles in adult jails and lockups, and the placement of juvenile status offenders or nonoffenders in secure facilities.

**428—4.8(75GA,SF2319) Contract agreement.**

**4.8(1)** Contract offer. Applicants shall be notified in writing of the program's funding decisions and whether their application has been denied or that the division is interested in negotiating a contract regarding their proposal. These rules and all applicable state and federal laws and regulations become a part of the contract by reference.

**4.8(2)** Preaward negotiation. The applicant may be requested to modify the original proposal in the negotiation process. The division reserves the right to fund all or part of the applicant's proposal.

**4.8(3)** Withdrawal of contract offer. If the applicant and the division are unable to successfully negotiate a contract, the division may withdraw the award offer and redistribute program funds in a manner consistent with the provisions of rule 428—4.9(75GA,SF2319).

**4.8(4)** Contract modifications. The subgrantee or the division may request a modification or revision of the contract.

**4.8(5)** Reimbursement of expenditures. Funds are to be spent to meet program goals as provided in the contract. Expenditures will be reimbursed pursuant to regular reimbursement procedures of the state of Iowa.

**428—4.9(75GA,SF2319) Redistribution of funds.** The division reserves the right to recapture and redistribute

## CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428](cont'd)

funds based upon projected expenditures if it appears that funds will not be expended by a subgrantee according to the conditions of the subgrantee's contract. Recaptured funds may be granted by the administrator to other applicants or subgrantees for services and activities consistent with the purposes and goals of the program.

**428—4.10(75GA,SF2319) Contract termination.**

**4.10(1)** Termination by the subgrantee. The contract may be terminated by the subgrantee at any time during the contract period by giving 30 days' notice to the division.

**4.10(2)** Termination by the division.

a. Termination for convenience. The contract may be terminated, in whole or in part, by the division when the division determines that the termination is in the best interests of the state and when the division has notified the subgrantee in writing at least 30 days prior to the effective date of the termination. The subgrantee shall not incur new obligations for the terminated portion after the effective date. Payments to the subgrantee will be only for services and activities provided up to the date of termination.

b. Termination for cause. The contract may be terminated, in whole or in part, at any time during the contract period whenever it is determined that the subgrantee has failed to comply with the conditions of the contract. The subgrantee shall be notified in writing by the division of the reasons for the termination and the effective date. The subgrantee shall have ten days after the notice is received to correct the problem or otherwise outline a corrective action plan. The division shall then issue a notice of termination if the problems are not corrected to the satisfaction of the division. Payments to the subgrantee will be only for services and activities provided up to the date of termination.

The division shall administer the funds for this program contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of this program, contracts shall be terminated or modified. Contracts may be terminated or modified upon a 30 days' notice when there is a reduction of funds by executive order.

**4.10(3)** Responsibility of subgrantee at termination. Within 45 days of the termination, the subgrantee shall supply the division with a financial statement detailing all costs up to the effective date of the termination.

**428—4.11(75GA,SF2319) Immunity of state and agencies.** The subgrantee shall defend and hold harmless the state and any federal funding source for the state from liability arising from the subgrantee's performance or attempted performance of their contract, and the subgrantee's activities with subcontractors and all other third parties.

**428—4.12(75GA,SF2319) Required reports.**

**4.12(1)** Quarterly reports. Quarterly reports on program outcomes, program status and financial status will be required from subgrantees on provided forms.

**4.12(2)** Other reports. Other reports, including audit reports prepared by independent auditors, may be required by the division and specified in the request for proposals or the contract to assist in the monitoring and evaluation of this program.

**4.12(3)** Failure to submit required reports. Failure to submit required reports by the due date will result in suspension of financial payments to the subgrantee by the division until such time as the reports are received.

**428—4.13(75GA,SF2319) Subgrantee records.** Financial records, supporting documents, statistical records and all other records pertinent to the program shall be retained by the subgrantee in accordance with the following:

a. Records for any project shall be retained for three years after final closeout and audit procedures are completed and accepted by the division.

b. Representatives of the state auditor's office and the division shall have access to all books, accounts, documents, and other property belonging to or in use by a subgrantee pertaining to the receipt of funds under these rules.

These rules are intended to implement 1994 Iowa Acts, Senate File 2319, sections 27 and 70.

[Filed Emergency 6/17/94, effective 6/17/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4926A****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 22, "Community Economic Betterment Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4806A**. The Iowa Department of Economic Development Board adopted these amendments on June 16, 1994.

The amendments raise the wage threshold requirements for all CEBA projects; establish additional eligibility requirements to qualify for awards of over \$500,000; define "business start-up"; allow a business start-up to qualify for an award of up to \$100,000 without meeting the new threshold wage requirements; make conforming revisions to reflect these additional eligibility requirements; and authorize the CEBA review committee to approve negotiated settlements.

A public hearing to receive comments about the proposed amendments was held on May 31, 1994. Based on written and oral comments concerning the amendments and further review by Department staff, the following revisions were made to the proposed rules:

1. Subparagraph 22.6(1)"d"(3) was revised to eliminate the \$11 median wage requirement, delete the phrase "hourly nonmanagement production," and remove references to the gross national product implicit price deflator published by the U.S. Department of Commerce. In the final rule, a business must pay a median wage for new full-time jobs of at least 130 percent of the average wage in the county to qualify for awards over \$500,000. As proposed, a business was required to pay either \$11 or 130 percent of the average county wage. Concerns were raised from the public about the adverse impact of the \$11 requirement on rural counties.

2. Subparagraph 22.6(1)"h"(3) was amended to incorporate a procedure for annually adjusting the \$9 wage

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

threshold requirement which relies upon a report prepared by the Iowa Department of Employment Services.

3. A new paragraph "i" was included in subrule 22.6(1) to reflect recent legislation (1994 Iowa Acts, House File 2415, section 1(a)) which requires that any business receiving funds for the purpose of job creation shall make available 10 percent of the new jobs created for PROMISE JOBS program participants.

4. Paragraphs "d" and "e" were added to subrule 22.7(3) to incorporate new evaluation criteria as required by 1994 Iowa Acts, House File 2337, section 4.

5. Subparagraph 22.8(3)"f"(3) was revised to incorporate the above-referenced new evaluation criteria into the rating system.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of the rules, 35 days after publication, should be waived and the rules be made effective on June 17, 1994, upon filing with the Administrative Rules Coordinator. These amendments confer a benefit on the public by notifying, in advance, potential applicants of the revised program requirements applicable to the new fiscal year which begins July 1, 1994.

These amendments are intended to implement Iowa Code sections 15.315 to 15.320.

The following amendments became effective on June 17, 1994.

The following amendments are adopted.

ITEM 1. Amend 261—22.2(15) by adding the following new definitions:

"Average county wage scale" means the average the department calculates using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa department of employment services, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Business start-up" means a business which has not been in operation for more than two years prior to the date of the CEBA application.

ITEM 2. Amend subrule 22.6(1) as follows:

**22.6(1) General policies.**

a. An applicant may submit as many different applications as it wishes at any time. However, if the department is reviewing two or more applications from the same applicant at the same time, it may ask the applicant to rank them in the order preferred by the applicant;

b. Only one applicant may apply for any given project;

c. No single project may be awarded more than \$1 million unless at least two-thirds of the members of the board approve the award. However, this restriction will not apply after the first \$10 million has been credited to the CEBA program in any given year;

d. *No single project may be awarded more than \$500,000 unless all other applicable CEBA requirements and each of the following criteria are met:*

*(1) The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This requirement does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.*

*(2) The business must provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new investment occurred.*

*(3) The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average wage in the county in which the community is located.*

*e. No more than \$100,000 may be awarded to a business start-up unless that business's average wage is greater than 85 percent of the county average and over 50 percent of the business's employees' wages are at or above the 85 percent level.*

*f. d. To be eligible for assistance the business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.*

*g. e. All applicants for financial assistance shall comply with the requirements of 261—Chapter 80.*

*h. Applicants shall meet the following wage threshold requirements:*

*(1) Project positions must have an average starting wage of at least 85 percent of the average county wage scale or \$9, whichever is lower.*

*(2) Fifty percent or more of the jobs to be created or retained must have an average starting wage of at least 85 percent of the average county wage scale or \$9, whichever is lower.*

*(3) If the applicant is a business start-up, project positions must have an average starting wage of at least 75 percent of the average county wage scale.*

*(4) The \$9 wage scale referenced in this rule shall be adjusted annually by calculating the percent increase or decrease in average Iowa hourly earnings level for all production and nonproduction workers in the private sector from the month of June of the previous year to June of the current year. This report is compiled by the Iowa department of employment services.*

*i. A business receiving moneys from the department for the purpose of job creation shall make available 10 percent of the new jobs created for PROMISE JOBS program participants.*

ITEM 3. Amend subrule 22.6(2) as follows:

**22.6(2) Ineligible applications.** The department will not rate and rank ineligible applications. An application may be ruled ineligible if:

a. It is submitted by an ineligible applicant, or

b. The project consists of a business relocation from within the state unless unusual circumstances exist which make the relocation necessary for the business's viability, or

c. CEBA funds comprise more than 50 percent of the project's financing, or

d. The CEBA application is not properly signed by the applicant and the business, or

e. *The project fails to meet the wage threshold requirements under subparagraph 22.6(1)"h," or*

*f. The business has a record of violations of the law over a period of time that tends to show a consistent pattern. The business shall provide the department with a report detailing violations of law within the most recent consecutive three-year period prior to application. Consistent with Iowa Code section 15A.1(3), violations of environmental protection statutes, regulations or rules shall be reported for the most recent consecutive five-year period*

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

prior to application. If the department finds that a business has a record of violations of the law that tends to show a consistent pattern, the business shall not be eligible under this program. Violations of law include, but are not limited to, environmental and worker safety statutes, rules and regulations. A business shall not be ineligible if the department finds that the violations did not seriously affect the public health or safety, or the environment, or if they did, that there were mitigating circumstances.

ITEM 4. Amend rule 261—22.7(99E) as follows:

**261—22.7(99E 15) Selection criteria.** In ranking applications for funding, at least the following criteria shall be considered:

**22.7(1) Relating to local/business involvement:**

- a. The portion of local match to be provided as compared to the local resources;
- b. The proportion of private contribution to be provided, including the involvement of financial institutions;
- c. The need of the business for financial assistance from governmental sources. More points shall be awarded to a business for which the department determines that governmental assistance is most necessary to the success of the project;
- d. The level of need of the political subdivision;
- e. The impact of the proposed project on the economy of the political subdivision and the state; and
- f. The certification of a community builder program for the community.

g. The expected recapture of these funds.

**22.7(2) Relating to job creation/retention:**

- a. The total number of jobs to be created or retained.  
*When rating a project, the department shall only consider those positions which meet the wage threshold requirements defined in subparagraph 22.6(1)"h."*
- b. The quality of jobs to be created. In rating the quality of jobs, the department shall award more points to those jobs that have a higher wage scale, a lower turnover rate, are full-time career-type positions, or have other related factors. Those applications that have average wage scales which are 25 15 percent or more below that of existing Iowa businesses in their county the average county wage scale shall be given an overall score of zero. Business start-ups shall be given a score of zero only if their wage scales are 25 percent or more below that of the average county wage scale. To calculate the average county wage scales, the department intends to use the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa department of employment services, audit and analysis section. Agricultural/mining and governmental employment categories will be deleted in compiling the wage information.

**22.7(3) Relating to business activity:**

- a. The size of the business receiving the assistance. The department shall award more points to small businesses as defined by the U.S. Small Business Administration;
- b. The potential for future growth in the industry represented by the business being considered for assistance;
- c. The impact of the proposed project on competitors in the business;
- d. ~~The record of the business where violations of law have occurred. If the business has a record of violations of the law over a period of time that tends to show a consistent pattern, the application shall be given the lowest ranking.~~

d. *The capacity of the proposed project to create products by adding value to agricultural commodities.*

e. *The degree to which the proposed project relies upon agricultural or value-added research conducted at a college or university, including a regents institution, community college, or a private university or college.*

ITEM 5. Amend paragraph 22.8(3)"f" as follows:

f. Project impact on the state and local economy.

(1) Cost/benefit analysis. Maximum—40 points. This factor compares the amount requested to the number of jobs to be created *or retained as defined in paragraph 22.7(2)"a"* and the projected increase in state and local tax revenues. Also considered here is the form of assistance (e.g. a forgivable loan, will receive a lower score than a loan).

(2) Quality of jobs to be created. Maximum—40 points. Higher points to be awarded for:

- Higher wage rates;
- Lower turnover rates;
- Full-time, career-type positions;
- Relative safety of the new jobs;
- Health insurance benefits;
- Fringe benefits;
- Other related factors.

(3) Economic impact. Maximum—40 points. Higher points to be awarded for base economic activities, e.g.:

- Greater percentage of sales out of state, or import substitution;
- Higher proportion of in-state suppliers;
- Greater diversification of state economy;
- Fewer in-state competitors;
- Potential for future growth of industry;
- Consistency with the state strategic plan for economic development prepared in compliance with Iowa Code section 15.104(2);

*Increased value to agricultural commodities;*

*Degree of utilization of agricultural or value-added technology research from an Iowa educational institution;*

*A project which is not a retail operation.*

Maximum preliminary points for project impact—120 points.

(4) Final impact score. Maximum—120 points. Equal to preliminary impact score multiplied by a reliability factor (as a percent).

(NOTE OF EXPLANATION—Rating factors in 22.8(3)"f"(1) to (3) attempt to measure the expected impact of the project, if all predictions and projections in the application turn out to be accurate. Up to that point in the rating system, no attempt has been made to judge the feasibility of the business venture, the reliability of the job creation and financial estimates, the likelihood of success, the creditworthiness of the business, and whether the project would occur without state assistance. An attempt to analyze projects against these factors is also important. In order to incorporate this judgment into the rating system, the Preliminary Impact Score (Maximum of 120 points) is multiplied by a "reliability and feasibility factor" to obtain a final impact score, 22.8(3)"f"(4). This factor will range from 0 to 100 percent, depending upon the department's judgment as to the likelihood of the projections turning out as planned. If, in the department's judgment, the project would proceed whether it was funded or not, it will be assigned a zero percent on the reliability and feasibility factor and the final impact score will be zero. This is consistent with the intent of the program to use funds only where state assistance will make a difference.)

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

The maximum total score possible is 200 points.

Projects that score less than 120 points in rule 22.8(15) will not be recommended for funding by the staff to the committee.

~~Lowest ranking. Any application that has substantially low wage scales as determined under 22.7(2)"b," or has consistent violations of the law as determined under 22.7(3)"d" will be assigned a score of zero.~~

ITEM 6. Amend subrule 22.9(3) as follows:

**22.9(3)** Rating system. The rating system for proposed projects will be as follows:

- a. Local effort (as defined in 22.8(3)"a") Maximum—20 points;
- b. Private contribution as compared to CEBA request (as defined in 22.8(3)"c"). Maximum—20 points;
- c. Certified community builder community (as defined in 22.8(3)"c"). Maximum—10 points;
- d. Extra points if small business, as defined by SBA. Maximum—10 points;
- e. Project impact, as defined in 22.8(3)"f" and 22.8(4). Maximum—120 points;
- f. Potential for future expansion of the industry in general. Maximum—20 points. This factor awards additional points for those projects that tend to show a greater potential for expansion of that industry within Iowa.

The maximum total score possible is 200 points.

Projects that score less than 120 points in rule 22.9(15) will not be recommended for funding by the staff to the committee.

~~Lowest ranking. Any application that has substantially low wage scales as determined under 22.7(2)"b," or has consistent violations of the law as determined under 22.7(3)"c" will be assigned a score of zero.~~

ITEM 7. Amend rule 261—22.14(15) as follows:

**261—22.14(15)** Standards for ~~compromise, suspension negotiated settlements~~ or discontinuance of collection efforts.

~~22.14(1) Collection efforts may be discontinued if the board determines that any of the following conditions exist: The committee may approve negotiated settlements or the discontinuance of collection efforts if it determines that any of the following conditions exist:~~

- a. ~~There is not a likelihood of recovering any substantial amount of the CEBA funds.~~
- b. ~~a. The cost of collection would exceed the amount that would be recovered.~~
- e. ~~The department has been advised by the attorney general's office that the claim is legally without merit, cannot be substantiated by evidence, no security remains to be liquidated, the statute of limitations has run, or other conditions exist that would not allow the recovery of funds.~~

~~b. The claim is not legally feasible, e.g., the claim cannot be substantiated by the evidence, a statute of limitations has run, there is little likelihood of prevailing in a legal proceeding, the claim has been discharged in bankruptcy.~~

~~c. Other conditions exist that would not allow the recovery of funds.~~

**22.14(2)** Board approval notification. Before collection efforts may be ~~suspended or discontinued, or a negotiated settlement accepted~~, the department will first report to the committee the reasons for recommending the ~~suspension or acceptance of a negotiated settlement or the discontinuance of collection efforts~~. The committee will ~~recommend~~

~~report periodically to the board those projects for which it determines collection efforts should be has approved negotiated settlements or has determined that collection efforts should be suspended or ceased. The board will determine and direct the department to suspend, discontinue or continue collection efforts.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4928A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby rescinds the existing Chapter 68, "Rural Community Leadership Development Program," and adopts a new Chapter 68, "Rural Leadership Development Program," Iowa Administrative Code. The IDEB Board adopted the chapter on June 16, 1994.

The amendment rescinds the existing chapter and adopts a new chapter that revises the existing program to more adequately meet the leadership needs of rural Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4807A**.

A public hearing was held on May 31, 1994. No one appeared at the public hearing and no written comments concerning the proposed rules were received.

The final rules are identical to the proposed rules.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of the rules, 35 days after publication, should be waived and the rules be made effective on June 17, 1994, upon filing with the Administrative Rules Coordinator. These rules confer a benefit on the public by allowing the public to implement the program in a timely manner so sessions may be implemented in early fall.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the final rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These rules are intended to implement 1993 Iowa Acts, chapter 167, section 3(c).

This chapter became effective on June 17, 1994.

The following new chapter is adopted.

Rescind 261—Chapter 68 and insert in lieu thereof the following new chapter:

## CHAPTER 68

## RURAL LEADERSHIP DEVELOPMENT PROGRAM

**261—68.1(15) Purpose.** The purpose of this program is to provide grants to conduct a rural leadership development program (RLDP). Goals of the leadership program

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

are to: develop individual leadership and team building skills, expand representation of existing development organizations by integrating new leaders into established organizations, encourage multicomunity economic development initiatives relating to identified needs, and assist groups to develop a framework for continued delivery of leadership development programs.

**261—68.2(15) Eligible applicants.** Iowa cities or counties may apply for the program on behalf of a development organization(s) which represents a consortium of communities. A minimum of three communities must comprise a consortium.

**68.2(1) Geographic proximity.** Only a consortium of communities which represent an area no larger than two counties will be considered for funding.

**68.2(2) Population guideline.** A consortium of rural cities or counties, or both, may apply for the competitive program where the majority of rural communities represented have a population of under 5,000.

**261—68.3(15) Project awards.** An applicant may receive an award of up to \$6,000 to conduct a two-year (two graduating classes) rural leadership development program. Only applications for a two-year program will be accepted. A maximum of \$4,000 of the grant will be awarded for delivery of the program in year one and a maximum of \$2,000 will be awarded for delivery of the program in year two. Local fundraising is expected to fill the financial gap for year two.

**261—68.4(15) Match requirements of applicants.**

**68.4(1)** A minimum of 25 percent local cash match is required for the program.

**68.4(2)** A minimum of 15 participants per graduating class is required.

**68.4(3)** The applicant must have all match, including participant fees, documented in the application. A commitment by members of the advisory committee as established in subrule 68.5(1) to recruit class participants will serve as documentation for participant fees. Subsidies for scholarships from local public and private sources will also be considered acceptable match.

**68.4(4)** The applicant shall collect fees of no less than \$50 per participant. These fees are due upon program implementation.

**68.4(5)** Office space and equipment provided by the applicant, development organization(s) or consortium of communities will be allowed as in-kind match.

**68.4(6)** Teaching and consulting services provided by educational institutions such as Iowa State University (ISU) extension, community colleges, and independent colleges and universities will be allowed as in-kind match.

**68.4(7) Eligible expenses.** Expenses eligible for reimbursement under the program may include, but are not limited to, the following:

a. Honorarium and travel of guest speakers from outside the project area (upon approval from the department of economic development (department)).

b. Staff time and office expenses (such as telephone, postage and photocopy expenses) associated with curriculum refinement and program delivery. The intent for staffing expenses is to provide local coordination for the program.

c. Printing or purchase of education/training materials associated with the delivery of the program.

d. Tools such as personality inventories used in program delivery.

**68.4(8) Ineligible expenses.** Expenses ineligible for reimbursement under the program include, but are not limited to, the following:

- a. Travel and meal expenses of program participants.
- b. Office equipment or office rental.
- c. Meeting expenses (e.g., room rental).
- d. Application preparation.
- e. Administrative costs.

**261—68.5(15) General guidelines for applications.**

**68.5(1) Advisory committee.** A local leadership advisory committee must be formed. Responsibilities of the advisory committee include development and refinement of the curriculum, identification and recruitment of participants, and monitoring the delivery of the program. Applications shall include a listing of advisory committee members, addresses, and their corresponding organization affiliation. Potential members should represent a balanced geographic dispersion within the consortium area and could include, but are not limited to, representatives from development organizations, businesses, agricultural organizations, chambers of commerce, elected local officials, and educational institutions.

**68.5(2) Letters of endorsement.**

a. Applications shall include letters from advisory committee members pledging participation from at least 15 participants. Each pledge letter should also include a statement that the advisory committee member agrees to serve on the advisory committee a minimum of two years.

b. Applications shall include letters of cooperation from any public or private educational institution agreeing to provide financial or staff assistance to the program. A description of services must also be included.

c. Applications shall include letters from community and economic development organizations, local governments, and other local groups and organizations planning to integrate graduates into existing leadership structures, committees, or task forces.

**68.5(3) Timetable and curriculum.**

a. Applications for the RLDP shall specify a timetable and curriculum. The program shall not exceed ten months from the initial session (per graduating class). Total participant contact time of at least 18 hours per graduating class is required.

b. The following components must be present in either curriculum: developing leadership skills; identification of leadership styles; examination of local community issues, development issues (e.g., business, tourism, housing) and resources; and a mentoring activity linking program participants with development organizations within the community.

c. Other possible program components could include, but are not limited to: offering an overview of local government functions, presenting a status of business activity, identification of cultural assets, history, and uniqueness of local communities, local demographics, community tours, and an alumni profile document made available to local volunteer organizations.

**68.5(4) Request for proposals.** The department shall disseminate a request for proposals to appropriate entities.

**68.5(5) Applicant submission.** Applications shall be submitted to the Rural Development Project Manager, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

**68.5(6) Application contents.** Required contents of the application include:

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

a. A brief statement of existing needs and issues in the area that creates a potential for future community development projects and requires more local leadership capabilities.

b. Curriculum, timetable and budget.

c. A summary sheet containing applicant name; project contact person; funding request; listing of advisory committee members, addresses, and their corresponding organizational affiliation; and estimate of the population of the affected area.

d. A description of the cash and in-kind resource match the applicant will bring to the program.

e. An explanation of how program participants will be integrated into the respective communities' leadership structures and how newly trained community leaders would be used to foster multicomunity development.

f. A plan for leadership program continuance (sponsorship and funding) after the grant period ends.

g. Letters of endorsement as specified in subrule 68.5(2).

**261—68.6(15) Review and award process.**

**68.6(1) Review committee.** Each eligible application shall be reviewed by a committee made up of the following: two representatives of the department; one representative selected from an existing multicomunity development organization; one representative appointed by ISU extension; the designated representative of the Iowa Association of Independent Colleges and Universities and the designated representative of the Iowa Association of Community College Presidents who serve as ex officio members of the Iowa economic development board. Applicants that score fewer than 300 points under subrule 68.6(2) shall not be eligible for funding. Applicants may be interviewed further to gain additional information about the proposal or to negotiate the proposed plan of work. Recommendations of the committee will be forwarded to the director of the department for final decisions.

**68.6(2) Scoring.** The scoring system has a maximum of 500 points.

a. Appropriateness and effectiveness of the curriculum in addressing the stated issues or opportunities within the area. 200 points.

b. The level of financial and volunteer commitment by local organizations and governments in the organization and delivery of the program. 125 points.

c. The commitment of the area's leaders to utilize trained participants in leadership roles. 100 points.

d. The plan for program continuance after the grant period. 75 points.

**261—68.7(15) Program management.**

**68.7(1) Record keeping.** Financial records, supporting documents, statistical records and all other records pertinent to the project shall be retained by the recipient of funds for a period of three years after the contract expiration date.

**68.7(2) Contract.** A contract will be negotiated with the successful applicants to define the terms for disbursement of funds and responsibilities.

**68.7(3) Access to records.** Representatives of the department and state auditor's office shall have access to all books, accounts and documents belonging to or in use by the recipient pertaining to the receipt of assistance under this program.

**68.7(4) Monitoring.** The department may perform any review or field inspections it deems necessary to ensure program compliance.

a. The applicant must make available to the department all records pertaining to all matters related to this program. Any costs determined by the department to be unallowable costs shall be repaid to the department.

b. Applicants will be required to submit a quarterly progress report to the department. The report will assess progress toward the goals of the program and the activities taking place during each session. The department may perform field visits as deemed necessary.

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**ARC 4929A****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts a new Chapter 69, "Rural Action Training Program," Iowa Administrative Code. The IDED Board adopted the chapter on June 16, 1994.

The chapter implements a new program to provide grants to a consortium of rural constituents to conduct a Rural Action training program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4805A**.

A public hearing was held on May 31, 1994. No one appeared at the public hearing and no written comments concerning the proposed rules were received. The final rules are identical to the proposed rules.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of the rules, 35 days after publication, should be waived and the rules be made effective on June 17, 1994, upon filing with the Administrative Rules Coordinator. These rules confer a benefit on the public by allowing the public to implement the program in a timely manner so sessions may be implemented in early fall.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the final rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These rules are intended to implement 1993 Iowa Acts, chapter 167, section 3(c).

This chapter became effective on June 17, 1994.

The following new chapter is adopted.

Adopt the following new chapter:

**CHAPTER 69****RURAL ACTION TRAINING PROGRAM**

**261—69.1(15) Purpose.** The purpose of this program is to provide grants to conduct a rural action training pro-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

gram. Goals of the training program are to: build coalitions among agricultural producers, economic development organizations and communities; assist agricultural producers in identifying and implementing ag-based development strategies; and create an arena to sustain these coalitions and their activities over time.

**261—69.2(15) Eligible applicants.** Iowa State University (ISU) extension county offices may apply on behalf of a consortium of rural constituents including, but not limited to, agricultural producers, businesses, economic development organizations, chambers of commerce, community representatives, and locally elected officials.

**69.2(1) Geographic proximity.** Only a consortium of communities and rural areas which represent an area no larger than two contiguous counties will be considered for funding.

**69.2(2) Population guideline.** Any consortium of rural cities or counties, or both, may apply for the competitive program where the majority of rural communities represented have a population of under 5,000.

**261—69.3(15) Project awards.** An applicant may receive an award of up to \$4,500 to conduct the rural action program.

**261—69.4(15) Program delivery.** Each recipient shall work with Iowa State University and the Iowa department of economic development (department) to deliver the program. Iowa State University will provide training, materials, and technical expertise (community and agriculture) for the program. The department will provide additional business development assistance to each project. Coordination of projects will be a joint effort between the department and Iowa State University.

**261—69.5(15) Match requirements of applicants.**

**69.5(1)** A minimum of 25 percent cash and in-kind match is required.

**69.5(2)** Office space and equipment for the local coordination staff will be allowed as in-kind match.

**69.5(3)** Participant fees are optional but will be considered as cash match.

**69.5(4)** The applicant must have all match, including participant fees if charged, documented in the application. A commitment by members of the advisory committee established in subrule 69.7(1) to recruit class participants will serve as documentation for participant fees. Subsidies for scholarships from local public and private sources will also be considered acceptable match.

**69.5(5)** Expenses incurred in taking ag-related tours (travel, meals, and related expenses) will be allowed as in-kind match.

**69.5(6)** Teaching and consulting services provided by educational institutions or private businesses will be allowed as in-kind match.

**261—69.6(15) Eligible and ineligible expenses.**

**69.6(1) Eligible expenses.** Expenses eligible for reimbursement may include, but are not limited to, the following:

a. Local coordination staff to assist in the organization of the program.

b. Honorarium and travel of guest speakers from outside the project area (upon approval from the department).

c. Purchase of education/training services associated with the delivery of the program (excluding services performed by ISU).

**69.6(2) Ineligible expenses.** Expenses ineligible for reimbursement under the program include, but are not limited to, the following:

- a. Travel and meal expenses of program participants.
- b. Office equipment or office rental.
- c. Meeting expenses (e.g., room rental).
- d. Application preparation.
- e. Administrative costs.

**261—69.7(15) General guidelines for applications.**

**69.7(1) Advisory committee.** A local leadership advisory committee must be formed. Responsibilities of the advisory committee include application development, refinement of the curriculum, identification and recruitment of participants, and monitoring the delivery of the program. Applications shall include a listing of advisory committee members, addresses, and their corresponding organization affiliation. Advisory committee membership should be representative of the geographic area, as well as of development groups, agricultural/farm groups, and businesses located within the consortium area.

**69.7(2) Letters of endorsement.**

a. Applications shall include letters from advisory committee members pledging participation from at least 15 participants.

b. Applications shall include letters of endorsement from (1) an ISU extension county or area field staff person in the program area; (2) the area extension director who services the communities named in the application; and (3) any public or private institutions agreeing to provide financial or staff assistance to the program. A description of services must be included.

c. Applications shall include letters from community and economic development organizations specifying the role they will have in program delivery and participant integration.

**69.7(3) Timetable and curriculum.**

a. Applications shall specify a timetable and curriculum set out by the advisory committee and ISU.

b. The following components must be present in the curriculum: examination of local development issues and resources, a community-based analysis, and a feasibility study/activity associated with an agricultural development project(s).

**69.7(4) Request for proposals.** The department shall disseminate a request for proposals to appropriate entities.

**69.7(5) Applicant submission.** Applications shall be submitted to the Rural Development Project Manager, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

**69.7(6) Application contents.** Required contents of the application include:

a. A brief statement of existing needs and issues in the area that create a potential for future agricultural development initiatives and require more local leadership capabilities.

b. Curriculum, timetable and budget.

c. A summary sheet containing (1) applicant name; (2) contact person; (3) funding request; (4) a listing of advisory committee members, addresses and their corresponding organization affiliation; and (5) an estimate of the population of the affected area.

d. A description of the cash and in-kind match the applicant will bring to the program.

e. A plan for involvement of local organizations (e.g., who will attend meetings, provide technical expertise,

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

conduct fundraising activities, provide meeting sites, and related activities).

f. A plan to involve participants in existing development organizations at the conclusion of the program (e.g., to work on committees, join existing development organizations, create new committees within development groups, and related activities).

g. Letters of endorsement as specified in subrule 69.7(2).

**261—69.8(15) Review and award process.**

**69.8(1) Review committee.** Each eligible application shall be reviewed by a committee made up of the following: two representatives of the department, one representative selected from an existing multicomunity development organization, and two representatives appointed by ISU. Applicants that score fewer than 300 points under subrule 69.8(2) shall not be eligible for funding. Applicants may be interviewed further to gain additional information about the proposal or to negotiate the proposed plan of work. Recommendations of the committee will be forwarded to the director of the department for final decisions.

**69.8(2) Scoring.** The scoring system has a maximum of 500 points.

a. Appropriateness and effectiveness of the program in addressing stated issues or opportunities within the area. 150 points.

b. The level of cash and in-kind commitment by local organizations. 100 points.

c. The degree of representation on the advisory committee: geographic, development and agricultural organizations, and businesses. 50 points.

d. The level of commitment of organizations to the planning and delivery of the program as evidenced by the plan of involvement of local organizations. 100 points.

e. The plan to involve participants in existing development organizations at the conclusion of the program. 100 points.

**261—69.9(15) Program management.**

**69.9(1) Record keeping.** Financial records, supporting documents, statistical records and all other records pertinent to the project shall be retained by the recipient of funds for a period of three years after the contract expiration date.

**69.9(2) Contract.** A contract will be negotiated with the successful applicants to define the terms for disbursement of funds and responsibilities.

**69.9(3) Access to records.** Representatives of the department and state auditor's office shall have access to all books, accounts and documents belonging to or in use by the recipient pertaining to the receipt of assistance under this program.

**69.9(4) Monitoring.** The department may perform any review or field inspections it deems necessary to ensure program compliance.

a. The applicant must make available to the department all records pertaining to all matters related to this program. Any costs determined by the department to be unallowable costs shall be repaid to the department.

b. Applicants will be required to submit a quarterly progress report to the department. The report will assess progress toward the goals of the program and the activi-

ties taking place during each session. The department may perform field visits as deemed necessary.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4898A****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 17A.3 and Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends 351—Chapters 2 to 4, 6, and 8 to 10, Iowa Administrative Code, to update the address of the agency, which changed office buildings as of May 16, 1994.

The Board finds, pursuant to Iowa Code section 17A.4(2), that notice and public participation are unnecessary because without the amendment, members of the public viewing the Board's rules and wishing to correspond with or visit this office would be misguided as to the address of the Board.

The Board further finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived as having the correct address in the rules confers a benefit on the public.

This amendment was adopted by the Board at its meeting held June 15, 1994.

This amendment became effective upon filing on June 16, 1994.

This amendment is intended to implement Iowa Code section 17A.3 and Iowa Code Supplement section 17A.32A.

The following amendment is adopted:

Amend 351—Chapters 2, 3, 4, 6, 8, 9, and 10 by striking "507 10th Street, Des Moines, Iowa, 50309" and inserting "514 E. Locust Street, Suite 104, Des Moines, Iowa 50309".

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4900A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 6, subsection 4, paragraph "c," and section 35, the Department of

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

Human Services hereby amends Chapter 49, "Transitional Child Care Assistance Program," Chapter 109, "Child Care Centers," Chapter 110, "Family and Group Day Care Homes," Chapter 130, "General Provisions," and Chapter 170, "Child Day Care Services," appearing in the Iowa Administrative Code.

These amendments make the following changes in policy governing the child day care program:

1. The transitional child care program is no longer restricted to providers who are licensed and registered. Federal regulations require parental choice of providers. This change also provides a more seamless child care system. The parents who are using nonregistered providers will no longer be required to change providers as they move from the Family Investment Program to Transitional Child Care.

2. Chapters 109 and 110 are amended to comply with changes involving age and school status of the children in day care as mandated by the General Assembly. Children now in half-day kindergartens will be considered school-age for registration purposes. School-age children will not be prohibited by state law from bringing their own food to a day care program.

3. New waiting list priority groups are implemented when funds are unavailable to serve all new applicants.

4. The waiting list language is updated to be consistent with welfare reform language.

5. Federal poverty guidelines and corresponding fee schedules are updated.

6. The requirement for a case plan when a child is receiving services for 30 days due to a parent's hospitalization or death is removed.

7. The requirement that providers serving families eligible for transitional child care be checked for compliance with registration requirements is removed.

8. A rate appeal process is established.

9. A method is prescribed for calculating a half-day rate.

10. The formula is updated for allocating day care funds to regional offices for fiscal year 1995.

The Department of Human Services finds that notice and public participation regarding Items 5 to 8 (number 2 above) are unnecessary because the Department has no option but to implement these changes which were mandated by the General Assembly in 1994 Iowa Acts, House File 2003, sections 1 to 4. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that the amendments regarding Items 5 to 8 confer a benefit to the public by avoiding confusion which might exist by having Departmental rules conflict with the Iowa Code. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Department of Human Services finds that these amendments implement 1994 Iowa Acts, Senate File 2313, section 6, subsections 3 and 4, and subsection 7, paragraph "b," and that 1994 Iowa Acts, Senate File 2313, section 6, subsection 4, paragraph "c," and section 35, authorize the Department to adopt rules to implement 1994 Iowa Acts, Senate File 2313, section 6, subsections 3 and 4 and subsection 7, paragraph "b," without notice and public participation to become effective immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein as a Notice of Intended Action, ARC 4899A, to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 239.21, 1994 Iowa Acts, Senate File 2313, section 6, subsections 3 and 4, and subsection 7, paragraph "b," and 1994 Iowa Acts, House File 2003, section 4.

These amendments became effective July 1, 1994. The following amendments are adopted.

ITEM 1. Amend rule 441—49.3(239) as follows:

**441—49.3(239) Child care facilities eligible to participate.** ~~Except as specified in the next paragraph, only licensed child care centers as specified at 441—Chapter 109 and registered family and group day care homes as specified at 441—Chapter 110 shall be eligible to participate in the transitional child care assistance program. The income maintenance worker shall verify that a compliance check of the registered facility has been completed by the service unit within the past 12 months at the time eligibility for transitional child care assistance begins or when the client changes providers.~~

~~Eligible child care providers include child care programs which are administered by a public or nonpublic school system, approved or accredited by the department of education or the state board of regents. Providers meeting requirements specified at 441—subrule 170.4(3) are eligible to participate in the transitional child care program.~~

ITEM 2. Amend rule 441—49.23(239) as follows:

**441—49.23(239) Child care facilities eligible to participate.** ~~Except as specified in the next paragraph, only licensed child care centers as specified at 441—Chapter 109 and registered family and group day care homes as specified at 441—Chapter 110 shall be eligible to participate in the transitional child care assistance program. The income maintenance worker shall verify that a compliance check of the registered facility has been completed by the service unit within the past 12 months at the time eligibility for transitional child care assistance begins or when the client changes providers.~~

~~Eligible child care providers include child care programs which are administered by a public or nonpublic school system, approved or accredited by the department of education or the state board of regents. Providers meeting requirements specified at 441—subrule 170.4(3) are eligible to participate in the transitional child care program.~~

ITEM 3. Amend the implementation clause following **441—Chapter 49, Division I**, to read as follows:

These rules are intended to implement Iowa Code section 239.21 and 1990 Iowa Acts, chapter 1270, section 7.

ITEM 4. Amend the implementation clause following **441—Chapter 49, Division II**, to read as follows:

These rules are intended to implement Iowa Code section 239.21 and 1990 Iowa Acts, chapter 1270, section 7.

ITEM 5. Amend subrule **109.6(3)**, paragraph "f," as follows:

f. Programs ~~for~~ which serve school-age children need not comply with subrules 109.6(1) and 109.6(3), paragraphs "a," and "b," and "c," and may allow school-age children only to bring sack lunches.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Amend the implementation clause following 441—Chapter 109 to read as follows:

These rules are intended to implement Iowa Code sections 232.69, 237A.5, 237A.12, and 1991 Iowa Acts, chapter 267, section 109 1994 Iowa Acts, House File 2003, section 4.

ITEM 7. Amend rule 441—110.5(237A) as follows:

Amend subrule 110.5(5), paragraph "b," as follows:

b. The total number of children in the home at any one time shall not exceed six. However, a registered or unregistered family day care home may provide care for more than 6 but less than 12 children at any one time for a period of less than two hours, but shall not do so unless the home does not provide care at any one time for more than six children who are not attending school full-time on a regular basis in kindergarten or a higher grade level. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full-time on a regular basis in kindergarten or a higher grade level, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home.

Amend subrule 110.5(7) as follows:

110.5(7) Regular meals shall be provided which are well-balanced, nourishing, and in appropriate amounts. Mid-morning and mid-afternoon snacks shall be served which are nutritious and appealing. Only school-age children may bring meals to the day care home for their own consumption.

ITEM 8. Amend the implementation clause following 441—Chapter 110 to read as follows:

These rules are intended to implement Iowa Code sections 234.6, 237A.2 to 237A.5, 237A.12, 237A.13, 237A.15 and 1991 Iowa Acts, chapter 267, section 109 1994 Iowa Acts, House File 2003, sections 1 to 4.

ITEM 9. Amend subrule 130.2(7) as follows:

Amend the introductory paragraph as follows:

130.2(7) Waiting lists for child day care services. The regional office shall maintain a log of families applying for child day care services who meet the requirements within the priority groupings for which funds may be available. Effective July 1, 1993, the department shall begin a waiting list for families in the first priority grouping set forth in 441—subrule 170.2(4). When the department determines there is adequate funding, the department shall take steps to notify the public regarding the availability of funds for the second or subsequent priority groupings. This process shall be followed when adequate funding allows families in other priority groupings to be considered for child day care services.

Rescind and reserve paragraph "c."

Amend paragraph "d" as follows:

d. Exception to placement on a waiting list. A family that who is part of the family investment program regular policy group and has received transitional child care assistance for 12 consecutive months under 441—Chapter 49 and a family who is part of the family investment program welfare reform group and has received transitional child care assistance for 24 consecutive months under 441—Chapter 49 and applies for state child day care assistance shall be approved for child day care services and not entered on a log if the family applies for child day care assistance and is determined eligible for services.

ITEM 10. Amend rule 441—130.3(234) as follows:

Amend subrule 130.3(1), paragraph "d," subparagraph (2), as follows:

(2) Income eligible status. The monthly gross income according to family size is no more than the following amounts:

Family Size	For Child Day Care Monthly Gross Income			All Other Services Monthly Gross Income Below	
	A	B			
1 Member	\$581	\$614	\$880	\$952	\$583
2 Members	786	820	1,187	1,271	762
3 Members	991	1,027	1,494	1,591	942
4 Members	1,196	1,234	1,802	1,912	1,121
5 Members	1,401	1,440	2,109	2,233	1,299
6 Members	1,606	1,647	2,417	2,552	1,478
7 Members	1,811	1,854	2,724	2,873	1,510
8 Members	2,016	2,060	3,032	3,193	1,546
9 Members	2,221	2,267	3,339	3,513	1,581
10 Members	2,426	2,473	3,427	3,764	1,612

For child day care, Column A, add \$205 \$207 for each additional person over 10 members. For child day care, Column B, add \$71 \$78 for each additional person over 10 members. For other services, add \$33 for each additional person over 10 members.

Column A is used to determine income eligibility for families applying for child day care services, with the exception of families with children with special needs, who shall use Column B.

Column B is used to determine ongoing income eligibility for families receiving child day care services as of June 30, 1993, and to determine income eligibility for families with children with special needs applying for child day care services.

Amend the implementation clause following rule 441—130.3(234) to read as follows:

This rule is intended to implement Iowa Code section 234.6 and 1991 Iowa Acts, chapter 267, section 109, subsection 3, paragraph "b," and section 118.

ITEM 11. Amend subrule 130.4(3) by replacing the monthly income chart and fee schedule with the following:

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

## Monthly Income Increment Levels According to Family Size

Income Increment Levels	1	2	3	4	5	6	7	8	9	10	Half Day Fee
A	597	801	1005	1210	1413	1618	1822	2025	2229	2433	.00
B	615	821	1028	1235	1441	1648	1855	2061	2268	2474	.50
C	642	862	1082	1303	1521	1742	1962	2180	2400	2620	1.00
D	687	923	1159	1396	1629	1866	2102	2335	2571	2807	1.50
E	730	984	1236	1484	1737	1990	2242	2490	2742	2994	2.00
F	775	1045	1313	1582	1845	2114	2382	2645	2913	3181	2.50
G	820	1106	1390	1675	1953	2230	2522	2800	3084	3368	3.00
H	865	1167	1467	1768	2061	2362	2662	2955	3255	3555	3.50
I	910	1228	1544	1861	2169	2486	2802	3110	3426	3742	4.00
J	955	1289	1621	1954	2277	2610	2942	3260	3597	3929	4.50
K	1000	1350	1698	2047	2385	2734	3082	3415	3768	4116	5.00
L	1045	1411	1775	2140	2493	2858	3222	3570	3939	4303	5.50
M	1103	1480	1857	2234	2610	2887	3363	3740	4117	4494	6.00

ITEM 12. Amend rule 441—130.7(234), first paragraph, as follows:

**441—130.7(234) Case plan.** The department worker shall develop a case plan with or on behalf of persons approved to receive services. However, a case plan is not required for (1) child or adult protective investigation, (2) family planning, (3) foster care cases in which the department does not have custody, guardianship or a voluntary placement agreement, or (4) when child day care is the only service and the child does not meet the need for service under 441—subrule 170.2(3)"d." ~~or "e."~~ A case plan shall be developed with or on behalf of every other person approved to receive services unless the person has a case manager as specified in 441—Chapter 24. When department services are provided before an individual program plan in compliance with 441—Chapter 24 is approved, a department case plan must be developed according to the requirements of this rule.

ITEM 13. Amend rule 441—170.2(234) as follows:

Amend subrule 170.2(3) by rescinding and reserving paragraph "h."

Amend subrule 170.2(4), paragraph "a," as follows:

a. Families who are at or below 100 percent of the federal poverty guidelines ~~with a child under five years of age~~ in which the parents are employed at least ~~35~~ 30 hours per week.

Further amend subrule 170.2(4) by rescinding and reserving paragraphs "b," "d," and "f."

Further amend subrule 170.2(4), paragraph "g," as follows:

g. Families who are at or below 100 percent of the federal poverty guidelines ~~with a child under five years of age~~ and are employed part-time at least 20 hours per week. ~~Part-time shall mean less than 35 hours per week.~~

ITEM 14. Amend rule 441—170.4(234) as follows:

Amend subrules 170.4(1) and 170.4(6) as follows:

**170.4(1) Case plan.** The case plan shall be developed by the department service worker and contain information described in 441—subrule 130.7(2), when the child meets the need for service under 170.2(3)"d." ~~or "e."~~

**170.4(6) Provider's individual program plan.** An individual program plan shall be developed by the child care

provider for each child within 30 days after placement when the need for service was established under 170.2(3)"d." ~~or "e."~~ The program plan shall be supportive of the service worker's case plan. The program plan shall contain goals, objectives, services to be provided, and time frames for review.

Amend subrule 170.4(7), paragraph "a," first paragraph, as follows:

a. Rate of payment. The rate of payment for child day care services, except for in-home care which shall be paid in accordance with 170.4(7)"d," shall be 1 percent over the rate in effect June 30, 1993, not to exceed the maximum rates shown below. The rate of payment for a provider whose rate is established on or after July 1, 1993, shall remain the rate in effect and shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. *When a provider does not have a half-day rate in effect, a rate is established by dividing the provider's declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider's declared hourly rate by 4.5.* Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child's service worker that the child needing services has been assessed by a qualified professional and meets the definition for "child with special needs," and a description of the child's special care needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Further amend subrule 170.4(7) by adding the following new paragraph "f":

f. Review of the calculation of the rate of payment. Maximum rate ceilings and the rate in effect are not appealable. A provider who is in disagreement with the calculation of the half-day rate as set forth in 170.4(7)"a" may request a review. The procedure for review is as follows:

(1) Within 15 calendar days of notification of the rate in question, the provider shall send a written request for review to the human services area administrator. The re-

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ARC 4903A

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

quest shall identify the specific rate in question and the methodology used to calculate the rate. A written response from the human services area administrator shall be provided within 15 calendar days of receipt of the request for review.

(2) When dissatisfied with the response, the provider may, within 15 calendar days of the response, request a review by the chief of the bureau of individual and family support services. The provider shall submit the original request, the response received, and any additional information desired to the bureau chief. The bureau chief shall render a decision in writing within 15 calendar days of receipt of the request.

(3) The provider may appeal the decision to the director of the department or the director's designee within 15 calendar days of the decision. The director or director's designee shall issue the final department decision within 15 calendar days of receipt of the request.

ITEM 15. Rescind and reserve rule 441—170.7(234).

ITEM 16. Amend rule 441—170.8(234) as follows:

**441—170.8(234) Allocation of funds.** The department shall allocate the funds for child day care services to the regional offices of the department to ensure that the current need and projected growth in services to families receiving child day care services as of June 30, 1993, and to families with protective child care needs are met. The funds for nonprotective child day care services shall be allocated ~~for fiscal year 1994 based on the expenditures of the regional office proportional to the total state expenditures for nonprotective child day care services for the period of February 1993 through April 1993.~~ The funds for protective child day care services shall be allocated ~~for fiscal year 1994 based on historical data for the period of April 1992 through March 1993,~~ with 60 percent of the total allocation to the regional office based on the number of founded child abuse cases in the region proportional to the total number of founded child abuse cases in the state, and 40 percent of the total allocation to the regional office based on the number of child abuse reports in the region proportional to the total number of child abuse reports in the state. The department may redistribute any unobligated funds from the original allocation to the regional offices based on the number of children living in the region whose family income is at or below 100 percent of the federal poverty guidelines.

The regional office of the department shall manage the child day care funds allocated to the region and shall distribute the allocation among the counties within the region based on, but not limited to, the factors used to allocate funds to the regional offices. The regional office may redistribute any unobligated funds from the original allocation to the county offices to ensure that the current need and projected growth in services to families receiving child day care services as of June 30, 1993, and to families with protective child care needs are met.

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[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

Pursuant to the authority of Iowa Code sections 217.6 and 234.6 and 1994 Iowa Acts, Senate File 2330, section 40, the Department of Human Services hereby amends Chapter 52, "Payment," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

These amendments increase the maximum and flat State Supplementary Assistance (SSA) residential care facility (RCF) reimbursement rate and the maximum in-home health-related care reimbursement rate by 3 percent. The maximum RCF reimbursement rate will be increased from \$19.82 to \$20.41 per day. The flat RCF reimbursement rate for facilities electing not to file cost reports will be increased from \$14.17 to \$14.60 per day. The maximum in-home health-related care rate will increase from \$390.15 to \$401.85 per month.

The Seventy-fifth Iowa General Assembly in 1994 Iowa Acts, Senate File 2313, section 25, subsection 2, directed the Department to increase the flat and maximum RCF reimbursement rates by 1 percent. The in-home health-related care reimbursement rate was to remain at the current level.

Iowa is required to comply with a federal "Pass-Along" requirement (commonly referred to as "maintenance of fiscal effort") under the SSA program. Iowa complies with this requirement by ensuring that total SSA expenditures in a calendar year equal or exceed total expenditures in the previous calendar year. In order to comply with the pass-along requirement in calendar year 1994, Iowa's total SSA expenditures (in calendar year 1994) must be at least \$18,688,000. Based on current projections (which include the 1 percent RCF reimbursement rate increase mandated by the General Assembly) the Department projects that calendar year 1994 expenditures will be approximately \$18,300,000 and we will fall short of meeting this requirement by approximately \$400,000.

However, if the Department projects that the federal pass-along will not be met, the Seventy-fifth General Assembly also authorized the Department in 1994 Iowa Acts, Senate File 2330, section 40, to make adjustments including, but not limited to, reimbursement rate adjustments to ensure that federal requirements are met. The Department was also given emergency rule-making authority to implement these changes. The Department currently projects that a 3 percent increase in both the RCF and in-home health-related care reimbursement rates beginning July 1, 1994, will allow the Department to meet the "Pass-Along" requirement in calendar year 1994 while not exceeding the state fiscal year 1995 appropriation.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because these amendments implement 1994 Iowa Acts, Senate File 2330, section 40, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date should be waived and the amendments be made effective July 1,

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

1994, as authorized by 1994 Iowa Acts, Senate File 2330, section 40.

These amendments are also published herein under Notice of Intended Action as **ARC 4902A** to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 249.3 and 1994 Iowa Acts, Senate File 2330, section 40.

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend subrule 52.1(3), first paragraph, as follows:

**52.1(3) Residential care.** Payment to a recipient in a residential care facility shall be made on a flat per diem rate of ~~\$14.17~~ **\$14.60** or on a cost-related reimbursement system with a maximum reimbursement per diem rate of ~~\$19.82~~ **\$20.41**. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

ITEM 2. Amend rule 441—177.4(249) as follows:

Amend subrule 177.4(7), introductory paragraph, as follows:

**177.4(7) Income for adults.** The gross income of the individual and spouse, living in the home, shall be limited to ~~\$390.15~~ **\$401.85** per month if one needs care or ~~\$780.30~~ **\$803.70** if both need care, with the following disregards:

Amend subrule **177.4(8)**, paragraph "b," introductory paragraph, as follows:

b. The income of the child shall be limited to ~~\$390.15~~ **\$401.85** per month with the following disregards:

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pedited time frame and with waived verification, if necessary, to meet the expedited time frame. Current policy allows households who file an application after the fifteenth of the month who are eligible for expedited service to receive both the first and second months' benefits only if all verification has been provided.

The Department of Human Services finds that notice and public participation are unnecessary and impracticable because the Department has no option but to implement this change which the Department has been mandated by the U.S. District Court to implement by July 1, 1994. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2) and 441—subrule 3.10(2).

The Department finds that this amendment confers a benefit to food stamp applicants by allowing households who file an application after the fifteenth of the month who are eligible for expedited services to receive the prorated initial month's benefits and the full subsequent month's allotment at the same time. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Human Services adopted this amendment June 15, 1994.

This amendment is intended to implement Iowa Code section 234.12.

This amendment became effective July 1, 1994.

The following amendment is adopted.

Amend subrule 65.4(5) as follows:

**65.4(5)** Notwithstanding anything to the contrary in these rules or regulations, households applying for initial months' benefits after the fifteenth day of the month and eligible for expedited services ~~who provided all verification by the date of expedited issuance and who are determined eligible for the initial month and the next subsequent month shall receive their prorated initial month expedited allotment and their first full month's allotment at the same time.~~

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**ARC 4904A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

This amendment provides that food stamp households eligible for expedited benefits who apply for food stamps after the fifteenth of the month get both the first and second months' benefits at the same time. Expedited benefits must be issued within five days after the household applies.

This change is federally mandated based on a U.S. District Court decision, *Johnson v. U.S.D.A. and Georgia*, which requires that if a household applies for food stamps after the fifteenth of the month and is eligible for expedited service, it must get the prorated initial month's benefit and the second month's full benefit within the ex-

**ARC 4905A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 73, "Commodity Distribution Programs," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment June 15, 1994. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on April 27, 1994, as **ARC 4762A**.

This amendment increases the income eligibility guidelines for the Federal Surplus Food Program.

Income eligibility guidelines for the Federal Surplus Food Program in Iowa are based on the income guidelines for the reduced price meals in the National School Lunch Program. These guidelines are set at 185 percent of the

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

federal poverty guidelines and are revised effective July 1 of each year. Revised federal poverty guidelines have been received.

The Department of Human Services finds this amendment confers a benefit on persons applying for surplus foods by ensuring that persons do not become ineligible for the program due to a cost of living increase. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

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

This amendment is intended to implement Iowa Code section 234.12.

This amendment became effective July 1, 1994.

The following amendment is adopted.

Amend subrule 73.4(3), paragraph "d," subparagraph (2), as follows:

(2) Income eligible status. The gross income according to family size is no more than the following amounts:

Household Size	Yearly Income		Monthly Income		Weekly Income	
1	\$12,895	\$13,616	\$1,075	\$1,135	\$248	\$262
2	17,446	18,204	1,454	1,517	336	351
3	21,997	22,792	1,834	1,900	424	439
4	26,548	27,380	2,213	2,282	511	527
5	31,099	31,968	2,592	2,664	599	615
6	35,650	36,556	2,971	3,047	686	703
7	40,201	41,144	3,351	3,429	774	792
8	44,752	45,732	3,730	3,811	861	880

For each additional household member add: \$4,551 \$ 4,588 \$ 380 \$ 383 \$ 88 \$ 89

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4908A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, section 25, subsection 6, and section 35, the Department of Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

These amendments implement the changes in Medicaid provider policy mandated by the Seventy-fifth General Assembly. The changes are as follows:

1. Nutritional counseling services by a licensed dietitian for recipients aged 20 and under when WIC services cannot meet the medically necessary needs are added. The services will be covered for current providers only.

2. A 10 percent reimbursement increase for obstetrical services provided by physicians or certified nurse midwives is implemented.

3. A 5 percent reimbursement increase for Early, Periodic, Screening, Diagnosis, and Treatment (EPSDT) screening services is implemented.

4. Reimbursement for hospital inpatient services is increased by an average of 4.2 percent, and reimbursement for skilled nursing facility services is increased by 4.9 percent.

5. The basis for establishing the maximum reimbursement rate for nursing facilities is set at the seventieth percentile of facility costs as calculated from the June 30, 1994, unaudited compilation of cost and statistical data. It is estimated the maximum per diem rate will increase from \$54.77 to \$57.

6. A new reimbursement system for outpatient hospital services is established based on ambulatory patient groups (APG) with retrospective adjustments so that the reimbursement made is within a 5 percent deviation of the lower of cost or charges for the services provided during the fiscal year ending June 30, 1995, as adjusted to reflect actual changes in inflation, increased insureds, utilization per insured, and acuity of service.

Language in the Department's appropriations bill during the 1993 legislative session directed the Department to seek a contractor to design and develop an outpatient reimbursement system. The Division of Medical Services issued an RFP in fiscal year 1994 for the procurement of the contractor and associated system development. Two proposals were submitted, both of which recommended the ambulatory patient groups (APG) methodology be implemented as the outpatient system. APGs are similar to a DRG-based system, although not identical.

During the past years, an ever increasing number of procedures are being performed in an outpatient setting as opposed to an inpatient setting, resulting in an increasing shift of moneys to the outpatient setting. The development of the inpatient DRG system has proved effective in controlling and reducing costs and lengths of stays associated with that setting. The current cost-based, retrospective reimbursement system for outpatient services does not offer similar controls and does not provide adequate incentive to hospitals to reduce costs in an outpatient setting. By establishing APG payment rates, allowing hospitals to know exactly how much will be received for services provided, incentives which work well in the inpatient setting can be transferred to the outpatient setting.

No other states have adopted the APG reimbursement systems and Medicare has been slow in the development of its program. Iowa will be the first state to try this type of reimbursement. Since previous data collection methodology did not anticipate APGs, there have been difficulties in conforming and analyzing data to support APGs, which have been a concern to hospitals. Hospitals are also concerned about the short implementation time frames and costs of purchasing associated software to process claims.

7. Reimbursement policy is revised for payment of emergency room services. All visits to hospital emergency rooms by Medicaid beneficiaries which do not result in inpatient admission shall result in the hospital receiving a payment, at a level to be determined by the department, for patient assessment. All treatment conducted in the emergency room for either a regular Medicaid recipient or a Medipass participant, for conditions defined as emer-

HUMAN SERVICES DEPARTMENT[441](cont'd)

gent in accord with diagnoses codes found in the provider manual, shall receive the appropriate APG payment plus the assessment payment. If a regular Medicaid patient is treated in the emergency room but does not have an emergency diagnosis, the hospital shall receive the assessment payment plus 50 percent of the APG payment. If the patient is assessed in the emergency room, found to be non-emergent and referred for further treatment to a hospital-based clinic, regular clinic, physician's office, or other similar site, only the assessment payment shall be made to the hospital for the emergency room. The responsible clinic or physician's office shall subsequently bill for any additional services provided.

For Medicaid beneficiaries participating in the Medipass Program, an assessment payment plus 50 percent of the full APG payment shall be paid for treatment of non-emergent conditions contingent upon documentation in the claim and medical record of permission or referral from the recipient's primary care physician. Should treatment for nonemergent conditions be provided to Medipass participants without this documentation, payment shall consist only of the assessment payment. When a Medipass patient is treated in a hospital-based clinic and that clinic is the Medipass patient manager, only the full APG payment will be made. When the patient is treated in a hospital-based clinic, the clinic is not the patient manager and has not obtained the permission of the recipient's patient manager to perform the treatment, no payment shall be made to the clinic.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, section 25, subsection 6, and section 35, authorize the Department to adopt rules to implement 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, and section 25, subsection 1, paragraphs "b," "c," "d," "f," and "i," without notice and public participation.

The Department further finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date for these amendments should be waived and the amendments made effective July 1, 1994, because 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, section 25, subsection 6, and section 35 authorize the amendments to become effective immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein under Notice of Intended Action as ARC 4907A to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 5, and section 25, subsection 1, paragraphs "b," "c," "d," "f," and "i."

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend rule 441—78.1(249A) by adding the following new subrule 78.1(14):

**78.1(14)** Payment will be made for persons aged 20 and under for nutritional counseling provided by a licensed dietitian employed by a physician for a nutritional problem or condition of a degree of severity that nutritional counseling beyond that normally expected as part of the standard medical management is warranted. For persons eligible for the WIC program, a WIC referral is re-

quired. Medical necessity for nutritional counseling services exceeding those available through WIC shall be documented.

ITEM 2. Amend subrule 78.3(12), paragraph "c," as follows:

c. The patient is referred by a physician. ~~Payment for the emergency room will be reduced to 50 percent of the allowable charge when a patient is referred by a physician for treatment of a nonemergency condition.~~ If the recipient is enrolled with a patient manager as described in 441—Chapter 88, the referring physician must be the patient manager or a physician designated by the patient manager as having authority to make referrals.

ITEM 3. Amend rule 441—78.18(249A) by adding the following new subrule 78.18(7):

**78.18(7)** Payment will be made for persons aged 20 and under for nutritional counseling provided by a licensed dietitian employed by a screening center for a nutritional problem or condition of a degree of severity that nutritional counseling beyond that normally expected as part of the standard medical management is warranted. For persons eligible for the WIC program, a WIC referral is required. Medical necessity for nutritional counseling services exceeding those available through WIC shall be documented.

ITEM 4. Amend rule 441—78.31(249A) as follows:

Amend subrule 78.31(1) by adding the following new paragraph "n":

n. Nutritional counseling for persons aged 20 and under.

Amend subrule 78.31(4) by adding the following new paragraph "h":

h. Nutritional counseling. Payment will be made for persons aged 20 and under for nutritional counseling provided by a licensed dietitian employed by a hospital for a nutritional problem or condition of a degree of severity that nutritional counseling beyond that normally expected as part of the standard medical management is warranted. For persons eligible for the WIC program, a WIC referral is required. Medical necessity for nutritional counseling services exceeding those available through WIC shall be documented.

ITEM 5. Amend rule 441—79.1(249A) as follows:

Amend subrule 79.1(2), provider categories of "Family or pediatric nurse practitioner," "Hospitals (Inpatient)," "Hospitals (Outpatient)," "Nurse-midwives," "Nursing facilities," "Physicians (doctors of medicine or osteopathy)," and "Screening centers," as follows:

Provider category	Basis of Reimbursement	Upper limit
Family or pediatric nurse practitioner	Fee schedule	Fee schedule in effect 6/30/94 with the exception that screening services are fee schedule in effect 6/30/94 plus 5%
Hospitals (Inpatient)	Prospective reimbursement. See 79.1(5)	Reimbursement rate in effect 7/01/93 6/30/94 increased by 4.2%

HUMAN SERVICES DEPARTMENT[441](cont'd)

Hospitals (Outpatient)	Retrospective <del>cost-related</del> <i>Prospective reimbursement</i> for providers listed at 78.3(1)"a" to "f."	<del>Retrospective rate not to exceed the lower of cost or charges for the hospital's fiscal year</del> <i>Ambulatory patient group rate (plus an evaluation rate)</i> Fee schedule in effect 6/30/90 plus 5.7%. Partial hospitalization and day treatment for children is fee schedule in effect 6/01/93. <i>Nutritional counseling for children is fee schedule in effect 7/01/94</i>	Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7)	Fee schedule in effect 6/30/90 plus 1.6% with the exception of obstetrical services as defined by the department and pediatric primary care services as defined by the department. Pediatric services will receive a 10% increase over the fee schedule in effect on 6/30/92. Obstetrical services will receive a 10% increase over the rates in effect <del>6/30/93</del> 6/30/94. EPSDT screening services will receive a <del>50%</del> 5% increase over the rates in effect <del>6/30/93</del> 6/30/94. The department may revise the fee schedule.
Nurse-midwives	Fee schedule	Fee schedule in effect <del>6/30/93</del> 6/30/94 plus 10%			
Nursing facilities: 1. Nursing facility care	Prospective reimbursement. See 81.10(1) and 441—81.6 (249A)	<del>Sixty-ninth</del> <i>Seventieth</i> percentile of facility costs as calculated from <del>6/30/93</del> 6/30/94 cost reports			
2. Skilled nursing care	Prospective reimbursement. See 79.1(9)	<i>Sixtieth</i> percentile of costs for hospital- based facilities effective <del>6/30/93</del> 6/30/94 inflated by <del>4.33%</del> 4.9%. <i>Sixty-ninth</i> percentile of costs for free-standing facilities effective 6/30/94 inflated by 4.9%.	Screening centers	Fee schedule	Reimbursement rate for center in effect <del>6/30/92</del> 6/30/94 plus <del>10%</del> 5%

Rescind and reserve subrule 79.1(5), paragraph "u."  
Amend subrule 79.1(9), paragraph "d," as follows:  
d. Effective February 1, 1994, a ceiling of allowable  
cost shall be established at the sixtieth percentile for  
hospital-based facilities and the sixty-ninth percentile for  
free-standing facilities. The allowable cost shall be  
weighted by Medicare patient days. *Effective July 1,  
1994, the rates for each classification shall be inflated by  
4.9 percent over the rates in effect June 30, 1994.*  
Add the following new subrule 79.1(16):

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

**79.1(16) Outpatient reimbursement for hospitals.****a. Definitions.**

"Ambulatory patient group (APG)" shall mean a group of similar outpatient procedures, encounters or ancillary services which are combined based on patient clinical characteristics and expected resource use. Data used to define APGs include ICD-9-CM diagnoses codes, CPT-4 procedure codes, patient age and sex, and visit disposition.

"Ancillary services" shall mean those tests and procedures ordered by a physician to assist in patient diagnosis or treatment. Ancillary procedures, such as immunizations, increase the time and resources expended during a visit, but do not dominate the visit.

"APG relative weight" shall mean a number that reflects the expected resource consumption for cases associated with each APG, relative to the average APG. That is, the Iowa-specific weight for a certain APG reflects the relative charge for treating all singleton cases classified in that particular APG, compared to the average charge for treating all Medicaid APGs in Iowa hospitals.

"Assessment payment" shall mean an additional payment made to a hospital for only the initial assessment and determination of medical necessity of a patient for the purpose of determining if the ER is the most appropriate treatment site. This payment shall be equal to 50 percent of the customary reimbursement rate for CPT-4 code 99281 (Evaluation and Management of a Patient in the Emergency Room).

"Base year cost report" shall mean the hospital's cost report with fiscal year end on or after January 1, 1992, and prior to January 1, 1993, except as noted in paragraph "s." Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, 1992, and prior to January 1, 1993.

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per visit associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid visit, divided by two. This basic amount is the value to which add-on payments for inflation are added to form a final payment rate.

"Case-mix adjusted" shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of outpatient cases treated in a hospital, compared to the statewide average.

"Consolidation" shall mean the process by which the APG classification system determines whether separate payment is appropriate when a patient is assigned multiple significant procedure APGs. All significant procedures within a single APG are suppressed (or grouped) for payment purposes, into one APG. Multiple, related significant procedures in different APGs are consolidated into the highest weighted APG for reimbursement purposes. Multiple, unrelated significant procedures in different APGs are not consolidated; thus, each receives separate payment.

"Cost outlier" shall mean cases which have an extraordinarily high cost as established in paragraph "g" and, thus, are eligible for additional payments above and beyond the base APG payment.

"Current procedural terminology - fourth edition (CPT-4)" is the systematic listing and coding of procedures and services provided by physicians or other related health care providers. The CPT-4 coding is maintained by the American Medical Association and is updated yearly.

"Direct medical education costs" shall mean an add-on to the APG payment amount which shall compensate for costs associated with outpatient direct medical education of interns and residents. Costs associated with direct medical education are determined from the hospital base year cost reports and are inflated and case-mix adjusted.

"Discounting" shall mean a reduction in standard payment when unrelated procedures or ancillary services are performed during a single visit. Discount rates are defined in paragraph "h."

"Final payment rate" shall mean the blended base amount that forms the final dollar value used to calculate each provider's reimbursement amount, when multiplied by the APG weight. These dollar values are displayed on the rate table listing.

"Hospital-based clinic" means a clinic that is owned by the hospital, operated by the hospital under its hospital license, and on the premises of the hospital.

"Inlier" shall mean those cases where the cost of treatment falls within the established cost boundaries of APG payment.

"International classifications of diseases - tenth edition (ICD-9)" is a systematic method used to classify and provide standardization to coding practices which are used to describe the diagnosis, symptom, complaint, condition or cause of a person's injury or illness.

"Outpatient visit" shall mean those hospital-based outpatient services which are billed on a single UB-92 claim form, and which occur within 72 hours of initiation of service, with exceptions as noted in paragraph "m."

"Packaging" shall mean the inclusion of routinely performed ancillary services in the reimbursement of an APG. In the APG classification system, there are many routine, low-cost ancillary procedures or tests, such as routine urinalysis, which are customarily ordered and performed during a visit. When this ancillary service is packaged, this indicates that the relative APG weight has been set to reflect the inclusion of the costs of the related ancillary procedures.

"Peer review organization (PRO)" shall mean the organization that performs medical peer review of Medicaid claims, including review of validity of hospital diagnosis and procedure coding information; completeness, adequacy and quality of care; and appropriateness of prospective payments for outlier cases and nonemergent use of the emergency room.

"Rate table listing" shall mean a schedule of rate payments maintained by the department for each provider. The rate table listing is defined as the output that shows the final payment rate by hospital before being multiplied by the appropriate APG weight.

"Rebasing" shall mean the redetermination of the blended base amount or other applicable components of the final payment rate from more recent Medicaid cost report data.

"Recalibration" shall mean the adjustment of all APG weights to reflect changes in relative resource consumption.

"Risk corridor" shall mean limits established during the state fiscal years 1995 and 1996 to prevent immediate

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large financial gains or losses for Iowa hospitals due to APG implementation.

"Significant procedure APG" shall mean a procedure which constitutes the reason for the visit and which dominates the time and resources expended during the visit.

"Singleton APG" shall mean those APGs on a patient claim which, following consolidation of significant procedures and packaging of ancillaries, are part of a visit with no remaining multiple significant procedures. These singletons are used to calculate relative weights in the procedure described in paragraph "d."

"Statewide visit expected payment (SVEP)" shall mean the expected payment for an outpatient visit, for use in defining cost outliers. This payment equals the sum of the statewide average case-mix adjusted operating cost per Medicaid visit multiplied by the relative weight for each valid APG within a visit (following packaging and discounting).

b. Determination of final payment rate amount. Each hospital's APG-based payment equals the hospital's case-mix index multiplied by the number of valid visits multiplied by the blended base amount. The blended base rate is then adjusted, so that statewide reimbursement equals statewide valid costs from cost reports. Payment is then recomputed using the adjusted blended base amount. The hospital's final APG payment amount reflects the sum of inflation adjustments to the blended base amount.

c. Trimming of outpatient charge data. Trimming of outliers from charge data is necessary to minimize the impact of coding errors and to ensure that charges for one unusual case do not bias the resulting weights. Trimmed data is not excluded from analysis; instead, values outside the trim points are reset, as described below. Standard deviation methodology is used to set trim points. For each APG, the mean charge and standard deviation are computed geometrically, based on all singleton occurrences of that APG. In a first pass, the trim points equal the mean charge, plus or minus two times the standard deviation for that APG. The mean charge and standard deviation are then geometrically computed again, with charges trimmed at the first pass trim points. The final low trim point equals the new mean charge minus 1.5 times the new standard deviation and, correspondingly, the final high trim point equals the new mean charge plus 1.5 times the new standard deviation.

d. Calculation of Iowa-specific relative weights and case-mix index. Using all applicable claims for the period July 1, 1991, through June 30, 1993, and paid through December 1993, relative weights were calculated using all valid singleton claims, which had been trimmed at high and low trim points, as discussed in paragraph "c."

(1) Iowa-specific relative weights are calculated from Medicaid charge data for outpatient visits occurring from July 1, 1991, to June 30, 1993, and paid through December 1993. One weight is determined for each APG through the following calculations:

1. The statewide geometric mean charge is determined for all singleton occurrences of each APG.

2. The statewide aggregate geometric charge is computed by multiplying the statewide geometric mean charge for each APG by the total number of occurrences of that APG.

3. The statewide aggregate geometric charges are summed, then divided by the total number of occurrences for all APGs, to determine the weighted average charge for all APGs.

4. The statewide geometric mean charges for each APG are divided by the weighted average charge for all APGs to derive the Iowa-specific relative weight for each APG.

5. Relative weights for APGs which had low or no volume in the claims data, and those weights which were deemed too high or low by a committee of clinicians assembled by the Iowa foundation for medical care, were administratively adjusted.

6. The relative weights are then normalized, so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by summing the relative weights for each valid occurrence of an APG at that hospital and dividing by the number of valid Medicaid visits for that hospital.

e. Calculation of blended base amount. The APG blended base amount reflects a 50/50 blend of statewide and hospital-specific base amounts.

(1) Calculation of statewide average case-mix adjusted cost per visit. The statewide average cost per visit is calculated by subtracting from the statewide total Iowa Medicaid outpatient expenditures: the total calculated dollar expenditures based on hospitals' base year cost reports for medical education costs, and calculation of actual payments that will be made for outliers, physical rehabilitation services, and substance abuse and mental health services. The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation) is divided by the statewide total number of Iowa Medicaid visits reported in the Medicaid management information system (MMIS).

(2) Calculation of hospital-specific case-mix adjusted average cost per visit. The hospital-specific case-mix adjusted average cost per visit is calculated by subtracting from the lesser of total Iowa Medicaid costs, or covered reasonable charges as determined by the hospital's base year cost report or MMIS claims system, the actual dollar expenditures for direct medical education costs for interns and residents, outliers, and mental health and substance abuse services, if included. The remaining amount is case-mix adjusted, adjusted to reflect inflation and divided by the total number of Iowa Medicaid visits from the MMIS claims system or cost report, whichever is greater, for that hospital during the applicable base year.

(3) Calculation of the blended statewide and hospital-specific base amount. The hospital-specific case-mix adjusted average cost per visit is added to the case-mix adjusted statewide average cost per visit and divided by two to arrive at a 50/50 blended base amount.

f. Payment add-ons. If applicable to the provider, direct outpatient costs associated with education of interns and residents will be added to the base APG amount prior to setting the final APG payment rate. The amount added on reflects Iowa Medicaid's average cost per visit for hospital-specific direct medical education adjusted to case-mix. This add-on is determined from the base year cost reports and is adjusted to reflect inflation.

g. Outlier payment policy. Additional payment is made for approved cases meeting or exceeding the following Medicaid criteria of cost outliers for each APG.

Cases qualify as cost outliers when costs of service in a given case exceed the cost threshold. For visits with a "statewide visit expected payment (SVEP)" equal to or between \$50 and \$500, this cost threshold is determined to be two times the statewide average APG-based payment or SVEP for that visit. For SVEPs greater than

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\$500, the outlier cost threshold for a hospital outpatient visit equals the statewide average payment plus \$500. There is no outlier threshold (or additional payment) for hospital visits with an SVEP less than \$50. Costs are calculated using hospital-specific cost-to-charge ratios determined in the base year cost reports. Additional payment for cost outliers is 60 percent of the excess between the hospital's cost for the visit and the cost threshold established to define cost outliers.

h. Discounting policy. The purpose of reducing standard payment for multiple procedures or ancillaries in a single visit is to encourage efficient provision of these services. The discount factor reflects the fact that fixed costs are reduced for multiple procedures. Examples of fixed costs are: operating room charges, anesthesia, and specimen collection. Claims for multiple medical visits within a 72-hour period and claims for services billed in "batches" (see paragraph "m") are not subject to discounted payment. Multiple, nonconsolidated significant procedures will be paid at 100 percent of the expected APG payment for the procedure with the highest relative weight for that APG occurrence, 60 percent of next highest weighted APG payment for the second occurrence and 40 percent for the third or more occurrence. Multiple nonpackaged laboratory tests within the same APG will be paid at 100 percent of the expected APG payment for the first APG occurrence, and 80 percent of expected APG payment for each subsequent occurrence. Multiple, nonpackaged non-laboratory ancillaries in the same APG will be paid at 100 percent of the expected APG payment for the first APG occurrence, 60 percent of expected APG payment for the second occurrence and 40 percent for the third or more occurrence.

Clinical laboratory testing performed by a hospital shall be paid using the Medicare fee schedule as set forth at rule 441—78.20(249A) in instances when the only procedure performed by the hospital is the collection or testing of the specimen.

i. Services covered by APG payments. Medicaid adopts the Medicare definition of outpatient hospital services at 42 CFR 414.32 as amended to September 15, 1992, which will be covered by the APG-based prospective payment system, except as indicated herein. As a result, combined billing for physician services is eliminated unless the hospital has approval from the Health Care Financing Administration (HCFA) to combine bills. Teaching hospitals having HCFA's approval to receive reasonable cost reimbursement for physician services under 42 CFR 415.58 as amended to November 25, 1991, are eligible for combined billing status if they have filed the approval notice with the department's fiscal agent. Reasonable cost settlement for teaching physicians for those costs not included in the APG cost finding process will be made during the year-end settlement process. Services provided by certified nurse anesthetists (CRNAs) employed by a physician are covered by physician reimbursement. Payment for the services of CRNAs employed by the hospital are included in the hospital's reimbursement.

Ambulance transportation will not be reimbursed by APG payment. A hospital-based ambulance service must be an enrolled Medicaid ambulance provider and follow policy as specified at rule 441—78.11(249A) unless the recipient's condition results in an inpatient admission to the hospital. In the case of an inpatient admission, the reimbursement for ambulance services is included in the

hospital's DRG reimbursement rate. Enrollment information and claim submission for ambulance services should be directed to the Medicaid fiscal agent.

Claims for all noninpatient services (NIP), including outpatient mental health, substance abuse, eating disorders, cardiac rehabilitation, pulmonary rehabilitation, diabetic education, pain management, and nutritional counseling, should be billed to Iowa Medicaid and will be paid under the respective NIP program on a fixed fee schedule.

Upon implementation of the managed mental health care program, all psychiatric services for those eligibility groups targeted under the managed mental health care system will be the responsibility of the managed mental health care contractor and will not be payable by Iowa Medicaid. Emergency psychiatric evaluations for recipients who are covered by the managed mental health care contractor will be the responsibility of the contractor. For those recipients who are not covered by the managed mental health care contractor, services will be payable under either the APG for emergency evaluation or under the respective NIP program.

Claims for the following APGs will not be accepted by Iowa Medicaid for payment: APG 872—Obesity, APG 856—Disease of nails, APG 235—Artificial Fertilization, APG 288—Contact Lenses, APG 459—Biofeedback and hypnotherapy, APG 460—Provision of vision aids, and APG 946—Adult medical examination.

Claims grouping into APG 947 (Well Child Exam) shall meet all early and periodic screening, diagnosis and treatment requirements as set forth at rule 441—84.3(249A).

j. System implementation, rebasing, and recalibration. For state fiscal years 1995 and 1996, a risk corridor has been established to ensure that APG payments to each hospital will not be less than 95 percent or greater than 105 percent of Medicaid allowable costs.

k. Payment to out-of-state hospitals. Payment made to out-of-state hospitals providing care to beneficiaries of Iowa's Medicaid program is equal to either the Iowa statewide average case-mix adjusted base amount or the Iowa statewide average case-mix adjusted base amount blended with the hospital-specific base amount. Hospitals that submit a cost report with data for Iowa Medicaid patients only, no less than 120 days prior to rebasing, will receive a case-mix adjusted blended base rate using hospital-specific Iowa only Medicaid data and the Iowa statewide average cost per visit amount. If a hospital qualifies for reimbursement for the direct medical education component under Medicare guidelines, it shall qualify for this add-on component for reimbursement purposes in Iowa. Hospitals wishing to submit the HCFA 2552 (or HCFA accepted substitute) cost report must do so within 60 days from the date of patient visit to the state of Iowa's fiscal agent. Hospitals which elect to submit cost reports for the determination of blended rates shall submit new reports to the department's fiscal agent on an annual basis within 90 days of the close of the hospital's fiscal year end. When audited, finalized reports become available from the Medicare intermediary, the facility may submit them to the Iowa Medicaid fiscal agent.

l. Preadmission, preauthorization or inappropriate services. Inpatient or outpatient services which require preadmission or preprocedure approval by the PRO are updated yearly and are available from the PRO. The hospital shall provide the PRO authorization number on the

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

UB-92 claim form to receive payment. Claims submitted for payment without this authorization number will be denied. To safeguard against other inappropriate practices, the department, through the PRO, will monitor admission practices and quality of care. If an abuse of the prospective payment system is identified, payments for abusive practices may be reduced or denied. In reducing or denying payment, Medicaid adopts the Medicare PRO regulations.

m. Hospital billing. Hospitals shall normally submit a UB-92 claim, with all services occurring within a 72-hour period, for APG reimbursement to the fiscal intermediary after a patient's outpatient "visit" is complete. Payment for outlier costs is determined when the claim is filed with the fiscal agent, as described in paragraph "g." However, the following exceptions are allowed:

(1) Bills for multiple visits may be submitted on a single claim for the following services: noninpatient units (substance abuse, pain management, nutritional counseling, diabetic education, pulmonary rehabilitation, cardiac rehabilitation, eating disorders and mental health), physical, occupational and speech therapies, chemotherapy, radiation therapy, and renal dialysis. For these services, each unit of service on the UB-92 claim form will be considered a separate visit.

(2) Bills for multiple medical encounters (for unrelated diagnoses), such as clinic visits, occurring within a 72-hour period shall be submitted on separate UB-92 claim forms in order to generate full APG payment for these encounters. In the case of hospital-based clinics where multiple, unrelated visits occur on the same day, an individual claim form will need to be filed for each separate visit.

n. Determination of inpatient admission. A person is considered to be an inpatient when a formal inpatient admission occurs, when a physician intends to admit a person as an inpatient, or when a physician determines that a person being observed as an outpatient in an observation or holding bed should be admitted to the hospital as an inpatient. In cases involving outpatient observation status, the determinant of patient status is not the length of time the patient was being observed, rather whether the observation period was medically necessary to determine whether a patient should be admitted to the hospital as an inpatient. Outpatient observation lasting greater than a 24-hour period will be subject to review by the PRO to determine the medical necessity of each case. For those outpatient observation cases where medical necessity is not established, reimbursement shall be denied for the services found to be unnecessary for the provision of that care, such as the use of the observation room.

o. Inpatient admission after outpatient services. A patient may be admitted to the hospital as an inpatient after receiving outpatient services. If the patient is admitted as an inpatient within three days of the day in which outpatient services were rendered, all outpatient services related to the principal diagnosis are considered inpatient services for billing purposes. The day of formal admission as an inpatient is considered as the first day of hospital inpatient services.

p. Cost report adjustments. Hospitals with 1992 cost reports adjusted by Medicare through the cost settlement process on or after July 1, 1994, may appeal the hospital-specific base amount and add-ons used in calculating the Medicaid payment to the department.

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP

services are limited as set forth at 441—78.31(4)"d"(7) and are reimbursed on a fee schedule basis. Upon implementation of a managed mental health care program, mental health NIP services will become the responsibility of the managed mental health contractor for persons eligible for managed mental health care.

r. Payment for outpatient services delivered in the emergency room. Payment for outpatient services delivered in the emergency room shall be based on the following criteria. All visits to hospital emergency rooms by Medicaid beneficiaries which do not result in inpatient admission shall result in the hospital receiving payment, at a level to be determined by the department, for patient assessment. All treatment conducted in the emergency room for either a regular Medicaid recipient or a Medipass participant, for conditions defined as emergent in accord with diagnoses codes found in the provider manual, shall receive the full APG payment plus the assessment payment. If a regular Medicaid patient is treated in the emergency room but does not have an emergency diagnosis, the hospital shall receive the assessment payment plus 50 percent of the APG payment. If the patient is assessed in the emergency room, found to be nonemergent and referred for further treatment to a hospital-based clinic, regular clinic, physician's office, or other similar site, only the assessment payment shall be made to the hospital for the emergency room. The responsible clinic or physician's office shall subsequently bill for any additional services provided.

For Medicaid beneficiaries participating in the Medipass program, an assessment payment plus 50 percent of the full APG payment shall be paid for treatment of non-emergent conditions contingent upon documentation in the claim and medical record of permission or referral from the recipient's primary care physician. Should treatment for nonemergent conditions be provided to Medipass participants without this documentation, payment shall consist only of the assessment payment. When a Medipass patient is treated in a hospital-based clinic and that clinic is the Medipass patient manager, the full APG payment will be made. When the patient is treated in a hospital-based clinic, the clinic is not the patient manager and has not obtained the permission of the recipient's patient manager to perform the treatment, no payment shall be made to the clinic.

s. Cost report adjustments. Hospitals with cost reports adjusted by Medicare through the cost settlement process for cost reports applicable to the current base year may appeal the hospital-specific base amounts.

t. Limitations on payments. Ambulatory patient groups, as well as other outpatient services, are subject to upper limits rules set forth in sections 42 CFR 447.321 and 447.325 as amended to July 28, 1987. Requirements under these sections state that in general, Medicaid may not make payments to providers that would exceed the amount that would be payable to providers under comparable circumstances under Medicare. In aggregate, the total Medicaid payments may not exceed the total payments received by all providers from recipients, carriers or intermediaries for providing comparable services under comparable circumstances under Medicare.

u. PRO review. For outpatient claims with dates of service ending July 1, 1994, and after, the PRO will review a yearly random sample of at least 500 hospital outpatient service cases performed for Medicaid recipients and identified on fiscal agent claims data from all Iowa and bordering state hospitals. The PRO will perform re-

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

view activities on all APG categories for concerns relating to admission review, quality review, and APG validation. Questionable cases will be referred to a physician reviewer for concerns relating to medical necessity and quality of care. The PRO will also conduct a retrospective review of hospital claims assessing observation bed status lasting more than 24 hours. The review will consist of an evaluation for the appropriateness of the admission and continued stay in the observation bed status. Questionable cases will be referred to a physician reviewer for determination of the medical necessity.

When a review identifies a potential adverse determination by the PRO, an initial letter informing the provider about the adverse action will be sent and the provider will be given an opportunity to submit additional information about the case. This information will be taken into account prior to the final review determination. If the final review decision is upheld, a final letter will be sent to all parties. A reconsideration process will be available to all parties when there are payment consequences associated with the decision. The fiscal agent will be notified of all decisions resulting in payment consequences and appropriate adjustments will be made to claims.

Hospitals with cases under review must submit all requested supporting data from the medical record to the PRO within 60 days of receipt of the request or payment for those services may be recouped and forfeited. The hospital may request a review by submitting documentation to the PRO within 365 calendar days of the claim adjudication date. If a request is not filed by the hospital within that time, the hospital loses the right to appeal or contest that payment.

ITEM 6. Amend subrule **81.6(16)**, paragraph "e," as follows:

e. Beginning July 1, ~~1993~~ 1994, the basis for establishing the maximum reimbursement rate for nonstate-owned nursing facilities shall be the ~~sixty-ninth~~ *seventieth* percentile of participating facilities' per diem rates as calculated from the June 30, ~~1993~~ 1994, report of "unaudited compilation of various costs and statistical data."

[Filed Emergency 6/16/94, effective 7/1/94]  
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4910A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b"; section 29, subsection 3; and section 35, the Department of Human Services hereby amends Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," appearing in the Iowa Administrative Code.

These amendments provide that a person seeking admission to an intermediate care facility for the mentally

retarded (ICF/MR) shall be referred through an approved case management program and establish the conditions under which the Department will support new ICF/MR conversion or construction.

The General Assembly mandated that prior to placement in an ICF/MR, all persons shall be referred through an approved case management program. The case management program shall identify any appropriate alternatives to the placement and shall inform the persons of the alternatives. This change will provide more effective control of ICF/MR utilization and will ensure that persons are not referred to institutional placement unless appropriate alternatives are considered.

The General Assembly also added some flexibility to the current moratorium on new ICF/MR conversion or construction by adding two conditions under which the Department of Public Health and the Health Facilities Council could process applications and consider certificates of need as long as the new or changed bed does not result in an increase in the total number of Medicaid-certified ICF/MR beds in the state as of July 1, 1994, and a letter of support is provided by the director of the Department of Human Services and the county board of supervisors in the county in which the beds would be located.

The Department of Human Services finds that these amendments implement 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b," and section 29, and that 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b," section 29, subsection 3, and section 35 authorize the Department to adopt rules to implement 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b," and section 29, under Iowa Code sections 17A.4(2) and 17A.5(2)"b"(1), without notice and public participation to become effective immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein as a Notice of Intended Action, **ARC 4909A**, to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 3, paragraph "b," and section 29.

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend rule 441—82.6(249A) by adding the following **new** subrule:

**82.6(4)** Referral through case management. Prior to placement in an ICF/MR, the eligible individual shall be referred through an approved case management program. The case management program shall identify any appropriate alternatives to the placement and shall inform the individual of the alternatives. The eligible individual, or the individual's legal representative, is free to choose any alternative for which the individual qualifies.

The Iowa Foundation for Medical Care shall review ICF/MR admissions and transfers only when documentation is provided which verifies a referral from case management.

ITEM 2. Amend rule 441—82.19(249A) as follows:

Re-number subrule **82.19(5)** as **82.19(6)** and add the following **new** subrule 82.19(5):

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

**82.19(5)** No expansion of certified beds. In addition to the above requirements, new ICF/MR conversion or construction shall be approved by the department only if one of the following conditions is met. In addition, the new or changed beds shall not result in an increase in the total number of Medicaid-certified ICF/MR beds in the state as of July 1, 1994.

a. An institutional health facility is reducing the size of the facility's ICF/MR program and wishes to convert an existing number of the facility's approved beds in that program to smaller living environments in accordance with state policies in effect regarding the size and location of those facilities.

b. An institutional health facility proposes to locate a new ICF/MR in an area of the state identified by the department as underserved by ICF/MR beds.

Amend renumbered subrule 82.19(6) as follows:

**82.19(6)** Submission of plans. Written plans shall be submitted to the Division of Medical Services, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, *the county board of supervisors, or the board's designee, in the county in which the beds are to be located*, and to the Health Facilities Council, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The health facilities council shall consider ~~the requirements set forth in this rule when reviewing certificate of need applications~~ *only if letters of support are received from the department of human services and the county in which the facility is located.*

[Filed Emergency 6/16/94, effective 7/1/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4912A

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 6, and section 35, the Department of Human Services hereby amends Chapter 88, "Managed Health Care Providers," appearing in the Iowa Administrative Code.

These amendments implement a managed mental health care system for most Medicaid recipients in Iowa. Policy is established for selecting and regulating a statewide managed mental health care contractor for the Medicaid program.

Managed health care is the provision of specified health services through a contract with a company specializing in the management and delivery of these services. The contractor is responsible for assembling a panel of service providers to ensure that the specified health services are available to enrolled recipients. Payment to the contractor is made on a capitation basis. Enrollment in a managed health care program provides a single point of access for the enrolled recipient, and provides coordinated quality care which emphasizes efficient use of services and preventive care.

Medicaid currently pays for mental health services to Family Investment Program (FIP) and FIP-related and Supplemental Security Income (SSI) and SSI-related eligible persons. FIP and FIP-related eligible persons in 14 Iowa counties have the option of receiving managed health care through Health Management Organizations (HMOs). This choice includes the management of Medicaid mental health services.

Although some Medicaid-eligible persons are currently receiving managed mental health care through an HMO, these are persons (nonSSI-eligibles) who traditionally need less frequent and less intensive mental health services. The philosophy of specialized mental health care managers differs in that efficiencies for a more acute population are realized by the development of a more comprehensive continuum of community-based service alternatives as a preventive strategy as well as an alternative to the more expensive inpatient acute services which are frequently used.

These amendments provide that most of the 220,000 Medicaid-eligible adults and children will be covered by the managed mental health care contract except Medically Needy recipients with a spenddown and persons who choose to enroll in an HMO; reside in a psychiatric medical institution for children or intermediate care facility for persons with mental retardation; are committed to a state mental health institute; or are 65 years of age or older. HMOs have the option of subcontracting with the managed mental health care contractor to provide mental health services to their enrollees.

Current Medicaid mental health services include inpatient and outpatient psychiatric services, outpatient psychotherapy services, day treatment, partial hospitalization and targeted case management services. Managed mental health care services will include the current services in addition to outpatient substance abuse counseling, crisis residential services, outpatient medication management, and supported living services. Supported living services include 24-hour crisis services, community skill training, social rehabilitation services, development of personal support networks, and supportive counseling services.

Currently, Medicaid providers bill the Department when a service is provided to a Medicaid client. Under this program, the MMHCP contractor will be responsible for the specified set of mental health-related services to the targeted Medicaid population, and will be responsible for arranging a network of service providers to deliver these services. These providers enter into agreements with the MMHCP contractor and bill the contractor directly for services provided. Current mental health providers do not have to become a member of the MMHCP's provider network, but Medicaid will no longer pay for these services to the targeted Medicaid population except through the MMHCP. Becoming a member of the MMHCP network will be much like being a participating provider in an HMO, but only for mental health services.

Some services traditionally funded in part by counties will now be paid by state and federal funds. This will include services such as community mental health center community support programs, Medicaid case management for persons with chronic mental illness and day treatment and partial hospitalization for adults. Counties will retain the authority to choose the Medicaid targeted case management provider. Managed mental health care providers manage Medicaid-funded mental health services but have no authority to authorize admissions to county-funded,

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

community-based services which have traditionally been authorized by county boards or their representatives. Counties will have the option of negotiating a separate contract with the MMHCP contractor to manage their own mental health programs.

The state will contract for mental health service with a single contractor who will be responsible for statewide services. The contract will be between \$50 and \$60 million. Savings to be realized through the MMHCP have been estimated at \$2 million in state funds, \$4 million in federal funds, and at least \$750,000 in county funds in the first contract year. Actual savings will depend upon the bid submitted by the selected contractor.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because 1994 Iowa Acts, Senate File 2313, section 3, subsection 6, and section 35 authorize the Department to adopt rules without notice and public participation.

The Department further finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and the amendments made effective on July 1, 1994, because 1994 Iowa Acts, Senate File 2313, section 3, subsection 6, and section 35 authorize the amendments to become effective immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein under Notice of Intended Action as **ARC 4911A** to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 249A.4 and 1994 Iowa Acts, Senate File 2313, section 3, subsection 6.

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 88**, Preamble, as follows:

## PREAMBLE

This chapter contains rules governing the delivery of managed health care under the Medicaid program. These rules make provision for the following managed health care options: health maintenance organizations (HMOs), prepaid health plans (PHPs), and patient management, known as Medicaid Access to Service System (MediPASS), and the statewide managed mental health care plan (MMHCP). The rules cover eligibility of a provider to participate, reimbursement methodologies, record-keeping requirements, grievance procedures and recipient enrollment and disenrollment procedures. Services covered or requiring authorization and recipient access to services are specified.

ITEM 2. Assign Division Numbers I to III to the small cap headings in 441—Chapter 88.

ITEM 3. Reserve rules **88.52** to **88.60** as part of Division III, "Medicaid Patient Management."

ITEM 4. Adopt the following new Division IV, "Managed Mental Health Care Plan," to 441—Chapter 88.

## DIVISION IV

## MANAGED MENTAL HEALTH CARE PLAN (MMHCP)

**441—88.61(249A) Definitions.**

"Accredited" shall mean an entity approved by the division of mental health, mental retardation and developmental disabilities of the department to provide community mental health center services, other community mental health services, targeted case management services, and community supported apartment living arrangements.

"Capitation rate" shall mean the fee the department pays monthly to the MMHCP for each enrolled recipient for the provision of covered mental health services whether or not the enrolled recipient received services during the month for which the fee is intended.

"Certification" shall mean the process of determining that a facility, equipment or an individual meets the requirements of federal or state law.

"Contract" shall mean a contract between the department and the MMHCP for the provision of mental health services to enrolled Medicaid recipients for whom the MMHCP assumes a risk as defined in the contract. These contracts shall meet the requirements of the Code of Federal Regulations, Title 42, part 434, as amended to March 13, 1991.

"Department" shall mean the Iowa department of human services or the director's designee.

"Director" shall mean the director of the Iowa department of human services.

"Disenrollment" shall mean the removal of an eligible from the MMHCP's enrollment list either through loss of eligibility or some other cause.

"Emergency mental health services" shall mean those clinical, rehabilitative or supportive mental health services provided for mental conditions or disorders which, if not immediately diagnosed and treated, would result in risk of danger to a recipient's self or others or in the likelihood of significant damage or disruption to a recipient's life or mental health status.

"Enrollee" shall mean any eligible Medicaid recipient who is enrolled with the MMHCP in accordance with the provisions of the contract.

"Enrollment area" shall mean the 99 Iowa counties.

"Fee-for-service" shall mean the method of making payment for mental health services based on fees set by the department or other entity for defined services. Payment of the fee is based upon delivery of the defined services.

"Grievance" shall mean an incident, complaint, or concern which cannot be resolved in a manner satisfactory to enrolled recipients or participating providers by the immediate response, verbal or otherwise, of the MMHCP staff member receiving the complaint or any complaint received in writing.

"Insolvency" shall mean a financial condition that exists when an entity is unable to pay its debts as they become due in the usual course of business, or when the liabilities of the entity exceed its assets.

"Licensed" shall mean a facility, equipment, individual or entity that has formally met state, county and local requirements for licensure and has been granted a license.

"Managed mental health care plan (MMHCP)" shall mean the statewide, risk-based capitation plan to provide managed mental health care for most Medicaid recipients.

"Medically necessary" shall mean clinical, rehabilitative or supportive mental health services which meet all of the following conditions:

1. Appropriate and necessary to the symptoms, diagnoses or treatment of a mental disorder.

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

2. Provided for the diagnosis or direct care and treatment of a mental disorder.

3. Within standards of good practice within the mental health service area.

4. Not primarily for the convenience of the plan member or a plan provider.

5. The most appropriate level or supply of service which can safely be provided.

"Mental health services" shall mean those clinical, rehabilitative or supportive services provided to recipients by an individual, agency, or other entity that is licensed, accredited, certified, or otherwise approved to treat any mental disorder listed in the International Classification of Diseases—Ninth Edition (ICD-9).

"Participating providers" shall mean the providers of covered services who subcontract with or who are employed by the MMHCP.

"Prepaid health plan (PHP)" shall mean an entity defined at section 1903(m)(2)(B)(iii) of the Social Security Act and considered to be a PHP by the department based upon criteria set forth in the Code of Federal Regulations at Title 42, part 434.20(a)(3), as amended to March 13, 1991.

"Recipient" shall mean any person determined by the department to be eligible for Medicaid and for MMHCP enrollment.

"Routine care" shall mean mental health care which is not urgent or emergent in nature and can wait for a regularly scheduled appointment with a provider without risk of danger to the recipient's self or others or risk of significant damage or disruption to the recipient's life or mental health status. The condition requiring routine care is not likely to substantially worsen without immediate clinical, rehabilitative or supportive intervention.

"Targeted case management services" shall mean individual case management services targeted to persons with chronic mental illness as defined at Iowa Code section 225C.20 with standards set forth in 441—Chapter 24.

"Third party" shall mean an individual, entity, or program, excluding Medicaid, that is, may be, could be, should be, or has been liable for all or part of the cost of mental health services related to any medical assistance covered by Medicaid.

"Urgent, nonemergency need" shall mean the existence of conditions due to a mental illness which are not likely to risk danger to the recipient's self or others but which may risk significant damage or disruption to the recipient's life or mental health status. These needs require expeditious treatment because of the prospect of the condition worsening without immediate clinical, rehabilitative, or supportive intervention.

#### 441—88.62(249A) Participation.

**88.62(1)** Contract with MMHCP. The department may enter into a contract for the scope of services specified in 441—Chapter 78, or any part thereof, with an MMHCP which has verified to the department that the criteria for a PHP set forth in the Social Security Act have been met. This verification shall be reviewed by Health Care Financing Administration (HCFA) staff to ensure that the status of a PHP is rightfully conferred.

a. The department shall also determine that the MMHCP meets the following additional requirements:

(1) The MMHCP shall make the services it provides to enrolled recipients at least as accessible to them as those services are accessible to recipients in the enrollment area who are not enrolled.

(2) The MMHCP shall provide satisfaction to the department that insolvency is not likely to occur and that neither enrolled Medicaid recipients nor the state shall be responsible for its debts if the MMHCP should become insolvent.

b. The contract shall meet the following minimum requirements. The contract shall:

(1) Be in writing.

(2) Specify the duration of the contract period.

(3) List the services which must be covered.

(4) Describe information access and disclosure.

(5) List conditions for nonrenewal, termination, suspension, and modification.

(6) Specify the method and rate of reimbursement.

(7) Provide for disclosure of ownership and subcontractor relationship. All subcontracts shall be in writing, shall comply with the provisions of the MMHCP's contract with the department, and shall include any general requirements of the contract that are appropriate to the service or activity identified.

(8) Be made with the MMHCP by the department.

c. Any protests to the award of this contract shall be in writing and submitted to the director of the department within five working days after the notices of intent to award are issued. Appeals must be in writing and must clearly and fully identify all issues being contested. The director shall review the appeal and issue a written decision within ten working days. The decision of the department shall be final. In the event of an appeal, the department shall continue working with the selected bidder pending the outcome of the appeal.

**88.62(2)** Method of selection of MMHCP. The department shall use a competitive request for proposals process to select an MMHCP.

**88.62(3)** Termination of contract.

a. Both parties may, by mutual consent, terminate a contract.

b. Either party may terminate a contract by giving 60 days' written notice to the other party. The effective date of termination must be the first day of a month.

c. The department may terminate or suspend a contract if the contract is determined by the department to be inconsistent with the overall goals and objectives of the Medicaid program. The determination shall be based upon, but not limited to, the following.

(1) The MMHCP's delivery system does not ensure enrolled recipients adequate access to mental health services.

(2) The MMHCP's delivery system does not ensure the availability of all services covered under the contract.

(3) There are not proper assurances of solvency on the part of the MMHCP.

(4) There is not substantial compliance with all provisions of the contract.

(5) The MMHCP has discriminated against persons eligible to be covered under the contract on the basis of age, race, sex, religion, national origin, creed, color, physical or mental disability, political belief, health status, or the need for health services.

(6) Funds no longer exist for the payment of the department's obligations thereunder due to loss of federal or state funding.

(7) Conflict of interest as defined at Iowa Code chapter 68B is determined to exist.

(8) The MMHCP fails to comply with the terms of the contract.

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d. Prior to termination or suspension of a contract, the department shall send a notice to cure to the MMHCP, specifying the number of days the MMHCP has to correct the problems. Failure to correct the problems in the time given shall result in withholding of funds or a notice of termination or suspension. The MMHCP may appeal the decision of the department in writing to the director of the department.

**88.62(4)** Recipients subject to enrollment. All Medicaid-eligible recipients shall be enrolled in the contracting MMHCP except the following:

- a. Persons who are enrolled in a Medicaid health maintenance organization (HMO).
- b. Persons aged 65 and older.
- c. Persons residing in a state mental health institute (MHI) unless the placement was initiated by the MMHCP.
- d. Persons residing in an intermediate care facility for persons with mental retardation (ICF/MR).
- e. Persons residing in a psychiatric medical institution for children (PMIC).
- f. Medically needy recipients as defined at 441—Chapter 86 or at 441—75.1(22) who are subject to spenddown.

**441—88.63(249A) Enrollment.**

**88.63(1)** Enrollment area. The enrollment area shall be all 99 Iowa counties.

**88.63(2)** Mandatory enrollment. All Medicaid recipients, except persons in the groups defined at 88.62(4), shall be enrolled in the MMHCP for the purpose of receiving Medicaid-funded mental health services covered in the contract. Persons under the age of 65 who are eligible for both Medicare and Medicaid shall be enrolled in the plan. Enrolled recipients may receive Medicaid-funded mental health services only through the MMHCP, except as provided at rule 441—88.66(249A). However, the Medicaid program shall continue to pay crossover claims for Medicare deductible and copayment amounts for those recipients who use Medicare-covered mental health services.

**88.63(3)** Voluntary enrollment. There will be no voluntary enrollments in the MMHCP.

**88.63(4)** Effective date. For new recipients the effective date of enrollment in the MMHCP shall be the first day of the month of application. For current recipients who are no longer in an eligibility group excluded from the MMHCP, the effective date of enrollment shall be the first day of the month following the month they leave the excluded group.

**88.63(5)** Identification card. The department issues an identification card to all Medicaid recipients. This identification card shall include information to identify the recipient as an MMHCP enrollee.

**441—88.64(249A) Disenrollment.**

**88.64(1)** Disenrollments by the department. Disenrollments shall occur when:

- a. The contract between the department and the MMHCP is terminated.
- b. The recipient becomes ineligible for Medicaid. If the recipient becomes ineligible and is later reinstated to Medicaid, enrollment in the MMHCP shall also be reinstated.
- c. The recipient transfers to an eligibility group excluded from MMHCP enrollment as defined at 88.62(4).

**88.64(2)** Effective date. Disenrollment shall be effective the first day of month following the month of disenrollment.

**88.64(3)** No disenrollment for health reasons. No recipient shall be disenrolled from the MMHCP because of an adverse change in health status, including mental health status.

**441—88.65(249A) Covered services.**

**88.65(1)** Amount, duration, and scope of services. Except as provided for in the contract, the MMHCP shall cover as a minimum all mental health services covered by the Medicaid program as set forth in 441—Chapter 78.

**88.65(2) Mandatory services.**

a. Although the contract may specify additional services to be covered (with the exception of those defined at 88.65(3)), the MMHCP shall cover as a minimum the following services:

- (1) Evaluation, treatment planning, and service coordination.
- (2) Inpatient hospital care for psychiatric conditions.
- (3) Outpatient hospital care for psychiatric conditions, including emergency room care.
- (4) 24-hour crisis services including an 800 number hot-line available to all enrollees.
- (5) Partial hospitalization and day treatment.
- (6) Outpatient hospital substance abuse services for persons with a primary diagnosis of mental illness.
- (7) Psychiatric physician services.
- (8) Psychologist and social worker services for treatment of a mental illness.
- (9) Supported living services including development of community living skills, social rehabilitation services, development of personal support networks, crisis residential services, 24-hour crisis services and supportive counseling.
- (10) Community mental health center services.
- (11) State-operated mental health institute services for persons under the age of 21, or those persons in continuous hospitalization at their twenty-first birthday until discharged, but not to exceed their twenty-second birthday.
- (12) Targeted case management services.
- (13) Medication management, including prior authorization and management of all use of clozapine.

b. The services defined at 88.65(2)"a" shall be provided to all MMHCP recipients who meet the diagnostic criteria for the following mental disorders listed in the International Classification of Diseases, Ninth Edition (ICD-9).

- (1) 290 through 302.9.
- (2) 306 through 309.0.
- (3) 311 through 314.9.
- (4) 303 through 305.9 if the recipient meets the diagnostic criteria for a coexisting mental disorder listed at 88.65(2)"b"(1), (2), and (3).

c. The MMHCP shall also provide psychiatric and psychological evaluations for all persons referred by the Iowa Foundation for Medical Care (IFMC) for Pre-Admission Screening and Annual Resident Review (PASARR) level II evaluations for persons applying for admission to or residing in nursing facilities that participate in the Medicaid program.

**88.65(3)** Excluded services. Unless specifically included in the contract, the MMHCP shall not be required to provide long-term care (residential care facilities, nursing facilities, state hospital schools, state mental health in-

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stitutes, or intermediate care facilities for persons with mental retardation), services provided by the area education agencies, or services provided as part of the Medicaid rehabilitative treatment services.

**88.65(4)** Flexibility in the delivery of mental health services. The MMHCP shall develop, as appropriate and cost-effective, services and service networks that are focused on the needs of recipients and that promote the ability of recipients, particularly those persons with psychiatric disabilities, to live and work in normal community environments and to otherwise participate in the life of their communities. To accomplish these objectives, the MMHCP shall develop flexible services and service networks beyond the current scope of services of the Medicaid program as defined at 441—Chapter 78.

**88.65(5)** Recipient use of MMHCP services. An enrolled recipient shall utilize MMHCP participating providers of service. The MMHCP shall not be required to pay for services provided by nonMMHCP providers if the same type of service is available through the MMHCP under its contract with the department except as provided at 441—88.66(249A).

**441—88.66(249A) Emergency services.**

**88.66(1)** Availability of services. The MMHCP shall ensure that mental health services covered in the plan are available on an emergency basis 24 hours a day, seven days a week, either through the MMHCP's own providers or through arrangements with other providers. In addition, the MMHCP shall provide payment for emergency services to nonparticipating providers within 60 days of receipt of the bill for all mental health services required by the contract.

**88.66(2)** MMHCP payment liability. MMHCP payment liability on account of the provision of emergency mental health services by providers which do not have contractual arrangements with the MMHCP is limited to emergency mental health services provided before the recipient can, without danger or harmful consequences to the recipient or others, return to the care of a provider with whom the MMHCP has arrangements to provide services. If transportation is necessary to transport the recipient to follow-up treatment, the MMHCP shall be financially liable.

These requirements cover emergency services provided outside of the MMHCP's enrollment area (out-of-state). If transportation is necessary to transport the recipient to follow-up treatment from outside of the MMHCP's enrollment area, the MMHCP may apply to the department for assistance in utilizing the interstate compact to arrange this transportation.

**88.66(3)** Notification and claim filing time spans. The MMHCP may set notification and claim filing time limitations in the event of the provision of care by nonparticipating providers and shall notify enrollees of these provisions. However, failure to give notice or to file claims within those time limitations will not invalidate any claim if it can be shown that it was not reasonably possible to give the notice and that notice was, in fact, given as soon as was reasonably possible.

**441—88.67(249A) Access to service.**

**88.67(1)** Choice of provider. Recipients will have the opportunity to choose their mental health care professionals and service providers to the extent possible and medically appropriate from any of the MMHCP providers participating in the Medicaid contract.

**88.67(2)** Service delivery sites. Mental health service delivery sites shall have the following specific characteristics:

a. Be reasonably accessible from the residences of enrolled recipients.

b. Have sufficient staff resources to adequately provide the mental health services for which the contract is in effect including the services of psychiatrists with privileges at one or more acute care hospitals.

c. Have arrangements for services to be provided by other providers where in-house capability to serve specific mental health service needs does not exist.

d. Be in compliance with all applicable local, state, and federal standards related to the services provided as well as those for fire and safety.

e. Meet any applicable standards for participating in the Medicaid program.

**88.67(3)** Adequate appointment system. The MMHCP shall have procedures for the scheduling of recipient appointments which are appropriate to the reason for the service as follows:

a. Recipients with urgent nonemergency needs shall be seen within one hour of presentation at a service delivery site.

b. Recipients with persistent symptoms which do not constitute urgent nonemergency needs shall be seen within 48 hours of reporting of the onset of the persistent symptoms.

c. Routine services shall be scheduled within four weeks of the date the recipient requests the appointment.

d. To the extent possible, services provided in recipients' homes and other community environments shall adhere to these scheduling requirements.

**88.67(4)** Adequate after-hours call-in coverage. The MMHCP shall have in effect the following arrangements which provide for adequate after-hours coverage:

a. Twenty-four-hour-a-day 800 telephone line available to all enrollees.

b. Twenty-four-hour-a-day crisis services available on a walk-in and an in-home basis.

c. Twenty-four-hour-a-day crisis residential services.

**88.67(5)** Adequate referral system. The MMHCP shall have in effect arrangements which provide for an adequate referral system for any specialty mental health services not provided by the MMHCP either directly or through subcontract.

**441—88.68(249A) Grievance procedures.**

**88.68(1)** Written procedures. The MMHCP shall have written procedures by which enrolled recipients and network and nonnetwork providers may express grievances, complaints, or recommendations, either individually or as a class, and which:

a. Are approved by the department prior to use.

b. Acknowledge receipt of a grievance to the grievant.

c. Set time frames for resolution including emergency procedures which are appropriate to the nature of the grievance and which require that all grievances shall be resolved within 30 days.

d. Ensure the participation of persons with authority to require corrective action.

e. Include at least one level of appeal.

f. Ensure the confidentiality of the grievant.

**88.68(2)** Written record. All grievances, including all informal or verbal complaints which must be referred or researched for resolution shall be recorded in writing. A log of the grievances shall be retained and made available

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at the time of audit and shall include progress notes and method of resolution in addition to determination of compliance with 88.68(1).

**88.68(3)** Information concerning grievance procedures. The MMHCP's written grievance procedure shall be provided to each newly enrolled recipient no later than the effective date of coverage.

**88.68(4)** Appeals to the department. A recipient who has exhausted the grievance procedure of the MMHCP may appeal the issue to the department under the provisions of 441—Chapter 7. Instances where the substance of the grievance relates to department policy may be appealed directly to the department.

**88.68(5)** Periodic report to the department. The MMHCP shall make quarterly reports to the department summarizing grievances and resolutions as specified in the contract.

**441—88.69(249A) Records and reports.**

**88.69(1)** Mental health records system. The MMHCP shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and, in addition, the MMHCP shall maintain a mental health record system which:

a. Identifies each mental health record by the departmentally assigned state identification number.

b. Identifies the location of every mental health record.

c. Places mental health records in a given order and location.

d. Provides a specific mental health record on demand.

e. Maintains the confidentiality of mental health records information and releases the information only in accordance with established policy pursuant to 88.69(3).

f. Maintains inactive mental health records in a specific place.

g. Permits effective professional review for medical audit processes.

h. Facilitates an adequate system for follow-up treatment including monitoring and follow-up of off-site referrals and inpatient stays.

i. Meets contract reporting requirements and federal reporting requirements applicable to PHPs.

**88.69(2)** Content of individual mental health record. The MMHCP shall have in effect arrangements which provide for an adequate mental health record-keeping system which includes a complete mental health record for each enrolled recipient in accordance with provisions set forth in the contract.

**88.69(3)** Confidentiality of records. The MMHCP shall maintain the confidentiality of mental health record information and release the information only in the following manner:

a. All mental health records of enrolled recipients shall be confidential and shall not be released without the written consent of the enrolled recipient or the responsible party acting on behalf of the enrolled recipient or appropriate court order signed by a judge.

b. Written consent is not required for the transmission of mental health record information to physicians, other practitioners, or facilities which are providing services to enrolled recipients under a subcontract with the MMHCP. This provision also applies to specialty providers who are retained by the MMHCP to provide services which are infrequently used or are of an unusual nature.

c. Written consent is not required for the transmission of mental health record information to physicians or facilities providing emergency care pursuant to rule 441—88.66(249A).

d. Written consent is not required for the transmission of mental health record information to the department or its agents for the purposes of licensure, accreditation, certification, utilization review, PRO review, medical audit, and other applicable contract oversight activities. In any of these cases the MMHCP or its subcontractors may require, before the release of information, that the department or its agents sign a statement that the information is essential to the performance of the department's or its agents' work, and that the outside party recognizes the confidentiality of the information and will not disclose any information which personally identifies the recipient.

e. The extent of mental health record information to be released in each instance as specified in 88.69(3)"b" and "c" shall be based upon tests of medical necessity and a "need to know" on the part of the practitioner or facility requesting the information.

f. Written consent is required for the transmission of mental health record information of a former enrolled recipient to any medical or mental health service provider not connected with the MMHCP.

g. Mental health records maintained by subcontracting providers shall meet the requirements of this rule.

**88.69(4)** Reports to the department. The MMHCP shall submit reports to the department as follows:

a. Annual audited financial statements no later than 120 days after the close of the MMHCP's fiscal year.

b. Periodic financial, utilization and statistical reports as required by the department under the contract.

c. Other reporting requirements as specified in the contract.

**88.69(5)** Audits. The department or its designee and the U.S. Department of Health and Human Services (HHS) may evaluate through inspections or other means, the quality, appropriateness, and timeliness of services performed by the MMHCP. The department or its designee or the U.S. Department of HHS may audit and inspect any records of the MMHCP, or the subcontractors of the MMHCP, which pertain to services performed and the determination of amounts paid under the contract. These records shall be made available at times, places, and in a manner as authorized representatives of the department, its designee, or HHS may request.

**441—88.70(249A) Marketing.** The marketing of MMHCP services is prohibited.

**441—88.71(249A) Patient education.**

**88.71(1)** Mental health education procedures. The MMHCP shall have written procedures which are approved by the department for mental health education designed to prepare patients for participation in and reaction to specific mental health procedures and to instruct recipients in self-management of mental health problems.

**88.71(2)** Use of services. The MMHCP shall have procedures in effect to orient enrolled recipients in the use of services the MMHCP is contracting to provide. This includes, but is not limited to, what to do if the recipient requires medical care while out of the enrollment area, a 24-hour-a-day 800 telephone line, appropriate use of the referral system, grievance procedures and how emergency treatment is to be provided.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**88.71(3)** Outreach to recipients with special needs. The MMHCP shall provide enhanced outreach to recipients with special needs including, but not limited to, persons with psychiatric disabilities or other cognitive impairments, homeless persons, poor persons, illiterate persons, non-English speaking persons and persons with a visual or hearing impairment.

**88.71(4)** Patient rights and responsibilities. The MMHCP shall have in effect a written statement of patient rights and responsibilities which is available upon request as well as issued to all new enrolled recipients. This statement may be part of an informational brochure provided to all new enrollees.

**441—88.72(249A) Payment to the MMHCP.**

**88.72(1)** Capitation rate. In consideration for all services rendered by the MMHCP under a contract with the department, the MMHCP shall receive a payment each month for each enrolled recipient. This capitation rate represents the total obligation of the department with respect to the costs of covered mental health care and services provided to enrolled recipients under the contract.

**88.72(2)** Determination of rate. The capitation rates for Fiscal Year 1995 shall be actuarially determined by the department using statistics and data about Medicaid fee-for-service expenses for MMHCP-covered services to a similar population during the preceding fiscal year. The capitation rate shall not exceed the cost to the department of providing the same covered services on a fee-for-service basis to the recipients eligible for the plan. For subsequent years, the capitation rates shall be updated based upon the Consumer Price Index Urban Consumer's U. S. City Average.

**88.72(3)** Amounts not included in rate. The capitation rate does not include any amounts for the recoupment of losses suffered by the MMHCP for risks assumed under the current or any previous contract. The MMHCP accepts the rate as payment in full for the contracted services. Any savings realized by the MMHCP due to lower utilization from a less frequent incidence of mental health problems among the enrolled population shall be wholly retained by the MMHCP.

**88.72(4)** Third-party liability. If an enrolled recipient has health coverage or a responsible party other than the Medicaid program available for purposes of payment for mental health expenses, it is the right and responsibility of the MMHCP to investigate these third-party resources and attempt to obtain payment. The MMHCP may retain all funds collected through third-party sources. A complete record of all income from these sources shall be maintained and made available to the department.

**441—88.73(249A) Quality assurance.** The MMHCP shall have in effect an internal quality assurance system which meets the requirements of 42 CFR, Part 434.44 and a system of periodic medical audits meeting the requirements of 42 CFR, Part 434.53, both as amended to March 13, 1991.

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**ARC 4915A**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 25, subsection 6, and section 35, the Department of Human Services hereby amends Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

These amendments specify when a social service provider will be considered to be offering a new service. Language in the Department's appropriation bill provides that rates for social service providers shall be the same as the rates in effect on June 30, 1994, unless a new service was added after June 30, 1994, or if a social service provider loses a source of income used to determine the reimbursement rate for the provider. The purpose of this amendment is to provide guidance to providers and Departmental staff in determining what constitutes a new service. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

For adoption, the only time a provider shall be considered to be offering a new service is if the provider adds the adoptive home study, the adoptive home study update, placement services and postplacement services for the first time.

For local purchase services, a provider shall be considered to be offering a new service when adding a service not currently purchased under the social services contract. For example, the contract currently is for adult support, and the provider adds a residential service.

For shelter care, if the provider is currently offering shelter care under social services contract, the only time the provider shall be considered to be offering a new service is if the provider adds a service other than shelter care.

For family planning, the only time the provider shall be considered to be offering a new service is when a new unit of service is added by administrative rule.

For independent living, the only time a provider shall be considered to be offering a new service is if it is an independent living arrangement, either a cluster site or a scattered site, which was not previously offered.

If the Department defines, in administrative rule, a new service as a social service that may be purchased, this shall constitute a new service for purposes of establishment of a rate. Once the rate for the new service is established, the rate will be subject to any limitations established by administrative rule or law.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because 1994 Iowa Acts, Senate File 2313, section 25, subsection 6, and section 35, authorize the Department to adopt rules without notice and public participation.

The Department further finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and the amendments should become effective July 1, 1994, because 1994 Iowa Acts, Senate File 2313, section 25, subsection 6, and section 35, authorize the amendments to become effective

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

immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein under Notice of Intended Action as **ARC 4914A** to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 25, subsection 5.

These amendments became effective July 1, 1994.

The following amendments are adopted.

**ITEM 1.** Amend subrule **150.3(5)**, paragraph "p," by rescinding subparagraph (2) and inserting the following new subparagraph (2) in lieu thereof:

(2) For the fiscal year beginning July 1, 1994, the maximum reimbursement rates for social service providers (adoption; local purchase services including adult day care, adult support, community supervised apartment living arrangement, sheltered work, work activity, and transportation; shelter care; family planning; and independent living) shall be the same as the rates in effect on June 30, 1994, except under any of the following circumstances:

1. If a new service was added after June 30, 1994, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

For adoption, the only time a provider shall be considered to be offering a new service is if the provider adds the adoptive home study, the adoptive home study update, placement services, or postplacement services for the first time. Preparation of the child, preparation of the family and preplacement visits are components of the services listed above.

For local purchase services, a provider shall be considered to be offering a new service when adding a service not currently purchased under the social services contract. For example, the contract currently is for adult support, and the provider adds a residential service.

For shelter care, if the provider is currently offering shelter care under social services contract, the only time the provider shall be considered to be offering a new service is if the provider adds a service other than shelter care.

For family planning, the only time the provider shall be considered to be offering a new service is when a new unit of service is added by administrative rule.

For independent living, the only time a provider shall be considered to be offering a new service is when the agency adds a cluster site or a scattered site for the first time. If, for example, the agency has an independent living cluster site, the addition of a new site does not constitute a new service.

If the department defines, in administrative rule, a new service as a social service that may be purchased, this shall constitute a new service for purposes of establishment of a rate. Once the rate for the new service is established for a provider, the rate will be subject to any limitations established by administrative rule or law.

2. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost

income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

**ITEM 2.** Amend the implementation clause following **441—Chapter 150** to read as follows:

These rules are intended to implement Iowa Code sections ~~section 8.31 to 8.33, 8.38, 234.6, 252B.4, and 252B.11, 1991 Iowa Acts, House File 479, section 132, subsections 5 and 6; Iowa Constitution, Article III, section 24, and Article VII; and Executive Order 42 and 1994 Iowa Acts, Senate File 2313, section 25, subsection 5.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4917A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, section 25, subsections 4 and 6, and section 35, the Department of Human Services hereby amends Chapter 156, "Payments for Foster Care and Foster Parent Training," Chapter 185, "Rehabilitative Treatment Services," Chapter 201, "Subsidized Adoptions," and Chapter 202, "Foster Care Services," appearing in the Iowa Administrative Code.

These amendments implement the following changes mandated by the General Assembly:

1. The maximum foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children aged 0 through 5 years is increased to maintain 67.75 percent of the United States Department of Agriculture's estimate of the cost to raise a child in 1994.

2. The maximum start-up allowance for children in independent living is increased from \$250 to \$400.

3. The state funds available for reimbursement of shelter care are decreased from \$6,889,756 to \$6,710,720 for fiscal year 1995.

4. Policy is added to provide that the Department shall not certify any additional enhanced residential treatment beds except those beds for which applications for certification were received on or before February 1, 1994, unless the director approves the beds as necessary, based on the type of children to be served and the location of the enhanced residential treatment beds.

5. The formula for allocating a portion of the statewide target for the average number of children placed in group foster care services to each of the Department's regions is revised.

In addition these amendments allow the area administrator, rather than the regional administrator, to approve the placement of a child in independent living and rescind the requirement for having regional out-of-state placement committees.

The Department of Human Services finds that notice and public participation regarding rescinding the require-

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

ment for having regional out-of-placement committees, Items 3 and 10, are unnecessary and impracticable because the Department has no option but to implement these changes which were mandated by the General Assembly in 1993 Iowa Acts, chapter 172, sections 37, 48, and 56, to be effective July 1, 1994. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that the amendments regarding items referred to in the previous paragraph confer a benefit to the public by avoiding confusion which might exist by having Departmental rules conflict with the Iowa Code. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Department of Human Services finds that these amendments implement 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, and section 25, subsection 4, and that 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, section 25, subsections 4 and 6, and section 35, authorize the Department to adopt rules to implement 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, and section 25, subsection 4, without notice and public participation to become effective immediately upon filing, unless a later effective date is specified in the rules.

These amendments are also published herein as a Notice of Intended Action, ARC 4916A, to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code sections 232.143, 234.6, and 234.38, 1993 Iowa Acts, chapter 172, sections 37 and 48, and 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, and section 25, subsection 4.

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend rule 441—156.6(234) as follows:

Amend subrule 156.6(1) as follows:

**156.6(1) Basic rate.** A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

<u>Age of child</u>	<u>Monthly rate</u>
0 through 5	<del>\$308</del> \$341
6 through 11	<del>\$322</del> \$356
12 through 15	<del>\$359</del> \$397
16 and over	<del>\$382</del> \$423

Further amend rule 441—156.6(234), implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 234.38 and ~~1993 Iowa Acts, chapter 172, section 25, subsection 4~~ 1994 Iowa Acts, Senate File 2313, section 25, subsection 4.

ITEM 2. Amend subrule 156.8(2) as follows:

**156.8(2) Independent living.** When a child is initially placed in independent living, the ~~district area~~ administrator may authorize an allowance not to exceed ~~\$250~~ \$400 if the child does not have sufficient resources to cover initial costs.

ITEM 3. Amend rule 441—156.9(234) as follows:

Amend subrule **156.9(2)**, paragraph "a," subparagraph (5), as follows:

(5) ~~If the placement is 125 miles or less from the child's home, whether the placement has been approved by the regional administrator or chief juvenile court officer; or if the placement is more than 125 miles from the child's home, whether the placement has been approved by the regional out of state placement committee as established in rule 441—202.8(234).~~

Further amend subrule **156.9(2)**, paragraph "b," as follows:

b. Procedure. The regional administrator, ~~or~~ chief juvenile court officer ~~or representative of the appropriate regional out of state placement committee~~ shall submit the request for director's exception to the Bureau of Policy Analysis, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114. This request shall be made in advance of placing the child and should allow a minimum of two weeks for a response. The request shall contain documentation addressing the criteria for director's approval listed in 156.9(2)"a."

Further amend rule **441—156.9(234)**, implementation clause, to read as follows:

This rule is intended to implement Iowa Code sections 234.6 and 234.38 and ~~1993 Iowa Acts, chapter 172, section 11, subsection 8, paragraph "d," and section 25, subsection 5, paragraph "e."~~

ITEM 4. Amend subrule **156.11(3)**, paragraph "c," as follows:

c. The state funds available for reimbursement of shelter care are limited to ~~\$6,889,756~~ \$6,710,720 for fiscal year ~~1994~~ 1995. There shall be an allocation to each region based upon 96 percent of the licensed or approved shelter care beds in that region as of April 1, 1993. Upon written agreement of the affected regional administrators, regions may transfer shelter care funds from one region to another. If it appears that shelter care utilization will exceed 96 percent of the beds licensed or approved as of April 1, 1993, payments to shelter care providers shall be prorated to ensure that the total does not exceed the dollars available for shelter care reimbursement. No purchase of service contract for shelter care services for fiscal year ~~1994~~ 1995 shall guarantee payment for more than 96 percent of that shelter's licensed capacity as of April 1, 1993. The actual contracted amount shall be determined according to rule 441—156.11(234), not to exceed 96 percent of ~~bed capacity beds licensed or approved as of April 1, 1993.~~

Further amend rule **441—156.11(234)**, implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 234.38 and ~~1993 Iowa Acts, chapter 172, section 11, subsection 16~~ 1994 Iowa Acts, Senate File 2313, section 10, subsection 11.

ITEM 5. Amend subrule **156.20(1)**, paragraph "b," subparagraph (3), numbered paragraph "4," as follows:

4. Funds are available in the region's allocation. When the regional administrator has approved payment for foster care pursuant to this subparagraph, funds which may be necessary to provide payment for the time period of the exception, not to exceed the current fiscal year, shall be considered encumbered and no longer available.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Each region's funding allocation shall be based on the region's portion of the total number of children in foster care on March 31, ~~1992~~ *preceding the beginning of the fiscal year*, who would no longer be eligible for foster care during the fiscal year ~~beginning July 1, 1992~~, due to age, excluding unaccompanied refugee minors.

ITEM 6. Amend rule 441-185.11(234) as follows:

Amend subrule 185.11(2), paragraph "f," by adding the following new subparagraph (9).

(9) The applicant is applying for the enhanced residential treatment level of group treatment services and the level of care is not approved as necessary under 185.11(6).

Add the following new subrule 185.11(6).

**185.11(6)** Certification of enhanced residential treatment beds limitation. The department shall not certify any additional enhanced residential treatment beds except those beds for which applications for certification were received on or before February 1, 1994, unless the director of human services approves the beds as necessary, based on the type of children to be served and the location of the enhanced residential treatment beds.

ITEM 7. Amend subrule 201.5(9) as follows:

**201.5(9)** The maximum monthly maintenance payment for a child is based on the age and special needs of the child according to the following schedule:

Age of child	Maximum basic monthly rate	Maintenance plus special care allowance	Maintenance plus sibling allowance
0 through 5 years	\$308	\$341	\$417
6 through 11	322	356	431
12 through 15	359	397	468
16 through 20	382	423	491

The special care allowance may be authorized for adoptive families who must provide extra care to the child due to the child's special needs.

The sibling allowance is authorized for adoptive families who have adopted a sibling group of three or more children. The additional payment may be authorized for each child in the sibling group who has no other special needs.

ITEM 8. Amend 441-Chapter 201, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~8.31 to 8.33, 8.38, 232.143, 234.6, 234.38, 600.17 to 600.21 and 600.23; Iowa Constitution, Article III, section 24, and Article VII 1993 Iowa Acts, chapter 172, sections 37 and 48; and 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a," "d," and "f," and subsection 11, and section 25, subsection 4.~~

ITEM 9. Rescind and reserve subrule 202.8(5).

Further amend rule 441-202.8(234), implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 234.6(6)"b." ~~and 1992 Iowa Acts, House File 2480, section 17.~~

ITEM 10. Amend rule 441-202.17(232) as follows:

Amend subrule 202.17(1), paragraphs "a" and "b," as follows:

a. The fiscal year ~~1994~~ 1995 state target shall be 1350 children, excluding unaccompanied refugee minors.

b. Each region's portion of the group care target shall be based on the following formula: ~~40~~ 60 percent of the regional target shall be based on the region's portion of children aged 5 through 17, according to the 1990 census; and ~~60~~ 40 percent shall be based on the region's portion of the average monthly group care population, excluding unaccompanied refugee minors, for fiscal years ~~1987 1989 to 1991~~ 1993.

Amend subrule 202.17(2) as follows:

**202.17(2)** Regional plan for achieving target. For each of the departmental regions, representatives appointed by the department and the juvenile court shall establish a plan for containing the number of children placed in group care within the target figure allocated to that region. The plan shall include monthly targets and strategies for developing alternatives to group care placements.

The plans shall also ensure that, ~~between July 1, 1993, and October 30, 1993, all group care referrals shall be reviewed jointly by a team that includes representatives appointed by the department and the juvenile court; and that, effective November 1, 1993, all potential group care referrals are reviewed by a clinical assessment and consultation team prior to submission of a recommendation for group care placement to the court.~~

Each regional plan shall be established in advance of the fiscal year to which the regional plan applies. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subrule with planning for services paid under Iowa Code section 232.141, subsection 4. The department's regional administrator shall communicate regularly, as specified in the regional plan, with the juvenile courts within the region concerning the current status of the regional plan's implementation.

Further amend rule 441-202.17(232), implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 232.143 and ~~1993 Iowa Acts, House File 518, section 11, subsection 8, paragraph "a."~~ 1994 Iowa Acts, Senate File 2313, section 10, subsection 2, paragraphs "a" and "d."

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**ARC 4919A**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2, and section 35, the Department of Human Services hereby amends Chapter 163, "Adolescent Pregnancy Prevention and Services to Pregnant and Parenting Adolescents Program," appearing in the Iowa Administrative Code.

These amendments revise the grant programs for adolescent pregnancy prevention as mandated by the General Assembly. Existing grant categories are revised and two new grant categories, a statewide adolescent pregnancy

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

prevention campaign and a statewide assessment or evaluation, are added. The General Assembly appropriated \$652,451 to be used for the adolescent pregnancy prevention grants, including not more than \$152,451 for programs to be used to prevent second or subsequent pregnancies during the adolescent years and to provide support services for pregnant or parenting adolescents.

These amendments also add a new community adolescent pregnancy prevention program as mandated by the General Assembly. An additional \$300,000 was appropriated to be used for grants to community or regional groups to provide programs focusing on the prevention of initial pregnancies during the adolescent years by emphasizing sexual abstinence as the only completely safe and effective means of avoiding pregnancy and sexually transmitted diseases and by providing information regarding the comparative failure rates of contraceptives, and by emphasizing responsible decision making in relationships, managing of peer and social pressures, development of self-esteem, the costs and responsibilities of parenting, and information regarding the alternative of adoption for placement of a child.

These amendments reduce the funding for services to pregnant and parenting adolescents and increase funding for prevention.

Projects selected for the adolescent pregnancy prevention, services to pregnant and parenting adolescents, adolescent pregnancy prevention statewide campaign, and adolescent pregnancy evaluation grants will be eligible for noncompetitive funding for three years, pending availability of funds and satisfactory progress toward program goals. After three years, projects must competitively bid for refunding. Projects funded under the community adolescent pregnancy prevention grants are eligible for funding for up to nine years. An increasing grantee match will be required. A 10 percent grantee match will be required year one and the match will increase by 10 percent each year up to year nine. In-kind matches may be applied toward the grantee match.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2, and section 35, authorize the Department to adopt rules to implement 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2, without notice and public participation.

The Department further finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of the amendments should be waived and the amendments should be made effective July 1, 1994, because 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2, and section 35, authorize the amendments to become effective immediately upon filing, unless a later effective date is specified.

These amendments are also published herein under Notice of Intended Action as **ARC 4918A** to allow for public comment.

The Council on Human Services adopted these amendments June 15, 1994.

These amendments are intended to implement Iowa Code section 234.6 and 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2.

These amendments became effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend 441—Chapter 163, Title, as follows:

ADOLESCENT PREGNANCY  
PREVENTION AND SERVICES  
TO PREGNANT AND PARENTING ADOLESCENTS  
PROGRAM PROGRAMS

ITEM 2. Amend 441—Chapter 163, Preamble, as follows:

PREAMBLE

These rules define and structure the *grant programs* for adolescent pregnancy prevention, and services to pregnant and parenting adolescents, *adolescent pregnancy prevention statewide campaign, adolescent pregnancy evaluation, and community adolescent pregnancy prevention program programs*. The services are to be provided to adolescents and their parents for the purpose of preventing adolescent pregnancy, and to adolescents who are either pregnant or parenting to prevent ~~second~~ *subsequent* pregnancies, promote self-sufficiency and physical and emotional well-being.

ITEM 3. Amend rule 441—163.1(234) as follows:  
Amend the definition of "Pregnancy prevention" as follows:

"Pregnancy prevention" means activities to avoid *initial* pregnancies ~~including second pregnancies~~.

Rescind the definitions of "Applicant" and "Pilot project."

Add the following **new** definition:

"Prevention of subsequent pregnancy" means activities to avoid additional pregnancies during the adolescent years.

ITEM 4. Amend rule 441—163.2(234) as follows:

**441—163.2(234) Availability of grants for pilot projects.** In any year in which funds are available for adolescent pregnancy prevention services, and services to pregnant or parenting adolescents, *statewide campaign, evaluation, or community teen pregnancy prevention programs*, the department of human services shall administer grants to eligible applicants for projects that serve residents of Iowa. The amount of the money granted shall be contingent upon the funds available and shall be made on an annual basis. The allocation of funds shall be in compliance with legislation and approved by the grant designation committee.

ITEM 5. Amend rule 441—163.3(234) as follows:

Amend subrule 163.3(1) as follows:

**163.3(1)** Grants will be awarded to eligible applicants for specifically designed ~~one-year pilot~~ projects. Preference in awarding *adolescent pregnancy prevention and services to pregnant and parenting adolescents* grants shall be given to ~~projects for children placed at a state juvenile institution and projects which utilize a variety of community resources and agencies.~~ *Projects selected for the adolescent pregnancy prevention, services to pregnant and parenting adolescents, adolescent pregnancy prevention statewide campaign, and adolescent pregnancy evaluation grants will be eligible for noncompetitive funding for three years, pending availability of funds and satisfactory progress toward program goals. After three years, projects must competitively bid for refunding. Projects funded under the community adolescent pregnancy prevention grants are eligible for funding for up to nine years. An increasing grantee match will be required. A 10 percent grantee match will be required year one and*

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

*the match will increase by 10 percent each year up to year nine. In-kind matches may be applied toward the grantee match.*

Rescind and reserve subrule **163.3(3)**.

Amend subrule 163.3(4) as follows:

**163.3(4)** ~~Pilot projects~~ *Projects* must serve adolescents. Persons who were served prior to age 18 may continue to be served even though they are not currently pursuing a high school diploma.

Rescind and reserve subrule **163.3(5)**.

Add the following new subrules:

**163.3(6)** Applications for the adolescent pregnancy prevention and services to pregnant and parenting adolescents programs will be accepted from public school corporations, adolescent service providers, maternal and child health centers, projects involving a state juvenile institution or the institutions themselves, and nonprofit organizations involved in adolescent issues. Eligible applicants for the statewide campaign are public or private agencies or individuals. Eligible applicants for the evaluation program are organizations or individuals affiliated with institutions under the authority of the state board of regents or other organizations or individuals experienced in evaluation techniques. Applications for the community adolescent pregnancy prevention program will be accepted from community or regional boards or committees with broad-based representation or a single agency representing a broad-based group.

**163.3(7)** Adolescent pregnancy prevention grants will be awarded for projects providing one or more of the following services:

a. Workshops and informational programs for adolescents and parents of adolescents to improve communication between children and parents regarding human sexuality issues.

b. Programs that focus on the prevention of initial pregnancies through responsible decision making in relationships. These programs should be comprehensive and include information on abstinence, risks associated with drug and alcohol use, contraceptives and associated failure rates, sexually transmitted diseases, and AIDS.

c. Programs which utilize peer counseling or peer education techniques for the prevention of adolescent pregnancies.

d. Projects for children placed at one of the state juvenile institutions, the Iowa Juvenile Home in Toledo or the State Training School in Eldora.

e. Development and distribution of informational material designed to discourage adolescent sexual activity, to provide information regarding acquired immune deficiency syndrome and sexually transmitted diseases, and to encourage male and female adolescents to assume responsibility for their sexual activity and parenting.

**163.3(8)** Services to pregnant and parenting adolescents grants will be awarded for projects providing one or more of the following services:

a. Programs intended to prevent an additional pregnancy by a parent who is less than 19 years of age. Preference in grant awards will be given to programs providing incentives to clients for their program participation and success in avoiding a subsequent pregnancy.

b. Programs for pregnant or parenting teens intended to educate adolescents concerning the risks associated with alcohol and other drug use during pregnancy, improve parenting skills, and plan for the future.

c. Case management and child care services provided to male and female adolescent parents.

d. Programs for young fathers.

e. Development and distribution of informational material designed to encourage male and female adolescents to assume responsibility for their sexual activity and parenting.

**163.3(9)** An adolescent pregnancy prevention statewide campaign grant will be awarded for a project providing a statewide campaign which encourages abstinence and provides information which will emphasize prevention of adolescent pregnancies.

**163.3(10)** An adolescent pregnancy prevention evaluation grant will be awarded to provide technical assistance to grantees in assessing their project and developing an evaluation tool for ongoing use.

**163.3(11)** Community adolescent pregnancy prevention grants will be awarded to projects providing:

a. Broad-based representation from community representatives including, but not limited to, schools, churches, human service-related organizations, and businesses.

b. Comprehensive programming focusing on the prevention of initial pregnancies during the adolescent years with emphasis on, but not limited to, abstinence, responsible decision making, management of peer and social pressures, development of self-esteem, the costs and responsibilities of parenting, and information regarding the alternative of adoption for placement of a child.

c. An evaluation and assessment component which includes evaluation of and recommendations for improvement of the program by the youth and parents involved.

ITEM 6. Amend subrule 163.4(1) and subrule 163.4(2), introductory paragraph, as follows:

**163.4(1)** The department will announce through public notice the opening of an application period *for each of the grant programs*. Applicants for grants shall request ~~Form 470-2309, "Application for Adolescent Pregnancy Prevention Grants,"~~ *an Adolescent Pregnancy Prevention Application Kit for any or all of the open categories* and shall submit a grant ~~proposal proposals using this form~~ by the deadline specified in the announcement.

**163.4(2)** Requirements for project proposals are specified in the "Adolescent Pregnancy Prevention ~~and Services~~ Grant Application Kit." If a proposal does not contain the information specified in the application package or if it is late, it will be disapproved. Proposals shall contain the following information:

ITEM 7. Amend the implementation clause following **441—Chapter 163** to read as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~1991 Iowa Acts, House File 479, section 111, subsections 1 and 2, 1994 Iowa Acts, Senate File 2313, section 11, subsections 1 and 2.~~

[Filed Emergency 6/16/94, effective 7/1/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4892A****LABOR SERVICES DIVISION[347]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 88.5, 17A.3(1) and 17A.5(2), the Labor Commissioner adopts an amendment to Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

The amendment relates to personal protective equipment for general industry.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4787A**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for June 2, 1994. No comments were received.

This amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), this amendment shall become effective upon publication on July 6, 1994. The Commissioner finds that this amendment confers a benefit on employees by permitting them to be provided with safety and health equal those found in states under federal OSHA's jurisdiction and is necessary because of the safety and health of employees in this state.

This amendment is intended to implement Iowa Code section 88.5.

The amendment will become effective July 6, 1994.

The following amendment is adopted.

Amend rule **347—10.20(88)** by inserting at the end thereof:

59 Fed. Reg. 16360 (April 6, 1994)

[Filed Emergency After Notice 6/15/94, effective 7/6/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4923A****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 135.11 and 1993 Iowa Acts, chapter 158, section 3, the Department of Public Health hereby adopts a new Chapter 201, "Organized Delivery Systems," Iowa Administrative Code.

The purpose of this new chapter is to implement 1993 Iowa Acts, chapter 158, section 3, as passed by the Seventy-fifth General Assembly. This chapter provides for a licensing procedure for organized delivery systems and provides for state action immunity for those arrangements which may be a violation of antitrust laws.

1993 Iowa Acts, chapter 158, directed the Department to draft these rules in consultation with the health care reform project. The Health Care Reform Council finished their work in December 1993 at which time the Depart-

ment invited the subcommittee on Accountable Health Plans to serve as an advisory group to the Department in the drafting of these rules. A smaller work group was also formed to assist in the drafting of these rules. These two groups have met a total of seven times and have provided valuable comment during the drafting of these rules.

1993 Iowa Acts, chapter 158, further directs the Department to adopt and file these rules emergency as well as publish them as Notice of Intended Action. In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because there are entities wanting to begin offering services as an Organized Delivery System and need licensure. In addition, the length of time and public process that were used for the drafting of the rules have already allowed some public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and these rules should be made effective upon filing with the Administrative Rules Coordinator on June 17, 1994, as it confers a benefit upon the public to have a cost-effective, accountable health care plan available.

The State Board of Health adopted these rules on June 15, 1994.

These rules are also published herein under Notice of Intended Action as **ARC 4924A** to allow for public comment.

These rules are intended to implement 1993 Iowa Acts, chapter 158, section 3.

These rules became effective June 17, 1994.

The following new chapter is adopted:

**CHAPTER 201  
ORGANIZED DELIVERY SYSTEMS****LICENSURE AND REGULATION**

**641—201.1(135,75GA,ch158) Purpose and scope.** The following rules developed by the department of public health govern the organization and regulation of organized delivery systems, also referred to as accountable health plans, pursuant to the authority set forth by the Seventy-fifth General Assembly in Senate File 380, which can also be found in chapter 158 of the 1993 Iowa Acts. It is the intent of these rules to allow for flexibility in the formation of organized delivery systems while ensuring accountability for the cost, quality and access to health care for those they serve. This chapter shall apply to all organized delivery systems operating in this state or providing coverage to Iowa residents.

**641—201.2(135,75GA,ch158) Definitions.**

"Accountable health plan (AHP)" means a type of organized delivery system.

"Commissioner" means the commissioner of insurance.

"Department" means the department of public health.

"Director" means the director of the department of public health.

"Emergency medical services" means those medical and health services provided in cases of life-threatening, disabling or serious injury or illness, including severe pain, which arises or worsens suddenly and which, if not treated immediately, could reasonably be expected to result in loss of life or serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

"Essential community providers" means those publicly funded health care providing organizations which the di-

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rector deems to be vital to a local health care delivery system to ensure that all vulnerable populations in Iowa have assured access to health care.

"Organized delivery system (ODS)" means an organization that is responsible for delivering the full range of health care services covered under a standard benefit plan and is accountable to the public for the cost, quality and access of its services and for the effect of its services on their health.

"Primary care" means essential, community-based health care services that are coordinated, comprehensive, accountable and accessible on a first contact and on an ongoing basis. Primary care includes diagnosis and treatment, prevention, maintenance, management of chronic problems, and linkages for specialized care.

"Standard benefit plan" means, at a minimum, the same benefit plan that is required of small group insurers under Iowa Code chapter 513B.

**641—201.3(135,75GA,ch158) Application.** An ODS shall not operate in Iowa without an approved application from the department. An application on forms provided by the department accompanied by a filing fee of \$2,000 (a portion of this fee is for the solvency review) payable to the department, shall be completed by an authorized representative of the organized delivery system. The application shall be submitted in duplicate. An application shall not be deemed to be filed until all information necessary to properly process said application has been received by the department; this includes information that addresses rules 201.4(135,75GA,ch158) through 201.15(135,75GA,ch158). The application shall set forth or be accompanied by the following:

1. A copy of the basic organizational document of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all of its amendments.

2. A copy of the bylaws, rules or similar document, if any, regulating the governance and the conduct of the internal affairs of the applicant.

3. A list of names, addresses and official position of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers of a corporation and the partners or members if a partnership or association.

4. A copy of the form of evidence of coverage.

5. A copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees or other organizations.

6. Financial statements showing the applicant's current assets, liabilities and sources of financial support. If the applicant's financial affairs are audited by an independent certified public accountant, a copy of the applicant's most recent regular certified financial statement shall satisfy this requirement unless the department directs that additional financial information is required.

7. A description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of operating results anticipated, and a statement as to the sources of funding.

8. A statement describing the geographic area to be served.

9. A description of the complaint procedures to be utilized.

10. A sample copy of the provider contract for risk-bearing providers.

**641—201.4(135,75GA,ch158) Governing body.** An organized delivery system shall have a basic written organizational document setting forth its scheme of organization and establishing a governing body appropriate to its form of organization. The governing body shall be responsible for matters of policy and operation.

**201.4(1)** The ODS shall provide for enrollee representation on the governing body. The organizational document shall describe what this representation shall be and the method the ODS proposes to use to achieve enrollee representation.

**201.4(2)** Advisory committee. An ODS shall have an enrollee advisory committee to the board. The majority of the members of this advisory committee shall be enrollees with no official capacity within the ODS.

**641—201.5(135,75GA,ch158) Service area/geographic access.**

**201.5(1)** An organized delivery system shall establish its own market area subject to approval by the department. The department shall approve only market areas where the county was used as the basic building block.

**201.5(2)** The ODS's plan of operation needs to address the capability of the ODS to serve an enrollee residing anywhere in the service area.

**201.5(3)** ODSs must cover emergency care to enrollees who are traveling outside the ODS's service area. The ODS may impose copayments or deductibles for such care to the extent permitted by the enrollee's policy and may require the enrollee to return to the service area for continuing treatment as soon as the enrollee's condition reasonably permits such travel.

**201.5(4)** An ODS shall provide geographic access to its enrollees within its service area as follows:

a. Primary care shall be available within the lesser of 30 minutes' travel time or 30 road miles.

b. Primary inpatient hospital care shall be available within 60 minutes' travel time. Inpatient hospital services at a secondary or tertiary level may instead be made available at a referral center which may exceed the 60-minute limit and may be located outside the service area.

c. The above requirements do not require that care be provided within the state of Iowa.

**641—201.6(135,75GA,ch158) Provider network and contracts.**

**201.6(1)** Each ODS shall have flexibility in establishing a provider network to achieve the balance of providers which best meets the needs of its enrollees. An ODS may determine its own credentialing standards and other criteria by which it determines which providers will be included in its network. These standards and criteria shall be public and the ODS shall be held accountable for abiding by the standards and criteria. An ODS shall establish an internal first level provider appeal process.

**201.6(2)** An ODS may not use the design of its provider network as a means for discouraging enrollment from high-risk or special needs populations.

**201.6(3)** Each ODS shall provide data to the department on the utilization of all providers by its enrollees, by provider type. This information shall be disseminated as part of the ODS report card.

**201.6(4)** Enrollees are entitled, upon request, to a list of available ODS providers which must be updated at least once a year.

**201.6(5)** An ODS shall be encouraged to establish working relationships with essential community providers. The department shall provide for the identification of es-

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sential community providers within the service area of each ODS. The director shall establish criteria for essential community provider designation. The criteria shall focus on:

a. Whether the provider has a demonstrated record of service to impoverished or medically underserved populations which face language, ethnic, or cultural barriers to health care access or which have health care needs that are not being met by other providers in the geographic area; and

b. Whether the provider is an entity who serves all patients regardless of ability to pay and who charges for services on an income-based sliding fee schedule.

**201.6(6) Emergency services.** Emergency services, (inpatient and outpatient), as defined in rule 201.2 (135,75GA,ch158), shall be provided by the ODS, either through its own facilities or through guaranteed arrangements with other providers, on a 24-hour basis.

a. A physician and sufficient other licensed and ancillary personnel shall be readily available at all times to render such services.

b. Since ODSs are not required to contract with every emergency care provider in an area, ODSs shall make every effort to inform enrollees of participating providers.

c. Reimbursement to a provider of emergency services shall not be denied by any ODS without review of the patient's medical history, presenting symptoms, and admitting or initial as well as final diagnosis, submitted by the provider, in determining whether, by definition, emergency services could reasonably have been expected to be provided.

d. Reimbursement for emergency services shall not be denied solely on the grounds that services were performed by a noncontracted provider.

e. If reimbursement for emergency services is denied, the enrollee may file a complaint with the ODS as outlined in rule 201.7(135,75GA,ch158). Upon denial of reimbursement for emergency services, the ODS shall notify the enrollee and the provider that they may register a complaint with the department.

**201.6(7)** All provider contracts shall contain the following provisions:

a. (Provider), or its assignee or subcontractor, hereby agrees that in no event, including, but not limited to, non-payment by the ODS, ODS insolvency or breach of this agreement, shall (provider), or its assignee or subcontractor, bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against subscriber/enrollee or persons other than the ODS acting on their behalf for services provided pursuant to this agreement. This provision shall not prohibit collection of supplemental charges or copayments on an ODS's behalf made in accordance with the terms of (applicable agreement) between an ODS and subscriber/enrollee.

b. (Provider), or its assignee or subcontractor, further agrees that (1) this provision shall survive the termination of this agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of the ODS subscriber/enrollee and that (2) this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between (provider) and subscriber/enrollee or persons acting on their behalf.

**641—201.7(135,75GA,ch158) Complaints.** Each ODS shall provide in its bylaws for a system to resolve and record complaints.

**201.7(1)** The complaint system shall provide for the resolution of the following kinds of complaints:

a. Complaints about the quality of health care services provided by the ODS.

b. Complaints about the availability of health care services.

c. Complaints relating to enrollee participation in the operation of the ODS.

d. Complaints relating to reimbursement.

**201.7(2)** An ODS shall submit to the department an annual report in a form prescribed by the department which shall include:

a. A description of the procedures of the complaint system.

b. The total number of complaints handled through the complaint system and a compilation of reasons underlying the complaints filed in accord with 201.7(1).

c. The number, amount and disposition of malpractice claims settled during the year by the ODS and any of its providers.

**641—201.8(135,75GA,ch158) Accountability.** Accountability measures shall be in place to ensure access and quality of care. Each ODS shall provide information to the department on measures of quality, access, member satisfaction, membership and utilization, finance, and management. The department shall publish annually, by November 1 of each year, the indicators that will be required for the reporting year in a document that shall be shared with all licensed ODSs as well as all applicants. Indicators shall be based upon nationally recognized, documented standards.

**201.8(1) Quality.** The department shall establish indicators to measure the quality of care provided by an ODS.

**201.8(2) Access.** The department shall establish indicators of access to care within an ODS. At least one of the indicators shall be the ratio of primary care providers to enrollees by category of provider.

**201.8(3) Member satisfaction.** The following shall be reported by the ODS to demonstrate member satisfaction.

a. Percent of members indicating overall satisfaction with plan from a member survey.

b. Submission of a copy of the member satisfaction survey used by the ODS.

**201.8(4) Membership and utilization.** Indicators of utilization shall be established by the department for costs, frequency of procedures, inpatient and outpatient services. Indicators of membership shall include the following:

a. Member months stratified by age, gender, residence, and purchaser.

b. Disenrollments by month stratified by age, gender, residence and purchaser.

**201.8(5) Finance.** Indicators of financial stability and solvency shall be reported according to the standards established in rules 201.12(135,75GA,ch158) and 201.13(135,75GA,ch158).

**201.8(6) Management practices** shall be described for the following areas.

a. Credentialing. The ODS shall describe its credentialing process as provided for in 201.6(1).

b. Points of service. The ODS shall provide information on the location of providers, including primary care providers, specialty providers, and hospitals, as provided for in 201.5(4).

c. Quality assessment and improvement activities.

d. Case management.

e. Risk management.

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- f. Community needs assessments.
- g. Relationships with essential community providers.
- h. Efforts to address the needs of underserved populations and geographic areas.

**641—201.9(135,75GA,ch158) Reporting.**

**201.9(1)** An ODS shall, as part of the application for licensure, submit documentation of ability to comply or plans to achieve compliance with the reporting of the accountability requirements.

**201.9(2)** Narrative information shall be submitted in report format as specified by the director. Until such time that the data for the calculation of the indicators is available from the Community Health Management Information System (CHMIS), the ODS shall submit the calculated indicator, including documentation of the numerator and denominator used, to the department.

**201.9(3)** Reports shall be based upon calendar year information. Narrative information shall be submitted within 90 days of the close of the reporting period. Indicator reports shall be submitted within 45 days of the end of each quarter.

**201.9(4)** The department or its subcontractor shall have the right to validate reports, including record review and site visits. Reasonable costs related to this review shall be the responsibility of the ODS.

**641—201.10(135,75GA,ch158) Evaluation.** The department shall adopt nationally recognized benchmarks for indicators of quality and access. The department shall seek input and advice from the provider community on the indicators and benchmarks. These benchmarks will include minimum performance standards for identifying ODSs with deficit performance. The department shall establish criteria for issuing provisional licenses and corrective plans of action. Evaluation criteria shall be published annually with the indicators and shall be based upon established criteria. Utilization, member satisfaction, and management information shall be reported as submitted without established benchmarks.

**641—201.11(135,75GA,ch158) Report cards.** The department shall publish annually a report comparing all ODSs licensed in the state on all information contained in rule 201.8(135,75GA,ch158). The report shall also include comparisons by geographic area.

**641—201.12(135,75GA,ch158) Finance and solvency.** Solvency oversight shall be conducted by the division of insurance under an agreement with the department with examination fees paid as provided for in 201.3(135,75GA,ch158). For purposes of finance and solvency, including investments as detailed in rule 201.13(135,75GA,ch158), the ODS submits to the jurisdiction of the insurance division.

**201.12(1)** Accounting system. Statutory accounting principles shall apply to ODSs to ensure the accurate and complete reporting of financial information. Any premium or assessment amount that is not paid within three months of the due date shall be assumed uncollectible for financial statement purposes and in considering the amount of assessments and dividends.

**201.12(2)** Unencumbered funds. ODSs shall maintain at all times unencumbered funds that are the greater of:

- a. \$1 million; or
- b. Three times its average monthly claims for third-party providers. Average monthly expenditure is defined as liabilities incurred, including those which are outstand-

ing. In addition to the requirements set forth above, the required unencumbered funds may be increased when, in the insurance commissioner's judgment, it is necessary to do so to protect the enrollees of the ODS.

**201.12(3)** Bond requirement. ODSs shall obtain a surety bond designating the commissioner of insurance as beneficiary in the event of the insolvency of the ODS in the amount and form acceptable to the commissioner of insurance.

**201.12(4)** Financially impaired or insolvent ODSs. The provisions of Iowa Code chapter 507C shall apply to ODSs, which shall be considered insurers for the purposes of chapter 507C. All health care insurers, prepaid health service corporations, HMOs, and ODSs in the state operating within the service area of the ODS, will provide a 30-day open enrollment in the event of insolvency of the ODS with no underwriting or preexisting conditions imposed. The open enrollment plan shall be actuarially equivalent to the standard benefit plan adopted by the small group reinsurance board.

**201.12(5)** Examination. The commissioner of insurance shall make an examination of the affairs of any ODS and its providers as often as the commissioner deems necessary for the protection of the interests of the residents of Iowa, but not less frequently than once every five years. Iowa Code chapter 507 shall be applicable to the examination of ODSs. The expense of such examination shall be assessed against the ODS in the same manner that insurers are assessed for examinations pursuant to chapter 507. ODS providers shall agree to fully cooperate with the insurance commissioner in providing access to books and records necessary for the commissioner to perform the examination process.

**201.12(6)** Annual financial statement. An ODS shall annually, on or before March 1 of each year, file with the commissioner of insurance an annual financial statement, covering the preceding calendar year, in a form prescribed by the commissioner. Such statement shall be verified by at least two of the ODS's principal officers. The ODS shall also file at this time an independent actuarial opinion certifying the adequacy of the ODS reserves. The commissioner may also request quarterly filings.

**641—201.13(135,75GA,ch158) Investment.**

**201.13(1)** All ODS assets, including unencumbered funds referenced in subrule 201.12(2), shall be invested only in securities or other investments as follows:

a. All investments made pursuant to this subrule shall have investment qualities and characteristics such that the speculative elements are not predominant.

b. Financial terms relating to an ODS have the meanings assigned to them under statutory accounting methods.

c. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

d. If an investment qualifies under more than one subrule, the ODS may elect to hold the investment under the subrule of its choice.

**201.13(2)** An ODS's investments shall be held in its own name or the name of its nominee, except as follows:

a. Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

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(2) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the ODS making the deposit.

(3) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the ODS provides that adequate evidence of the deposit is to be obtained and retained by the ODS or a custodian bank.

b. An ODS may loan stocks or obligations held by it under this rule to a broker-dealer registered under the federal Securities Exchange Act of 1934 or to a member bank. The loan must be evidenced by a written agreement which provides all of the following:

(1) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(2) That the loan may be terminated by the ODS at any time and that the borrower will return the loaned stocks or obligations within five business days after termination.

(3) That the ODS has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement and that the borrower remains liable for any losses and expenses incurred by the association due to default that are not covered by the collateral.

c. An ODS may participate through a member bank in the United States federal reserve book entry system, and the records of the member bank shall at all times show that the investments are held for the ODS or for specific accounts of the ODS.

d. An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the ODS, the name of the custodian bank, or the nominee of either, and, if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the ODS making the investment.

e. Transfers of ownership of investments held as described in subparagraph 201.13(2)"a"(3) and paragraphs 201.13(2)"c" and "d" may be evidenced by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of a certificate evidencing the ODS's investment.

201.13(3) Except as provided in paragraph 201.13(2)"e," if an investment is not evidenced by a certificate, adequate evidence of the ODS's investment shall be obtained from the issuer or its transfer or recording agent and retained by the ODS, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this subrule, means a written receipt or other verification

issued by the depository or issuer or a custodian bank which shows that the investment is held for the ODS.

201.13(4) Except as otherwise permitted by this rule, an ODS licensed under this chapter shall only invest in the following:

a. United States government obligations. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States.

b. Certain development bank obligations. Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. An ODS shall not invest more than 5 percent of its total admitted assets in the obligations of any one of these banks or organizations and shall not invest more than a total of 10 percent of its total admitted assets in the obligations authorized by this subrule.

c. State obligations. Obligations issued or guaranteed by a state, a political subdivision of a state, or an instrumentality of a state.

d. Canadian government obligations. Obligations issued or guaranteed by Canada, by an agency or province of Canada, by a political subdivision of such province, or by an instrumentality of any of those provinces or political subdivisions.

e. Corporate and business trust obligations. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state, or the laws of Canada or a province of Canada, provided that a company shall not invest more than 5 percent of its admitted assets in the obligations of any one corporation or business trust. Investments shall be made only in investment grade bonds.

f. Stocks. Common stocks, common stock equivalents, mutual fund shares securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state, or the laws of Canada or a province of Canada. Aggregate investments in nondividend paying stocks shall not exceed 5 percent of unencumbered funds.

(1) Stocks purchased under this lettered paragraph shall not exceed 50 percent of unencumbered funds. With the approval of the commissioner of insurance, an ODS may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) An ODS shall not invest more than 10 percent of its unencumbered funds in the stocks of any one corporation.

g. Home office real estate. Funds may be invested in a home office building, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An ODS shall not invest more than 25 percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an ODS may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another ODS.

641-201.14(135,75GA,ch158) Rating practices. An ODS's rating practices shall be no more restrictive than

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those required of small group health insurers under Iowa Code chapter 513B. All form filings must include an actuarial certification by a fellow in the society of actuaries (FSA) attesting to the adequacy and fairness of the rates.

**641—201.15(135,75GA,ch158) Name.** No name other than that certified by the department may be used. The name of an ODS or AHP must clearly identify the entity as an ODS or AHP and all literature published by the ODS or AHP must identify its status as an ODS or AHP.

**641—201.16(135,75GA,ch158) Change in organizational documents or control.**

**201.16(1)** Changes to bylaws, articles of incorporation and any other document that would affect the operation and governance of the ODS must be filed with the department at least 30 days prior to their proposed implementation date.

**201.16(2)** An ODS which desires to transfer ownership or control of more than 10 percent of ownership interest in the ODS shall not do so without first submitting a proposed plan to the department for review.

**641—201.17(135,75GA,ch158) Appeal.** A decision by the department to deny an application for licensure as an ODS may be appealed following the procedures in 641—Chapter 173.

**641—201.18 and 201.19** Reserved.

## ANTITRUST

**641—201.20(135,75GA,ch158) Purpose.** The Iowa legislature has determined that the goals of controlling health care costs and improving the quality of and access to health care services will be significantly enhanced by cooperative arrangements involving providers wishing to become an ODS that might be prohibited by state and federal antitrust law if undertaken without governmental involvement. The purpose of the following rules is to institute new public policy by creating an opportunity for the state to review proposed arrangements and to substitute regulation for competition when an arrangement is likely to result in lower costs, or greater access or quality, than would otherwise occur in the marketplace. It is the intent that approval of arrangements be accompanied by appropriate conditions, supervision, and regulation to protect against private abuses of economic power, and that an arrangement approved by the department and accompanied by such appropriate conditions, supervision, and regulation shall not be subject to state and federal antitrust liability. It is the further intent that any immunity from scrutiny under federal or state antitrust statutes offered under these exceptions shall be limited to such specific agreements as are approved by the department, and shall not be extended or applied to unforeseen circumstances, parties, acts, or other agreements which were not part of or contemplated by the approved agreement.

**641—201.21(135,75GA,ch158) Definitions.**

"Access" means the financial, temporal, and geographic availability of health care to individuals who need it.

"Applicant" means the party or parties to an agreement or business arrangement for which the department's approval is sought under this provision.

"Certificate of public advantage" means the sanction by and protection of the department of health of an operating arrangement which otherwise might be excepted under certain antitrust regulations.

"Cost" or "cost of health care" means the amount paid by consumers or third-party payers for health care services or products.

"Criteria" means the cost, access, and quality of health care.

"Department" means the department of public health.

"Person" means an individual or legal entity.

**641—201.22(135,75GA,ch158) Scope.**

**201.22(1)** Certificate of public advantage. Providers or purchasers wishing to engage in contracts, business or financial arrangement, or other activities, practices, or arrangements that might be construed to be violations of state or federal antitrust laws but which are in the best interests of the state and further the policies and goals of this provision may apply to the department for a certificate of public advantage. These provisions do not apply to any agreement by which ownership or control over substantially all of the stock, assets or activities of one or more previously operating entity is placed under the control of another entity.

**201.22(2)** Immunity regarding negotiation. Directors, trustees, or other representatives of a health care provider or third-party payer who participate in discussion or negotiation culminating in any arrangement as described in subrule 201.22(1) are immune from civil actions or criminal prosecution for a violation of state or federal antitrust laws, unless the discussion or negotiation exceeds the scope authorized in this subrule.

**201.22(3)** Disputes among the parties. Any dispute among the parties to an arrangement as described in subrule 201.22(1) concerning the meaning or terms of their agreement is governed by normal principles of contract law.

**201.22(4)** Department approval. Approval by the department is an absolute defense against any action under state and federal antitrust laws, except as provided under subrule 201.30(5).

**201.22(5)** Application cannot be used to impose liability. The department shall ask the attorney general to comment on an application. The application and any information obtained by the department under rules 201.23(135,75GA,ch158) through 201.25(135,75GA,ch158) that is not otherwise available is not admissible in any civil or criminal proceeding brought by the attorney general or any other person based on an antitrust claim, except (a) a proceeding brought under subrule 201.30(5), based on an applicant's failure to substantially comply with the terms of the application; or (b) a proceeding based on actions taken by the applicant prior to submitting the application, where such actions are admitted to in the application.

**201.22(6)** Out-of-state applicant. Providers or purchasers not physically located in Iowa are eligible to seek a certificate of public advantage for an arrangement in which they transact business in Iowa.

**641—201.23(135,75GA,ch158) Application.**

**201.23(1)** Disclosure. An application for approval must include, to the extent applicable, disclosure of the following:

- a. A descriptive title;
- b. A table of contents;
- c. Exact names of each party to the application and the address of the principal business office of each party;
- d. The name, address, and telephone number of the persons authorized to receive notices and communications with respect to the application;

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e. A verified statement by a responsible officer of each party to the application attesting to the accuracy and completeness of the enclosed information;

f. Background information relating to the proposed arrangement, including:

(1) A description of the proposed arrangement, including a list of any services or products that are the subject of the proposed arrangement;

(2) An identification of any tangential services or products associated with the services or products that are the subject of the proposed arrangement;

(3) A description of the geographic territory involved in the proposed arrangement;

(4) If the geographic territory described in subparagraph 201.23(1)"f"(3) is different from the territory in which the applicants have engaged in the type of business at issue over the last five years, a description of how and why the geographic territory differs;

(5) Identification of all products or services that a substantial share of consumers would consider substitutes for any service or product that is the subject of the proposed arrangement;

(6) Identification of whether any services or products of the proposed arrangement are currently being offered, capable of being offered, utilized, or capable of being utilized by other providers or purchasers in the geographic territory described in subparagraph 201.23(1)"f"(3);

(7) Identification of the steps necessary, under current market and regulatory conditions, for other parties to enter the territory described in subparagraph 201.23(1)"f"(3) and compete with the applicant;

(8) A description of the previous history of dealings between the parties to the application;

(9) A detailed explanation of the projected effects, including expected volume, change in price, and increased revenue, of the arrangement on each party's current businesses, both generally as well as the aspects of the business directly involved in the proposed arrangement;

(10) The present market share of the parties to the application and of others affected by the proposed arrangement, and projected market shares after implementation of the proposed arrangement; and

(11) A statement of why the projected levels of cost, access, or quality could not be achieved in the existing market without the proposed arrangement.

g. A detailed explanation of how the transaction will affect cost, access, and quality. The explanation must address the factors in paragraphs 201.26(2)"b" to "d" to the extent applicable.

**201.23(2) Administrative bulletin notice.** In addition to the disclosures required in subrule 201.23(1), the application must contain a written description of the proposed arrangement for purposes of publication in the Iowa Administrative Bulletin. The notice must include sufficient information to advise the public of the nature of the proposed arrangement and to enable the public to provide meaningful comments concerning the expected results of the arrangement. The notice must also state that any person may provide written comments to the department, with a copy to the applicant, within 20 days of the notice's publication. The department shall approve the notice before publication. If the department determines that the submitted notice does not provide sufficient information, the department may amend the notice before publication and may consult with the applicant in preparing the amended notice. The department shall not publish an amended notice without the applicant's approval.

**201.23(3) Multiple parties to proposed arrangement.** For a proposed arrangement involving multiple parties, one joint application must be submitted on behalf of all parties to the arrangement.

**201.23(4) Department's authority to refuse to review.**

a. If the department determines that an application is unclear, incomplete, or provides an insufficient basis on which to base a decision, the department may return the application. The applicant may complete or revise the application and resubmit it.

b. If, upon review of the application and upon advice from the attorney general, the department concludes that the proposed arrangement does not present any potential for liability under the state or federal antitrust laws, the department may decline to review the application, and so notify the applicant.

c. The department may decline to review any application relating to arrangements already in effect before the submission of the application. However, the department shall review any application if the review is expressly provided for in a settlement agreement entered into by the applicant and the attorney general before the enactment of these rules.

**201.23(5) Department's authority to extend time limit.** Upon the showing of good cause, the department may extend any of the time limits stated in rules 201.23(135,75GA,ch158) and 201.24(135,75GA,ch158) at the request of the applicant or another person.

**641—201.24(135,75GA,ch158) Notice and comment.**

**201.24(1) Notice.** The department shall cause the notice described in subrule 201.23(2) to be published in the Iowa Administrative Bulletin and sent to any person who has requested to be placed on a list to receive notice of applications. The department may maintain separate notice lists for different regions of the state. The department may also send a copy of the notice to any person together with a request that the person comment as provided under subrule 201.24(2). Copies of the request must be provided to the applicant.

**201.24(2) Comments.** Within 20 days after the notice is published, any person may mail to the department written comments with respect to the application. Persons submitting comments shall provide a copy of the comments to the applicant. The applicant may mail to the department written responses to any comments within 10 days after the deadline for mailing such comments. The applicant shall send a copy of the response to the person submitting the comment.

**641—201.25(135,75GA,ch158) Procedure for review of applications.**

**201.25(1) Choice of procedures.** After the conclusion of the period provided in subrule 201.24(2), for the applicant to respond to comments, the department shall select one of the two procedures provided in subrule 201.25(2). In determining which procedure to use, the department shall consider the following criteria:

a. The size of the proposed arrangement, in terms of number of parties and amount of money involved;

b. The complexity of the proposed arrangement;

c. The novelty of the proposed arrangement;

d. The substance and quantity of the comments received; and

e. The presence or absence of any significant gaps in the factual record.

If the applicant demands a contested case hearing no later than the conclusion of the period provided in subrule

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201.24(2), for the applicant to respond to comments, the department shall not select a procedure. Instead, the applicant shall be given a contested case proceeding as a matter of right.

**201.25(2) Procedures available.**

a. Decision on the written record. The department may issue a decision based on the application, the comments and the applicant's responses to the comments, to the extent each is relevant. In making the decision, the department may consult with the attorney general or the staff of the department and may rely on department data.

b. Contested case hearing. The department may order a contested case hearing. A contested case hearing shall be heard before an administrative law judge who shall issue a written recommendation to the department and shall follow the procedures in 641—Chapter 173. All factual issues relevant to a decision must be presented in the contested case. The attorney general may appear as a party. The record in the contested case includes the application, the comments, the applicant's response to the comments, and any other evidence that is part of the record under 641—Chapter 173.

**641—201.26(135,75GA,ch158) Criteria for decision.**

**201.26(1)** The department shall not approve an application unless the department determines that the arrangement is more likely to result in lower costs, increased access, or increased quality of health care, than would otherwise occur under existing market condition or conditions likely to develop without an exemption from state and federal antitrust law. In the event that a proposed arrangement appears likely to improve one or two of the criteria at the expense of another one or two of the criteria, the department shall not approve the application unless the department determines that the proposed arrangement, taken as a whole, is likely to substantially further the purpose of this chapter. In making such a determination, the department may employ a cost/benefit analysis.

**201.26(2) Factors.**

a. Generally applicable factors. In making a determination about cost, access, and quality, the department may consider the following factors, to the extent relevant:

(1) Market structure: actual and potential sellers and buyers, or providers and purchasers; actual and potential consumers; geographic market area; and entry conditions;

(2) Current market condition;

(3) The historical behavior of the market;

(4) Performance of other similar arrangements;

(5) Whether the proposal unnecessarily restrains competition, or restrains competition in ways not reasonably related to the purposes of this chapter; and

(6) The financial condition of the applicant.

b. Cost. The department's analysis of cost must focus on the individual consumer of health care. Cost savings to be realized by providers, health carriers, group purchasers, or other participants in the health care system are relevant only to the extent that the savings are likely to be passed on to the consumer. However, where an application is submitted by providers or purchasers who are paid primarily by third-party payers unaffiliated with the applicant, it is sufficient for the applicant to show that cost savings are likely to be passed on to the unaffiliated third-party payers; the applicants do not have the burden of proving that third-party payers with whom the applicants are not affiliated will pass on cost savings to individuals receiving coverage through the third-party payers. In

making determinations as to costs, the department may consider:

(1) The cost savings likely to result to the applicant;

(2) The extent to which the cost savings are likely to be passed on to the consumer and in what form;

(3) The extent to which the proposed arrangement is likely to result in cost-shifting by the applicant onto other payers or purchasers of other products or services;

(4) The extent to which the cost-shifting by the applicant is likely to be followed by other persons in the market;

(5) The current and anticipated supply and demand for any products or services at issue;

(6) The representations and guarantees of the applicant, and their enforceability;

(7) Likely effectiveness of regulation by the department;

(8) Inferences to be drawn from market structure;

(9) The cost of regulation, both for the state and for the applicant; and

(10) Any other factors tending to show that the proposed arrangement is or is not likely to reduce cost.

c. Access. In making determinations as to access, the department may consider:

(1) The extent to which the utilization of needed health care services or products by the intended targeted population is likely to increase or decrease. When a proposed arrangement is likely to increase access in one geographic area, by lowering prices or otherwise expanding supply, but limits access in another geographic area by removing service capabilities from that second area, the department shall articulate the criteria employed to balance these effects;

(2) The extent to which the proposed arrangement is likely to make available a new and needed service or product to a certain geographic area; and

(3) The extent to which the proposed arrangement is likely to otherwise make health care services or products more financially or geographically available to persons who need them.

If the department determines that the proposed arrangement is likely to increase access and bases that determination on a projected increase in utilization, the department shall also determine and make a specific finding that the increased utilization does not reflect overutilization.

d. Quality. In making determinations as to quality, the department may consider the extent to which the proposed arrangement is likely to:

(1) Decrease morbidity and mortality;

(2) Result in faster convalescence;

(3) Result in fewer hospital days;

(4) Permit providers to attain needed experience or frequency of treatment likely to lead to better outcomes;

(5) Increase patient satisfaction; and

(6) Have any other features likely to improve or reduce the quality of health care.

**641—201.27(135,75GA,ch158) Decision.**

**201.27(1)** Approval or disapproval. The department shall issue a written decision approving or disapproving the application within 45 days after receipt of the application or, in the case of a contested hearing, within 10 days of receipt of the administrative law judge's recommendation. The department may condition approval on a modification of all or part of the proposed arrangement to eliminate any restriction on competition that is not reasonably related to the goals of reducing cost or improving ac-

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cess or quality. The department may also establish conditions for approval that are reasonably necessary to protect against abuses of private economic power and to ensure that the arrangement is appropriately supervised and regulated by the state.

**201.27(2) Findings of fact.** The department's decision shall make specific findings of fact concerning the cost, access, and quality criteria, and identify one or more of those criteria as the basis for the decision.

**201.27(3) Data for supervision.** A decision approving an application must require the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured. However, if the department determines that the scope of a particular proposed arrangement is such that the arrangement is certain to have neither a positive or negative impact on one or two of the criteria, the department's decision need not require the submission of data or establish an objective standard relating to those criteria.

**641—201.28(135,75GA,ch158) Appeal.** After the department has rendered a decision, the applicant or any other person aggrieved may appeal the decision to the district court within 30 days after receipt of the department's decision. The appeal is governed by Iowa Code chapter 17A. The department's determination, under subrule 201.25(1), of which procedure to use may not be raised as an issue on appeal.

**641—201.29(135,75GA,ch158) Supervision after approval.**

**201.29(1) Active supervision.** The department shall actively supervise, monitor, and regulate approved arrangements, as described below.

**201.29(2) Procedures.** The department shall review data submitted periodically by the applicant. The department's order shall set forth the time schedule for the submission of data, which shall be at least once a year. The department's order must identify the data that must be submitted, although the department may subsequently require the submission of additional data or alter the time schedule. Upon review of the data submitted, the department shall notify the applicant of whether the arrangement is in compliance with the department's order. If the arrangement is not in compliance with the department's order, the department shall identify those respects in which the arrangement does not conform to the department's order.

An applicant receiving notification that an arrangement is not in compliance has 30 days in which to respond with additional data. The response may include a proposal and a time schedule by which the applicant will bring the arrangement into compliance with the department's order. If the arrangement is not in compliance and the department and the applicant cannot agree to the terms of bringing the arrangement into compliance, the matter shall be set for a contested case hearing.

The department shall publish notice in the Iowa Administrative Bulletin two years after the date of an order approving an application, and at two-year intervals thereafter, soliciting comments from the public concerning the impact that the arrangement has had on cost, access, and quality. The department may request additional

oral and written information from the applicant or from any other source.

**641—201.30(135,75GA,ch158) Revocation.**

**201.30(1) Conditions.** The department may revoke a certificate of public advantage only if:

a. The arrangement is not in substantial compliance with the terms of the application;

b. The arrangement is not in substantial compliance with the conditions of approval;

c. The arrangement is not in substantial compliance with 641—Chapter 201.

d. The arrangement has not and is not likely to substantially achieve the improvements in cost, access, or quality identified in the approval order as the basis for the department's approval of the arrangement; or

e. The conditions in the marketplace have changed to such an extent that competition would promote reductions in cost and improvements in access and quality better than does the arrangement at issue. In order to revoke on the basis that conditions in the marketplace have changed, the department's order must identify specific changes in the marketplace and articulate why those changes warrant revocation.

**201.30(2) Notice.** The department shall begin a proceeding to revoke approval by providing written notice to the applicant describing in detail the basis for the proposed revocation. Notice of the proceeding must be published in the Iowa Administrative Bulletin. The notice must invite the submission of written comments to the department, with a copy to the applicant. Comments must be received by the department within 20 days of the publication of the notice.

**201.30(3) Procedure.** A proceeding to revoke an approval must be conducted as a contested case proceeding upon the written request of the applicant. Contested cases regarding revocations are heard by an administrative law judge who shall issue a written recommendation to the department and shall follow the procedures in 641—Chapter 5. Decisions of the department in a proceeding to revoke approval are subject to judicial review under Iowa Code chapter 17A.

**201.30(4) Alternatives to revocation preferred.** In deciding whether to revoke an approval, the department shall take into account the hardship that the revocation may impose on the applicant and any potential disruption of the market as a whole. The department shall not revoke an approval if the arrangement can be modified, restructured, or regulated so as to remedy the problem upon which the revocation proceeding is based. The applicant may submit proposals for alternatives to revocation. Before approving an alternative to revocation that involves modifying or restructuring an arrangement, the department shall publish notice in the Iowa Administrative Bulletin that any person may comment on the proposed modification or restructuring within 20 days after publication of the notice. The department shall not approve the modification or restructuring until the comment period has concluded. An approved, modified, or restructured arrangement is subject to appropriate supervision under rule 201.29(135,75GA,ch158).

**201.30(5) Impact of revocation.** An applicant that has had its approval revoked is not required to terminate the arrangement. The applicant cannot be held liable under

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state or federal antitrust law for acts that occurred while the approval was in effect, except to the extent that the applicant failed to substantially comply with the terms of the approval. The applicant is fully subject to state and federal antitrust law after the revocation becomes effective and may be held liable for acts that occur after the revocation.

These rules are intended to implement 1993 Iowa Acts, chapter 158, section 3.

[Filed Emergency 6/17/94, effective 6/17/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4934A

**AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 159.5(11), 159.6(2), and 163.1(1), the Iowa Department of Agriculture and Land Stewardship hereby adopts amendments to Chapter 65, "Livestock Importation," Iowa Administrative Code.

The purpose of these amendments is to recognize the U.S. Pullorum-Typhoid clean status of chickens and turkeys from National Poultry Improvement Plan (NPIP) flocks by allowing importation whenever they are accompanied by a properly completed and distributed Form VS 9-3 or by a certificate of veterinary inspection.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4804A**.

A public hearing was held on May 31, 1994, with no comments received prior to or at the hearing. There are no changes from the Notice of Intended Action.

These amendments were adopted on June 16, 1994.

These amendments are intended to implement Iowa Code sections 163.1(1) and 163.1(3).

The amendments will become effective August 10, 1994.

The following amendments are adopted.

ITEM 1. Amend subrule 65.1(2) as follows:

**65.1(2)** All livestock or poultry, *not exempt according to 65.11(1)"a,"* shipped or in any manner transported or moved into Iowa shall be accompanied by an approved certificate of veterinary inspection or permit or both when required which must be attached to the waybill or shall be in possession of the driver of the vehicle or the person in charge of the animals.

ITEM 2. Amend 21—65.11(163), introductory paragraph, as follows:

**21—65.11(163)** All poultry and their hatching eggs. With the exception of poultry imported for immediate slaughter, *and chickens and turkeys or their hatching eggs from negative flocks participating in the National Poultry Improvement Plan (NPIP) if each shipment is accompanied by a properly completed and distributed Form VS 9-3,* all poultry, hatching eggs, baby chicks, domestic waterfowl, domestic game birds, exhibition poultry, or turkey poults must be accompanied by an approved certificate of veterinary inspection from the state of origin. A permit is required annually by the NPIP-recognized official state contact agency (Iowa Poultry Association) prior to shipment.

ITEM 3. Amend **65.11(1)"a"** as follows:

a. All poultry must be tested negative for pullorum-typhoid within 90 days or originate from flocks or hatcheries that have a pullorum-typhoid clean rating given by the official state agency of the National Poultry Improvement Plan or another qualifying state agency of the state of origin and so stated on the *properly completed and dis-*

*tributed Form VS 9-3 or on the approved certificate of veterinary inspection.*

[Filed 6/17/94, effective 8/10/94]

[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4891A

**BANKING DIVISION[187]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 524.213, the Banking Division of the Iowa Department of Commerce hereby amends Chapter 9, "Investment and Lending Powers," Iowa Administrative Code.

This amendment adopts a new rule 9.3(17A,524) Leasing.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 13, 1994, as **ARC 4722A**.

The Superintendent received 19 letters of comment from interested parties. The commenters, in general, agreed with the proposed leasing rule, but voiced objection that the inspection requirements of the rule were too restrictive. A public hearing was held on May 11, 1994. Five of the 19 interested parties who provided written comments gave oral comments at the hearing.

Based on the comments received, inspection requirements originally proposed were made less restrictive by giving the Superintendent discretion to waive inspection requirements and, in the case of leases to governmental units, to accept a written verification in lieu of an inspection.

This rule is intended to implement Iowa Code section 524.908.

This rule shall become effective August 10, 1994.

The following rule is adopted.

Amend 187—Chapter 9 by adding the following new rule:

**187—9.3(17A,524) Leasing.**

**9.3(1)** Definitions. For purposes of this rule, the term:

"Aggregate rentals payable" shall include the total of minimum lease payments (net of unearned income) that the lessee is obligated to make or can be required to make plus any guarantee of the residual value or of rental payments beyond the lease term by an eligible guarantor, provided the guarantor is financially capable of discharging the obligation.

"Bank officer" means an administrative official of the bank elected by the state bank's board of directors to carry out the bank's operating rules, including the bank's loan and lease policies.

"Full payout lease" shall be one in which the lessor's service is limited to the financing of the asset, with the lessee paying all other costs, including maintenance and taxes, and has the option of purchasing the asset at the end

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of the lease for a nominal price. The lease shall be fully amortized over the term of the lease or lifetime of the asset, whichever is less.

"Inception of the lease" means the date of the lease agreement or commitment, if earlier, or the date the lease is purchased by the state bank. For purposes of this definition, a commitment shall be in writing, signed by the parties in interest to the transaction, and shall specifically set forth the principal terms of the transaction. However, if the property covered by the lease is a fixture yet to be constructed or has not been acquired by the lessor at the date of the lease agreement or commitment, the inception of the lease shall be the date that construction of the property is completed or the property is acquired by the lessor. The inception date of a lease assumed in a business combination accounted for as a purchase is the date the combination is recorded for accounting purposes.

"Independent third-party appraiser" means an individual not involved with the lease transaction, except as the appraiser, with no direct or indirect interest, financial or otherwise, in the property appraised or the parties involved with the transaction. The bank shall take appropriate steps to ensure the appraiser exercises independent judgment and that the appraisal is adequate.

"Lease servicer" means an entity that collects monthly principal and interest payments from the lessee and then forwards the payments to the purchasing institution or maintains lease records for a fee.

"Leasing company" means an enterprise that makes leases or assembles leases for resale to a bank. Leases acquired by a state bank from an affiliated leasing company will be treated for purposes of this rule the same as if the lease was originated by the bank itself. In determining if an affiliate relationship exists, the provisions of Iowa Code section 524.1101 shall apply.

"Lessee" means the party using the leased property.

"Lessor" means the party owning the leased property.

"Residual value" means the estimated fair value of the leased property at the end of the lease term.

### 9.3(2) General direct and purchased lease guidelines.

a. The board of directors of the state bank shall formulate and maintain a written lease policy that is appropriate for the size, nature and scope of the bank's operation. Each policy must be comprehensive and consistent with safe and sound banking practices. The standards and limits established in the policy must be reviewed and approved at least annually by the board. The bank's lease policy, at a minimum, should:

(1) Identify acceptable lease servicers and lessors (purchased leases only).

(2) Establish aggregate volume of paper to be purchased from approved servicers and lessors (purchased leases only).

(3) Identify geographic area where the bank will consider purchasing or originating leases.

(4) Establish lease portfolio diversification standards.

(5) Set appropriate terms and conditions by type of leases.

(6) Establish lease origination and approval procedures.

(7) Establish prudent underwriting standards.

(8) Establish lease administration procedures.

(9) Establish appraisal and evaluation programs.

(10) Monitor the portfolio and provide timely reports to the board of directors.

(11) Set forth permitted exceptions to the policy.

When formulating the lease policy, the board should consider both internal and external factors, such as size and condition of the state bank, expertise of the lending staff, avoidance of undue concentrations of risk, and general market conditions.

b. Whether the bank is serving as lessor or acquiring a lease through purchase, a bank officer shall perform an independent credit analysis of the lessee.

c. The bank or an affiliated leasing company shall obtain collateral values, lien status, lease agreements, participation agreements, and title documentation within 45 calendar days from the date of inception with original documentation being maintained in the bank's or affiliated leasing company's credit files.

d. A bank officer, an officer of an affiliated lease originator, or an independent third-party appraiser shall conduct at inception, and then at least annually thereafter, an inspection of the leased personal property, unless prior approval to waive the inspection requirements has been obtained from the superintendent of banking.

For a lease to a governmental unit, the bank shall conduct an inspection at time of inception or maintain written verification by an official of the governmental unit to confirm the existence of the leased property.

e. Ongoing documentation requirements to support the lease shall be the same as if the bank had made a direct loan to the lessee for purchase of the asset being leased.

f. The lease shall be a full-payout, noncancelable obligation of the lessee with the obligation serving the same purpose as other forms of bank financing. For purposes of this rule, a lease to a governmental unit which contains a fiscal funding clause would be considered a noncancelable lease if the likelihood of exercise of the fiscal funding clause is assessed as being remote.

g. Property covered by the lease shall be limited to personal property, excluding livestock.

h. The lease shall require rental payments to be made on a periodic basis, but no less frequently than annually.

i. The term of a lease shall not exceed seven years if made to a nongovernmental unit or ten years if made to a governmental unit without the prior approval of the superintendent of banking.

j. Aggregate rentals payable by the customer under leases of personal property shall conform to the limits imposed by Iowa Code section 524.904.

k. All lease receivables shall be booked in accordance with call report instructions.

l. Unguaranteed residual value established by the lessor for any lease, whether originated by the state bank or acquired through purchase, shall not exceed 25 percent of the original cost of the leased property. The amount of any estimated residual value guaranteed by a manufacturer, the lessee, or a third party which is not an affiliate of the bank may exceed 25 percent of the original cost of property where the bank has determined and can provide full supporting documentation that the guarantor has the resources to meet the guarantee.

While this guideline prohibits unguaranteed residual values to exceed 25 percent of the original cost, the estimated residual value shall be reasonable in relation to the type of property leased so the primary risk taken by the bank is the creditworthiness of the lessee and not the market value of the leased property. All estimated residual values shall be reviewed at least annually.

If the state bank carries the estimated residual value on its books and a review of the estimated residual value re-

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sults in a lower estimate than had been previously established, the accounting for the transactions shall be revised using the new estimate. The resulting reduction in the net investment shall be recognized as a loss in the period in which the estimate is changed. An upward adjustment of the residual value shall not be made.

m. Consumer leases, whether originated or purchased by a state bank, shall conform to Iowa Code section 537.3202 and Chapter 5 of the Truth-in-Lending Act (15 U.S.C. 1601 et seq.).

n. If an affiliate of a state bank is regarded as the originator of a lease, the affiliate shall be subject to provisions of Iowa Code section 524.1105.

#### 9.3(3) Specific purchased lease guidelines.

a. If the obligations acquired carry full recourse endorsements, guaranty, or an agreement to repurchase of the lessor or servicer negotiating the sale of the leases, then the endorser, guarantor, or repurchaser shall also be deemed to be a customer of the bank. This customer's obligation would be limited to 60 percent of capital and surplus of the state bank if the amounts exceeding 20 percent of capital and surplus consist of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

b. The bank shall provide the necessary letters of assurance for each lease servicer as required under Iowa Code section 524.218.

c. Financial information shall be obtained no less frequently than annually on any lease servicer, with an evaluation of the creditworthiness of the lease servicer being made. This documentation is to be maintained on file by the bank.

9.3(4) Specific direct leasing guidelines. Acceptable methods of accounting for investment tax credits shall be used.

9.3(5) Exempted transactions. In some instances, it may be appropriate, in light of all relevant credit considerations, to originate or purchase leases that do not conform with the requirements of 9.3(2)"c," "d," and "e." The outstanding aggregate rentals payable of all originated and purchased leases that fall into this category shall not exceed 25 percent of the total equity capital as reflected on the state bank's most recent consolidated report of condition, unless prior approval to exceed this limitation has been obtained from the superintendent of banking. These exempted leases shall be identified by the board of directors at inception by name and outstanding balance and shall be reviewed by the board at least quarterly. Examiners, during the course of their examinations, will determine whether these exempted leases are adequately documented and appropriate in light of overall safety and soundness considerations. No leases to directors, officers, or substantial shareholders or their related interests shall be allowed in the exempted category of this subrule.

[Filed 6/16/94, effective 8/10/94]

[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

ARC 4894A

## CREDIT UNION DIVISION[189]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 533.1, and 533.54, the Credit Union Division of the Department of Commerce rescinds Chapter 9, "Second Mortgage Loans" and Chapter 10, "Real Estate Loans" and adopts a new Chapter 9, "Real Estate Lending," Iowa Administrative Code.

The new chapter, as adopted by the Credit Union Review Board at its meeting held April 18, 1994, will provide state-chartered credit unions uniformity with final real estate lending guidelines recently adopted by the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Reserve System and the Department of the Treasury. Under the new language, a state-chartered credit union must develop written real estate lending policies, use written real estate appraisals in conformance to minimum appraisal standards, establish internal loan-to-value limits for various categories of real estate loans, obtain written legal opinions or title insurance for certain real estate loans, as well as hazard insurance, and provide pertinent and timely disclosures. In addition, the new language grants state-chartered credit unions the authority to originate or purchase real estate loans that do not meet certain requirements if the total amount of real estate loans that fall into this category does not exceed 25 percent of total equity capital.

Notice of Intended Action was published in the May 11, 1994, Iowa Administrative Bulletin as **ARC 4796A**. A public hearing was held on May 31, 1994. One oral and written comment was received during the public comment period and at the public hearing. The adopted chapter has one minor, nonsubstantive change in the last paragraph of subrule 9.2(4).

These rules will become effective August 10, 1994, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code sections 533.4(21) and 533.16(4)"a."

The following amendment is adopted.

Rescind Chapter 9, "Second Mortgage Loans," and Chapter 10, "Real Estate Loans," and adopt a **new** chapter as follows:

#### CHAPTER 9 REAL ESTATE LENDING

**189—9.1(533) Definitions.** For purpose of these rules, the following terms shall have the meaning indicated in this chapter.

"Abundance of caution loan" means a loan on which a lien on real estate has been taken at the request of the lender when it has been determined the collateral offered by the borrower(s) is insufficient and where the terms of the transaction as a consequence are not made more favorable than they would be in the absence of the lien.

"Equity capital" means the total of the statutory reserve, special reserve, all segregations of undivided earnings, and current net income, excluding the allowance for loan losses and investment losses accounts.

"First mortgage loan" means a mortgage loan secured by a lien on real estate which ranks in the first position of encumbrance against the property described in the

## CREDIT UNION DIVISION[189](cont'd)

instrument and which is made for the purpose of acquisition or refinancing of acquisition of the real estate.

"Home equity loan" means a loan secured by a lien on real estate which is other than a first or second mortgage loan and in which the amount advanced is based upon the borrower's paid-up equity in the real estate.

"Immediate family member" means a spouse or other family members living in the same household.

"Mortgage loan" means a loan for the purchase, construction, improvement or rehabilitation of an owner-occupied one-family to four-family residence in which the real estate is secured by a mortgage, deed of trust or similar instrument in the real estate.

"Nonconforming loan" means a loan secured by a lien on real estate that does not fully comply with the provisions of subrules 9.2(4) to 9.2(8).

"Official" means any officer, director or committee member of the credit union board of directors.

"Owner-occupied residence" means a noncommercial real estate property in which the borrower has marketable title and which is the borrower's primary or secondary residence for no less than 120 days per year.

"Reverse annuity mortgage loan" means a loan secured by a lien on real estate in which either the loan proceeds are used to purchase an annuity or are advanced to the mortgagor(s) in periodic installments in accordance with Iowa Code chapter 528.

"Second mortgage loan" means a mortgage loan secured by a lien on real estate other than in the first position of encumbrance against the property described in the instrument.

"Senior management employee" means the credit union's chief executive officer (typically the individual holding the title of president, treasurer or manager), any assistant or vice chief executive officer and the chief financial officer (comptroller), or any individual performing the duties or functions of these persons, regardless of the title used.

"Tack-on loan" means an otherwise fully collateralized loan on which a lien on real estate has been taken by the lender at the request of the borrower(s) and where the terms of the transaction as a consequence are not made more favorable than they would be in the absence of the lien.

**189—9.2(533) Real estate lending.** These rules shall apply to real estate-related loans either originated by a credit union or acquired by purchase, assignment or otherwise.

**9.2(1)** The board of directors of the credit union shall formulate and maintain a written real estate lending policy that is appropriate for its size and the nature and scope of its operation. Each policy must be comprehensive and consistent with safe and sound lending practices. The standards and limits established in the policy must be reviewed and approved at least annually by the board. The real estate lending policy should reflect the level of risk that is acceptable to the board and should provide clear and measurable underwriting standards that enable the credit union's lending staff to evaluate all relevant credit factors. The real estate lending policy, at a minimum, should:

- a. Establish loan portfolio diversification standards.
- b. Set appropriate terms and conditions by type of real estate loan.
- c. Establish loan origination and approval procedures.

d. Establish prudent underwriting standards which include clear and measurable loan-to-value limitations.

e. Establish review and approval procedures for exempted loans.

f. Establish loan administration procedures.

g. Establish real estate appraisal and evaluation programs.

h. Monitor the portfolio and provide timely reports to the board of directors.

i. Establish conformance with secondary market investor requirements where applicable.

When formulating the real estate policy, the board should consider both internal and external factors, such as size and condition of the credit union, expertise of its lending staff, avoidance of undue concentrations of risk, compliance with all real estate-related laws and rules, and general market conditions.

**9.2(2)** Real estate loans shall be evidenced by a note or other form of obligation and shall be secured by liens on or interests in real estate in the form of mortgages, deeds of trust, or similar instruments.

**9.2(3)** The credit union shall use written real estate appraisals independently and impartially performed by appraisers who have demonstrated competency and are subject to effective supervision in connection with certain real estate-related transactions. The credit union shall use the services of certified or licensed appraisers for specific transactions in accordance with Part 722 of the National Credit Union Administration Rules and Regulations that implement the requirements of Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. Section 3310, 3331-3351). All appraisals performed must conform to the minimum appraisal standards of federal regulations. Credit unions must establish appropriate procedures for evaluating the market value of all real estate-related transactions which are exempt from federal appraisal regulations, based upon safety and soundness considerations, as well as economic considerations.

**9.2(4)** The board of directors of the credit union shall establish its own internal loan-to-value (LTV) limits for real estate loans. These internal limits shall not exceed the following:

LOAN CATEGORY	LTV (PERCENT)
Raw land	65
Land development	75
Construction:	
Multifamily, commercial & other nonresidential	80
1-to-4 family residential	85
Farmland, ranchland or timberland	85
1-to-4 family residential (not owner-occupied)	85
Multifamily residential (5 or more units)	85
Commercial and other nonresidential	85
Owner-occupied 1-to-4 family residential, second mortgage and home equity	90

The loan-to-value limits established by the board shall not apply to loans for which a lien on or interest in real estate is taken as additional collateral through an abundance of caution or tack-on loan program.

For owner-occupied 1-to-4 family residential, second mortgage and home equity loans which equal or exceed the 90 percent loan-to-value limit, the credit union shall

## CREDIT UNION DIVISION[189](cont'd)

require private mortgage insurance or other readily marketable collateral.

Real estate loans which have been sold to the secondary market shall be considered in transit for a period of up to 90 days and may be made at 95 percent loan to value. Such loans shall not be considered risk assets for reserving purposes.

Compliance with the appropriate loan-to-value limits shall require that the credit union's lien be aggregated with more senior liens securing the same property. The credit union shall retain written verification of the outstanding balance or the maximum credit available to the borrower of any more senior lien at the inception of the loan. The existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights-of-way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or part whereby the rents or profits are reserved to the owner shall not be deemed senior liens for purposes of compliance with loan-to-value limits.

**9.2(5)** The credit union shall obtain, when lending for the purpose of acquisition or for the purpose of refinancing of acquisition, when a new mortgage, deed of trust, or similar instrument is filed, either:

a. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgage and describing any existing liens and stating that the credit union's mortgage, deed of trust or similar instrument is a first lien on the real estate; or

b. Title insurance written by an insurance company licensed to do business in the state in which the real estate is located describing any existing liens and insuring the title to the real estate and the validity and enforceability of the mortgage, deed of trust or similar instrument as a first lien on the real estate.

**9.2(6)** A lien or title search is required when lending for the purposes of a second mortgage or home equity loan.

**9.2(7)** The credit union shall require, when lending for purposes of acquisition or refinancing of acquisition of real estate, insurance against loss from fire, wind, and natural hazards on all structures which are included in the mortgage for the term of the loan. The credit union may, at its own expense, maintain insurance covering its interest as lender. If the real estate is located within a special flood hazard area as identified by the Federal Emergency Management Agency, the credit union shall require flood insurance in accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. Section 4003 et seq.) and implementing regulations adopted in connection therewith.

**9.2(8)** Credit unions with assets of \$500,000 or more may make real estate-related loans to members on real estate located in any state where the credit union maintains an office approved by the superintendent and in bordering counties of adjacent states thereto.

Credit unions with assets under \$500,000 may, with the written approval of the superintendent, make real estate-related loans under this chapter.

**9.2(9)** The credit union shall provide pertinent and timely disclosures to borrowers pursuant to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15

U.S.C. Section 1601 et seq.) and implementing regulations adopted in connection therewith.

**9.2(10)** There are certain real estate transactions in which other factors significantly outweigh the need to apply the provisions of subrules 9.2(4) to 9.2(8). Therefore, the following transactions are exempt from subrules 9.2(4) to 9.2(8):

a. Loans guaranteed, insured, or for which a written commitment for such has been issued by the U.S. government or its agencies.

b. Loans guaranteed, insured, or for which a written commitment for such has been issued by a state, a political subdivision, or agency thereof, provided that the credit union has determined that the guarantor or insurer has the financial capacity and willingness to perform under the terms of the agreement.

c. Loans guaranteed, insured, or for which a written commitment for such has been issued by any other guarantor or insurer authorized to do business in this state, provided that the credit union has determined that the guarantor or insurer has the financial capacity and willingness to perform under the terms of the agreement, and provided the guarantor or insurer has filed with the superintendent annually on or before the first day of February a copy of such written commitment agreement, along with a copy of the most recently performed independent opinion audit and management letter of its year-end financial report. Such loans must substantially meet the provisions of this chapter.

d. Loans purchased through the secondary market or pools of loans in which financing has been arranged by the credit union in participation with other lenders, except such loans must substantially meet the provisions of this chapter.

e. Real estate-related transactions in which a lien on real estate has been taken solely through an abundance of caution or tack-on loan program whereby the terms of the transaction as a consequence are not more favorable than they would be absent the lien.

f. Acceptance of real estate as collateral to secure debts previously contracted in good faith.

**9.2(11)** In addition to the exemptions set forth in subrule 9.2(10), it may be appropriate to originate or purchase real estate loans that do not meet the requirements of subrules 9.2(4) to 9.2(8). Credit unions shall be allowed to make such other nonconforming loans; however, the aggregate amount of the loans that fall into this category shall not exceed 25 percent of the total equity capital as reflected on the credit union's most recent call report. This aggregate amount of real estate loans that do not comply with the provisions of subrules 9.2(4) to 9.2(8) should grant credit unions the flexibility necessary to meet the needs of their members. These exempted loans must be identified by the audit committee at inception by member number and outstanding balance and must be reviewed by the audit committee at least semiannually. No real estate loan to a credit union official, senior management employee, loan officer, or their immediate family members shall be allowed in the exempted category permitted by this subrule.

**189—9.3(533) Other real estate-related loans.** Credit unions may make other real estate-related loans, the proceeds of which will be used for a commercial, corporate, business investment property or venture, or agricultural purpose. These loans shall adhere to the requirements

## CREDIT UNION DIVISION[189](cont'd)

stated in Part 701.21(h) of the National Credit Union Administration Rules and Regulations and shall be made in accordance with provisions prescribed by the superintendent.

These rules are intended to implement Iowa Code sections 533.4(21) and 533.16(4)"a."

[Filed 6/15/94, effective 8/10/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

This rule is intended to implement Iowa Code section 533.38.

[Filed 6/15/94, effective 8/10/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4901A

HUMAN SERVICES  
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, the Department of Human Services hereby amends Chapter 50, "Application for Assistance," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments June 15, 1994. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on April 13, 1994, as **ARC 4721A**.

These amendments require all applicants for in-home health related care or a protective living arrangement to complete an application and require an application for the In-Home Health Related Care program to be processed within 30 days from the date of application except in specific situations. An application for in-home health related care shall not be held in a pending status for longer than 60 days due to failure to locate a provider. In addition, terminology and an implementation clause are corrected.

Current rules do not provide guidance on when to deny an In-Home Health Related Care application when a provider cannot be located. Currently, some county offices may leave an application pending indefinitely when a provider cannot be located. This rule provides consistency and a legal basis to deny an application when approval is not possible due to lack of a provider.

In response to comments from the field, subrule 177.4(5) was revised to provide that the approval of the case plan by the area office, rather than the regional office, shall constitute certification and approval for payment.

These amendments are intended to implement Iowa Code sections 249.3(2)"a"(2) and 249.4.

These amendments shall become effective September 1, 1994.

The following amendments are adopted.

ITEM 1. Amend subrules 50.2(2) and 50.2(3), introductory paragraph, as follows:

**50.2(2)** Any person applying for payment for a protective living arrangement or payment for a dependent relative shall make application for supplemental security income at the social security administration district office. The local county office of the department of human services shall certify to the social security administration as to the nature of the living arrangement or the status of the dependent.

## ARC 4893A

## CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 533.1, and 533.54, the Credit Union Division of the Department of Commerce hereby adopts a new Chapter 10, "Corporate Central Credit Union," Iowa Administrative Code.

Iowa Code section 533.38, grants an Iowa corporate central credit union additional powers subject to adoption of rules pursuant to Iowa Code chapter 17A and the prior written approval of the Superintendent. The proposed new chapter, as adopted by the Credit Union Review Board at its April 18, 1994, meeting, implements these provisions by providing authority to a state-chartered corporate central credit union to exercise any additional powers for investments, lending and borrowing which are granted to federally chartered corporate central credit unions in the National Credit Union Administration Rules and Regulations Part 704.

Notice of Intended Action was published in the May 11, 1994, Iowa Administrative Bulletin as **ARC 4795A**. A public hearing was held on May 31, 1994. No oral or written comments were received during the public comment period or at the public hearing.

These rules will become effective August 10, 1994, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This chapter is intended to implement Iowa Code section 533.38.

The following new chapter is adopted.

Adopt the following new chapter:

CHAPTER 10  
CORPORATE CENTRAL CREDIT UNION

**189—10.1(533) Corporate central credit union powers.** A corporate central credit union established in accordance with Iowa Code chapter 533 shall have all the powers, restrictions, and obligations imposed upon or granted to a credit union established in accordance with that chapter, the additional powers permitted under Iowa Code section 533.38, and such other powers granted to federally chartered corporate central credit unions under Part 704 of the National Credit Union Administration Rules and Regulations.

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

**50.2(3)** Any person applying for payment for residential care shall make application at a local or area office of the department of human services or at the residential care facility where the person resides. Any person applying for a dependent person allowance shall make application at a local or area office of the department. Any person applying for payment for a protective living arrangement or in-home health related care, ~~whose income exceeds supplemental security income payment standards,~~ shall make application at a local or area office of the department. An application may also be filed directly with an income maintenance worker at any departmental satellite office. The application shall be made on the Application for Medical Assistance or State Supplementary Assistance, PA-1107-0, provided by the department.

ITEM 2. Amend subrule 50.3(2) as follows:

**50.3(2)** Payment for residential care shall be effective as of the date of application or the date of eligibility, whichever is later. If the application is completed in the residential care facility, the administrator of the facility must forward it to the local *or area* office of the department of human services to be received not later than five working days subsequent to the date the application was signed if the effective date is to be the date of signature. If not timely submitted, the effective date will not be earlier than five working days prior to receipt of the application in the local *or area* office.

ITEM 3. Amend rule 441—177.4(249) as follows:

Amend subrule 177.4(5) as follows:

**177.4(5)** Certification procedure. The approval by the ~~district~~ *area* office of the department of human services of the case plan shall constitute certification and approval for payment.

Add the following new subrule 177.4(10):

**177.4(10)** Application. Application for in-home health related care shall be made on Form PA-1107-0, Application for Medical Assistance or State Supplementary Assistance. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

a. An application has been filed and is pending for federal supplemental security income benefits.

b. The application is pending because the department has not received information, which is beyond the control of the client or the department.

c. The application is pending due to the disability determination process performed through the department.

d. The application is pending because the SS-1511-0, Provider Agreement, has not been completed and completion is beyond control of the client. When a Provider Agreement cannot be completed due to client's failure to locate a provider, applications shall not be held pending beyond 60 days from the date of application.

ITEM 4. Amend rule **441—177.5(249)**, implementation clause, as follows:

This rule is intended to implement ~~1984 Iowa Acts, chapter 1310, section 3.~~ *Iowa Code section 249.3(2) "a."*

ITEM 5. Amend subrule **177.6(2)**, paragraph "b," as follows:

b. Medical records shall be located in the nurse's case file, with a copy of the interdisciplinary plan of care and physician's plan of service in the service ~~workers~~ *worker's* file, and all other records available to the service worker. Upon termination of the in-home care plan, the

records shall be maintained in the ~~local~~ *county* office of the department of human services, or in the office of the public health nurse and available to the service worker, for five years or until completion of an audit.

ITEM 6. Amend rule 441—177.10(249), introductory paragraph, as follows:

**441—177.10(249) Emergency services.** Written instructions for dealing with emergency situations shall be completed by the nurse and maintained in the client's home and in the ~~local~~ *county* department of human services office. The instructions shall include:

[Filed 6/16/94, effective 9/1/94]

[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

## ARC 4906A

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 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment on June 15, 1994. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on April 27, 1994, as **ARC 4763A**.

Under current policy a person is ineligible for transitional Medicaid benefits if it has been determined that the person was ineligible for the Family Investment Program (FIP) at any time in the six months prior to the beginning of the extended benefits because the person committed fraud. This amendment revises the definition of fraud from the State Supplementary Assistance definition of fraud to the FIP definition of fraud. This change is being promulgated to comply with a recent federal interpretation defining the term "committed fraud" as FIP fraud as determined by the FIP agency.

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 September 1, 1994.

The following amendment is adopted.

Amend subrule **75.1(31)**, paragraph "f," as follows:

f. Transitional Medicaid shall not be allowed under these provisions when it *is has been* determined that the recipient received FIP in any of the six months immediately preceding the month of cancellation as the result of fraud. Fraud shall be defined in accordance with Iowa Code section ~~249.11~~ *239.14*.

[Filed 6/16/94, effective 9/1/94]

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## ARC 4913A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 234.6 and 238.16, the Department of Human Services hereby amends Chapter 107, "Certification of Adoption Investigators," and Chapter 157, "Purchase of Adoption Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments June 15, 1994. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on May 11, 1994, as ARC 4790A.

These amendments implement the following changes in regard to the certification of adoption investigators and the purchase of adoption services:

1. Private agency staff are eligible to apply for certification as adoption investigators without regard to their current job duties unless the agency employing them objects in writing.

2. Home study updates are added to the list of investigative services which a certified adoption investigator may provide.

3. Certified adoption investigators are added as providers of adoption services.

4. Policy is revised to allow providers of adoption services to be licensed in Iowa or another state.

5. Home study updates are added as a component of adoption service which may be purchased. Iowa Code section 600.8 requires the completion of a home study update if the home study was written more than one year previously.

The following revisions were made to the Notice of Intended Action.

Subrule 107.3(2) was revised at the suggestion of the Administrative Rules Review Committee to provide that the persons employed as social workers in licensed child placing agencies who are applying for certification as an adoption investigator shall furnish a letter of approval from the agency as part of the certification process.

Subrule 107.8(1), paragraph "d," subparagraph (1), and subrule 157.3(1), paragraph "d," subparagraph (1), were revised for clarification.

These amendments are intended to implement Iowa Code chapter 600.

These amendments shall become effective September 1, 1994.

The following amendments are adopted.

ITEM 1. Amend subrule 107.3(2), introductory paragraph, as follows:

**107.3(2)** Employees of licensed child placing agencies and the department of human services. Persons employed as social workers in licensed child placing agencies ~~or the department of human services~~ who meet the requirements for certification in rule 441—107.4(600) are eligible to apply for certification as adoption investigators *unless the agency employing them objects in writing. The applicant shall furnish a letter of approval from the agency as part of the certification process.*

*Persons employed as social workers for the department of human services who meet the requirements for certification in rule 441—107.4(600) are eligible to apply for*

*certification as adoption investigators for services provided outside of their current job duties, unless their current job duties include any of the following:*

ITEM 2. Amend subrule 107.8(1) by adding the following **new** paragraph "d":

d. Home study updates are required if the home study was written more than one year previously, in accordance with Iowa Code section 600.8. The home study update shall consist of completing the following:

(1) The child abuse and criminal record checks shall be repeated and if there are new founded abuses or conviction of crimes that were not evaluated in the previous home study they shall be evaluated using the process set forth in 107.8(1)"c."

(2) One face-to-face visit shall be conducted with the approved family.

(3) The information in the approved home study shall be reassessed.

(4) An updated report of the reassessment and adoptive home study shall be written, dated, signed and notarized and a copy provided to the family.

ITEM 3. Amend rule 441—157.1(600), definitions of "Contract" and "Provider," as follows:

"Contract" refers to a purchase of service contract *or agreement* between a provider agency and the department.

"Provider" means a ~~licensed~~ child-placing agency *licensed in Iowa or another state or a certified adoption investigator* which has a purchase of service contract with the department.

ITEM 4. Amend subrule 157.3(1) by adding the following **new** paragraph "d":

d. Home study updates are required if the home study was written more than one year previously, in accordance with Iowa Code section 600.8. The home study update shall consist of completing the following:

(1) The child abuse and criminal record checks shall be repeated and if there are new founded abuses or conviction of crimes that were not evaluated in the previous home study they shall be evaluated using the process set forth in 157.3(1)"b."

(2) One face-to-face visit shall be conducted with the approved family.

(3) The information in the approved home study shall be reassessed.

(4) An updated report of the reassessment and adoptive home study shall be written, dated, signed and notarized and a copy provided to the family.

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## ARC 4920A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 180, "Respite Care Services," and Chapter 182,

HUMAN SERVICES DEPARTMENT[441](cont'd)

"Family-Centered Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments June 15, 1994. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on May 11, 1994, as **ARC 4789A**.

These amendments establish and outline the Department's method of allocating family-centered MR/DD respite funds and family-centered supportive service funds among the five Departmental regions. Regional allocation methods were inadvertently deleted when rules were previously amended. The formula for regional allocations outlined in these amendments is consistent with the formula used in making regional allocations for home-based services.

Rules 441—180.10(234) and 441—182.11(234) were revised to provide that each region's portion of the state family-centered MR/DD respite services and supportive services appropriations shall be based 40 percent on the region's proportion of the Department's statewide fiscal year 1993 expenditures for children and family services, excluding the appropriations for group foster care, and 60 percent on the region's proportion of the state child population, aged 0 through 17, according to the 1990 census. These revisions reflect changes made in the allocations for home-based services for state fiscal year 1995.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective September 1, 1994.

The following amendments are adopted.

ITEM 1. Amend 441—Chapter 180 by adding the following **new** rule:

**441—180.10(234) Determination of regional allocations.** Each region's portion of the state family-centered MR/DD respite services appropriation shall be based 40 percent on the region's proportion of the department's statewide fiscal year 1993 expenditures for children and family services, excluding the appropriations for group foster care, and 60 percent on the region's proportion of the state child population, aged 0 through 17, according to the 1990 census.

ITEM 2. Amend 441—Chapter 182 by adding the following **new** rule:

**441—182.11(234) Determination of regional allocations.** Each region's portion of the state family-centered supportive services appropriation shall be based 40 percent on the region's proportion of the department's statewide fiscal year 1993 expenditures for children and family services, excluding the appropriations for group foster care, and 60 percent on the region's proportion of the state child population, aged 0 through 17, according to the 1990 census.

[Filed 6/16/94, effective 9/1/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4895A**

## **NURSING BOARD[655]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 147.80, the Iowa Board of Nursing hereby amends Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments eliminate the requirement for a self-study course addressing the role of the licensed practical nurse for individuals applying for LPN licensure based on current or previous enrollment in a nursing program preparing registered nurses and correct a typographical error in subrule 3.4(8), paragraph "c."

These amendments were published in the Iowa Administrative Bulletin on April 13, 1994, as **ARC 4738A**. The only change from the Notice of Intended Action appears in Item 1. The word "board" was deleted from the second sentence of 3.4(5)"a"(5), so that it now reads, "Completed application form (submitted by the applicant)."

These amendments will become effective August 10, 1994.

These amendments are intended to implement Iowa Code sections 147.80 and 152.7.

The following amendments are adopted.

ITEM 1. Amend subrule 3.4(5), paragraph "a," subparagraph (5), to read as follows:

(5) The board shall confirm or deny the eligibility of each applicant upon receipt of the following materials:

Completed application form (submitted by the applicant).

Original license fee (submitted by the applicant).

Notification of completion of the NCLEX application registration process (confirmed by NCLEX).

Official nursing transcript denoting the date of entry and length of enrollment.

~~Evidence of successful completion of a board approved self-study course addressing the role of the licensed practical nurse in Iowa.~~

ITEM 2. Amend subrule 3.4(5), paragraph "b," by striking subparagraph (5) and renumbering subparagraphs (6) and (7) as (5) and (6) as follows:

~~(5) Submission to the board of evidence of successful completion of a board approved self-study course addressing the role of the licensed practical nurse in Iowa.~~

(6) (5) Informing the board of the applicant's current mailing address.

(7) (6) Self-scheduling the NCLEX examination at an approved testing center within 60 days of NCLEX authorization to test.

ITEM 3. Amend subrule 3.4(8), paragraph "c," to read as follows:

c. An applicant who has graduated from an approved practical nurse program and has failed the State Board Test Pool Examination less than four times is eligible to take the NCLEX-RN/PN an indefinite number of times.

[Filed 6/16/94, effective 8/10/94]  
[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4922A****PROFESSIONAL LICENSURE  
DIVISION[645]****BOARD OF MORTUARY SCIENCE EXAMINERS****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby amends Chapter 101, "Board of Mortuary Science Examiners," Iowa Administrative Code.

These amendments reduce the number of required pre-mortuary college or university credits from 64 to 60 semester hours and eliminate the requirement of specific courses; add new rules for office retention of original applications that do not meet the minimum criteria for licensure; change the fee for an endorsement application from \$100 to \$50 to coincide with the recent change of 101.98(1); and allow for a 50-minute continuing education clock-hour.

There are no changes from the Notice of Intended Action which was published in the Iowa Administrative Bulletin on March 2, 1994, as **ARC 4655A**.

These amendments shall become effective August 10, 1994.

These amendments are intended to implement Iowa Code chapters 147 and 272C.

The following amendments are adopted.

ITEM 1. Rescind subrule 101.1(3) and insert the following new subrule:

**101.1(3)** College educational requirements. An applicant shall successfully complete:

a. A minimum of 60 semester hours as indicated on the transcript in a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average; and

b. A course in mortuary science from a school accredited by the American Board of Funeral Service Education.

The 60 semester hours shall not include any technical or vocational mortuary science courses.

ITEM 2. Rescind and reserve subrule **101.1(4)**.

ITEM 3. Amend rule 645—101.2(147) by adding the following new subrule:

**101.2(11)** Application for licensure. Applications for license which do not meet the minimum criteria for licensure shall be retained by the board office for a maximum of five years from the date the application was received. Persons whose application for license is more than five years old must submit a new application and fee(s).

Applicants who, by March 1 of each year, submit a written request to the board to keep the application current will not need to reapply.

ITEM 4. Amend subrule 101.4(3), paragraph "a," as follows:

a. A fee of ~~\$100~~ \$50.

ITEM 5. Amend rule 645—101.100(147), definition of "Hour," as follows:

"Hour" of continuing education means a clock-hour ~~spent after December 31, 1978, of at least 50 minutes spent~~ by a licensee in actual attendance at ~~and completion~~ of an approved continuing education activity.

[Filed 6/17/94, effective 8/10/94]

[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

**ARC 4888A****TRANSPORTATION  
DEPARTMENT[761]**

**Note: Rules not subject to Iowa Code chapter 17A.**

Pursuant to the authority of Iowa Code subsections 321.454(2) and 321.457(3), the Transportation Commission, on June 7, 1993, rescinded Chapter 510, "Designated Highway System," Iowa Administrative Code.

This chapter lists the highways that may be used by longer and wider vehicles. 1994 Iowa Acts, Senate File 2080, struck the Commission's authority to adopt rules designating a highway system for use by overdimensional vehicles and eliminated the designated highway system.

This chapter of rules is exempt from the rule-making provisions of Iowa Code chapter 17A, but is published in the Iowa Administrative Code as a convenience to persons who need the information.

This rescission will become effective June 30, 1994.

The following amendment is adopted.

Rescind **761—Chapter 510**, "Designated Highway System."

[Filed 6/9/94, effective 6/30/94]

[Published 7/6/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/6/94.

AGENCY	RULE	DELAY
Substance Abuse Commission[643]	3.35(125) [IAB 3/16/94, ARC 4674A]	Effective date of April 20, 1994, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 1994.[Pursuant to §17A.4(5)] Delayed until adjournment of the 1995 General Assembly by the Committee at their meeting held June 15, 1994. [Pursuant to §17A.8(9)]

### 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).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 51

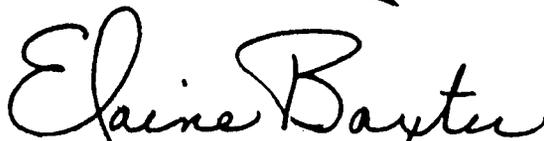
- WHEREAS, providing Iowans access to an affordable and a versatile library service delivery system offering technically advanced information services is important to our quality of life; and
- WHEREAS, the application of advance telecommunications and information technology to library services shows much promise towards helping achieve this goal; and
- WHEREAS, developing electronically linked library services in Iowa will require the cooperative efforts of numerous individuals and organizations to establish appropriate policies, plans and administrative mechanisms.
- NOW, THEREFORE, I, Terry E. Branstad, Governor of Iowa, by the authority vested in me by the laws and Constitution of the state of Iowa do hereby order that:
- I. A Library Services Advisory Council shall be created to develop a coordinated, cost effective and comprehensive plan for the implementation of an electronic statewide library and information services program.
  - II. The Library Services Advisory Council shall consist of no more than eighteen members and no fewer than fifteen members representing all types of libraries, including public, K-12 and post-secondary, special and the general public. The State Librarian or a representative shall serve as an ex-officio member.

- III. Experts in such fields as library education, information management, telecommunications, and finance shall be called upon by the Council for advice as is necessary.
- IV. The State Library of Iowa, the Iowa Communications Network, and state information services' officials shall cooperate with the Council in promoting the objectives of this Council.
- V. The members of the Council shall be appointed by and serve at the will of the Governor. The Chairperson will be appointed by the Governor and serve at his pleasure. All appointments will be for one-year terms.
- VI. The authorization for the Advisory Council will expire in one year from the enactment of this order, unless otherwise extended by the Governor.

IN TESTIMONY WHEREOF, I have hereunto subscribed by name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 19th day of May in the year of our Lord, one thousand nine hundred ninety-four.

  
GOVERNOR



  
SECRETARY OF STATE



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Sunday, June 12, 1994, a severe storm system moved across northwest Iowa generating strong winds, heavy rains and a tornado; and

WHEREAS, this storm system spawned an intense tornado and/or straight winds which caused destruction and damage to private and public property in and near LeMars located in Plymouth County; and

WHEREAS, based upon reports and after an on-site damage assessment survey forwarded by state and local officials; and

WHEREAS, the results of this information and survey indicates a need exists by the local government for State aid to assist with the recovery phase to include disposal of debris, and

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim Plymouth County, for the aforementioned reason, a state of Disaster Emergency. In addition, I do hereby waive Administration Code 567-23.2(3)a to allow local government in Plymouth County to open burn disaster rubbish. Department of Natural Resources will monitor the burn site and provide technical assistance if needed. This proclamation of Disaster Emergency authorizes local and State government to render good and sufficient aid to assist this area in its time of need.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 14th day of June, in the year of our Lord one thousand nine hundred ninety-four.

*Terry E. Branstad*  
GOVERNOR



Attest:

*Elaine Baxter*  
Secretary of State







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